

**HUMAN RESOURCES**

**MVDC DBS Policy**

Table of Contents

[**Introduction 3**](#_Toc44074097)

[**Safeguarding Children and Vulnerable Adults 3**](#_Toc44074098)

[**Applicants’ Rights 3**](#_Toc44074099)

[**Which roles require a DBS check? 4**](#_Toc44074100)

[**Who decides if a post requires a DBS check? 4**](#_Toc44074101)

[**Do I need permission from the individual before a DBS check is carried out? 4**](#_Toc44074102)

[**Checks for potential employees and volunteers 4**](#_Toc44074103)

[**Checks for existing employees 4**](#_Toc44074104)

[**Checks for contract staff 5**](#_Toc44074105)

[**Checks for agency workers 5**](#_Toc44074106)

[**Frequency of DBS checks 5**](#_Toc44074107)

[**DBS requirements for those moving positions within MVDC 5**](#_Toc44074108)

[**Recruiting 5**](#_Toc44074109)

[**Recruiting from overseas 5**](#_Toc44074110)

[**Types of DBS checks 6**](#_Toc44074111)

[**What is the barred list? 6**](#_Toc44074112)

[**Validity of DBS Disclosures 6**](#_Toc44074113)

[**Portability of DBS Disclosures 7**](#_Toc44074114)

[**Recording and sharing DBS information 7**](#_Toc44074115)

[**How does MVDC arrange DBS checks? 7**](#_Toc44074116)

[**Duty to Refer 7**](#_Toc44074117)

[**Baseline Personnel Security Standard (BPSS) 7**](#_Toc44074118)

**Introduction**

This policy provides guidance on the effective use of the Disclosure and Barring Service (DBS) to safeguard the children and adults who access our services whilst respecting the privacy of our employees.

The DBS helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.

As an organisation using the DBS to assess applicants’ suitability for positions of trust, the Council complies fully with the “[DBS Code of Practice](https://www.gov.uk/government/publications/dbs-code-of-practice)”.

This policy relates to existing and potential employees, casual workers, volunteers, agency workers and contractors/consultants.

**Safeguarding Children and Vulnerable Adults**

As a local authority, Mole Valley District Council (MVDC) has a responsibility and commitment to safeguard children and vulnerable adults in the community. We have a particular responsibility to ensure we have safeguards in place to protect those who are accessing and relying upon our services.

**Applicants’ Rights**

The Council is committed to the principle of equality of opportunity subject to the overriding consideration of protecting children and vulnerable adults. We will make every effort to prevent unfair discrimination against those with criminal records.

A refusal to employ a rehabilitated person on the grounds of a spent conviction is unlawful under the Rehabilitation of Offenders Act (ROA) 1974. However, there are certain exemptions to this rule, and in these circumstances a DBS check can be carried out.

Whilst a DBS may indicate that a potential employee is unsuitable for a specific role and may preclude appointment, we will explore options to enable the employment of that individual before making a final decision on their suitability.

To protect personal information, the Council has a [Records Retention and Disposal Schedule](https://molevalleydc-my.sharepoint.com/personal/eduardo_aguilar_molevalley_gov_uk/_layouts/15/onedrive.aspx?id=%2Fpersonal%2Feduardo%5Faguilar%5Fmolevalley%5Fgov%5Fuk%2FDocuments%2FGDPR%20Molly%20Page%2FRecord%5FRetention%5FDisposal%5FSchedule%5F%2D%5FJuly%5F2019%2Epdf&parent=%2Fpersonal%2Feduardo%5Faguilar%5Fmolevalley%5Fgov%5Fuk%2FDocuments%2FGDPR%20Molly%20Page&originalPath=aHR0cHM6Ly9tb2xldmFsbGV5ZGMtbXkuc2hhcmVwb2ludC5jb20vOmI6L2cvcGVyc29uYWwvZWR1YXJkb19hZ3VpbGFyX21vbGV2YWxsZXlfZ292X3VrL0VYME1GN0pYU0NGQWtjOTZpbTdva1c4Qm5hYThuclRKdk81NjcwTlFQTWRWcVE_cnRpbWU9WXRsVnc2TVMyRWc) on the secure storage, handling, use, retention & disposal of records. If an applicant wishes to confirm whether it is appropriate for a post to require a DBS check, they can contact the DBS.

**Which roles require a DBS check?**

In accordance with the relevant legislation, managers must not request a DBS check unless the job or role has been assessed as requiring one.  Under the ROA 1974, a person with a criminal record is not required to disclose any spent convictions, unless the position they are applying for (or are currently undertaking) is listed as an exception under the Act.  As an organisation we are legally responsible for ensuring that we are entitled to ask the applicant to reveal their conviction history before we request a DBS check.

To check if your post requires a DBS check and which level of check is recommended, please use the [government online tool](https://www.gov.uk/find-out-dbs-check). This can also be used by applicants for roles within MVDC.

Surrey County Council, as our Umbrella Body, may be able to give you advice on a post if it is not clear whether a DBS is appropriate, alternatively contact the DBS directly.

You cannot apply for a DBS check for someone who is under 16 years old.

**Who decides if a post requires a DBS check?**

Managers are responsible for assessing whether a DBS check is appropriate for the roles in their team. Managers are also responsible for the ongoing reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or vulnerable adults has changed and, if necessary, to initiate a new DBS check.

The manager must tell the applicant or employee why they are being checked, and where they can get independent advice, for example from the DBS directly.

**Do I need permission from the individual before a DBS check is carried out?**

DBS checks can only be carried out with the permission of the individual subject to the check. Managers should ensure they receive written permission from the individual (email is sufficient) before a check is conducted.

**Checks for potential employees and volunteers**

If a role has been assessed as requiring a DBS check, the check must only be carried out once an applicant has been given a conditional offer of employment. Checks should not be carried out on all short-listed applicants.

Checks should be carried out before the member of staff or volunteer starts in their role. If the DBS check is not complete by the start date, the line manager can continue to employ the individual where it is practical and reasonable to make short-term adjustments to the role to ensure that sufficient safeguards are in place to guarantee the individual has no unsupervised access to children or adults until the check is complete. In these circumstances, the manager must still ensure a DBS check is carried out as soon as possible.

**Checks for existing employees**

If the nature of an employee’s role changes so that their role becomes suitable and eligible for a DBS check, managers are responsible for identifying this change and instigating a DBS check.

If there are concerns about an existing employee’s suitability to continue working with children and/or adults then the manager should consider requesting another DBS.

In all cases, the individual concerned must give their consent for the DBS check to be obtained.

**Checks for contract staff**

Contractors providing services on the Council’s behalf (e.g. leisure centres) must be assessed against the same criteria as those working directly for MVDC to see if a DBS check is required.

The employing organisation i.e. the contractor, is responsible for obtaining DBS checks for their employees if appropriate. This requirement should be specified in individual contract specifications and monitored through the relevant contract monitoring procedures.

**Checks for agency workers**

If an agency worker is filling a role that requires a DBS check, the employing manager at MVDC is responsible for ensuring a check has been carried out by the agency. The employing manager should see a copy of the DBS certificate..

**Frequency of DBS checks**

All those who work in regulated activities must have their criminal records checked before appointment, and at a maximum of three yearly intervals throughout employment with MVDC. It is the manager’s responsibility to ensure all checks are up to date.

**DBS requirements for those moving positions within MVDC**

Where an individual has undertaken a DBS check for a position with MVDC and they move to another position within the organisation, the DBS check will be acceptable in the following instances:

* the type of DBS check (i.e. Standard / Enhanced / Enhanced with relevant barred list check) is still appropriate for the old and new post, and;
* the individual has not had a break in service of more than three months, and,
* the new work does not represent a significant increase in responsibility for, and contact with, children and/or adults.

**Recruiting**

If a DBS check is required as a condition of appointment, the job specification for the role will include the requirement for a DBS check. The applicants must also be made aware of this policy, and be provided with it if requested.

**Recruiting from overseas**

DBS checks do not record convictions that were committed abroad. When recruiting candidates who have spent a period of time living or working abroad, a DBS check must be obtained in the normal way and a DBS check or equivalent from the country(s) concerned may be required as well.

**What if the DBS check includes convictions or cautions, or the individual appears on the barred list?**

If the results of a DBS check indicate that the individual has convictions or cautions, the manager should assess the risks of employing, or continuing to employ an individual, and consider what safeguards would need to be introduced to manage any risks. The manager must discuss the disclosure with the applicant in order to assess the risks of appointment and always before any offer of appointment is withdrawn.

In accordance with the Rehabilitation of Offenders Act 1974 a criminal conviction may not automatically prevent an individual from working with MVDC. Advice should be sought from HR before progressing with any decision on whether to employ, or continue to employ, an individual with criminal convictions or cautions.

It is against the law to employ someone or allow them to volunteer for a position which involves caring for, supervising or being in sole charge of children or adults if you know they are on one of the barred lists.

**Types of DBS checks**

There are different types of DBS checks. The manager should ensure the correct type of check is carried out for the position concerned.

**Basic Check:** The basic check can be used for any position or purpose. A basic certificate will contain details of convictions and cautions from the Police National Computer (PNC) that are considered to be unspent under the terms of the Rehabilitation of Offenders Act (ROA) 1974.

**Standard Check:** check for spent and unspent convictions, cautions, reprimands and final warnings.  Used primarily for people entering certain professions including accountants and legal executives. Standard DBS checks involve a check of the police national computer (PNC) and do not include a check of local police information or the children’s or adults’ barred lists.

**Enhanced Check:** used primarily for people who: regularly care for, train, supervise or are in sole charge of children; undertake specified activities with adults in receipt of health care or social care services; or, are applying for gaming and lottery licences.

An enhanced level certificate contains the same PNC information as the standard level certificate but also includes a check of information held locally by police forces.

**Enhanced Check with barred lists (for Regulated Activity):** used when someone is undertaking regulated activity relating to either, or both, children and adults (see Appendix A).

This check involves a check of the PNC, police information and the children’s and/or adults’ barred list.

**DBS adult first check**: This partial check is available for posts working with vulnerable adults and is carried out in advance of an Enhanced Check with barred lists being complete. The result of the adult first check will indicate whether the individual is listed on the adult barred list, and if they are not, then the employer may permit the individual to start work before the full disclosure is complete.

**What is the barred list?**

The DBS maintains two barred lists; a children’s barred list, and an adults’ barred list. These are lists of individuals who are deemed unsuitable to work with either children or adults.

**Validity of DBS Disclosures**

There is no period of validity for a DBS Disclosure. A DBS Disclosure is technically out of date on the day it is issued as a new or further criminal conviction or caution may be recorded against the individual at any time after the issue date. Therefore, any new member of staff or volunteer will have to apply for a new DBS check

**Portability of DBS Disclosures**

Portability refers to the re-use of a DBS Disclosure, obtained for a position in one organisation and later used for a position in a new organisation.

In accordance with the DBS Code of Practice recommendations, MVDC does not accept portable DBS checks for any positions. All applicants will have to apply for a new DBS check.

**Recording and sharing DBS information**

DBS issues one copy of a DBS Disclosure to the individual subject to the check i.e. employee or volunteer. The manager should request to see the certificate as a condition of appointment and record the date of the check in the iTrent system under the employee’s personal record. The results of the check should not be recorded. It is not acceptable to make any record regarding the existence or lack of criminal convictions or cautions, or their nature.

Under no circumstances should a photocopy of a DBS certificate be made. The information about an employee obtained from a DBS disclosure must not be shared with anyone where it is not related to the employee’s duties.

**How does MVDC arrange DBS checks?**

Arrangements are in place with Surrey County Council to process all MVDC DBS checks (SCC is a registered umbrella body which owns and operates its own online service). This [link](https://www.surreycc.gov.uk/staff/my-benefits/online-disclosure-and-barring-service/how-the-online-dbs-service-works) provides further information about Surrey’s DBS service.

Information about how to carry out a check is here.

**Duty to Refer**

As part of the commitment to safeguard children and vulnerable adults, employers are required by law to refer someone to the DBS if they:

* dismissed them because they harmed a child or adult;
* dismissed them because they might have harmed a child or adult otherwise;
* were planning to dismiss them for either of these reasons, but the person resigned first.

To fulfil this obligation responsibly, managers should inform HR if they have any concerns that a member of their team may have been dismissed under the circumstances outlined above.

# Baseline Personnel Security Standard (BPSS)

The BPSS is not a type of DBS. However, it does involve a background check of an employee and therefore there are some similarities.

The BPSS is a minimum standard, issued by the Cabinet Office, required to ensure the identity and integrity of an employee with access to sensitive information. It is used under certain circumstances to confirm an employee’s:

* identify;
* nationality and immigration status;
* employment history (for the past three years);
* unspent convictions.

The standard provides a minimum set of standards for public sector organisations using the Public Sector Network (PSN). These are essential to enable organisations sharing information through the PSN to have confidence that risks are being appropriately managed. For the PSN trust model to work, every PSN user should have confidence that information they send to another PSN user is being managed appropriately. Therefore, Mole Valley has a responsibility to uphold that trust by ensuring the holders of certain posts with access to sensitive information have been checked.

This standard of checking is carried out for all those recruited to Mole Valley as part of their pre-employment checks.

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