

North Yorkshire Fire & Rescue Service

Disclosure and Barring Service Policy

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Document Change History

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Policy Superseding:

This policy supersedes the following policies from the date adopted date in the information panel:

- Policy on Criminal Record Disclosures

Contributors:

Development of this policy was assisted through information provided by the following organisations:

- Home Office
- North Yorkshire County Council
- Disclosure and Barring Service
- DBS code of conduct

1. INTRODUCTION

North Yorkshire Fire & Rescue Service has identified a number of activities where an individual would have access to young or vulnerable service users. Any applicant for such a post is therefore required to agree to a disclosure notification being sought. The disclosure provided will include all criminal convictions, cautions, warnings and reprimands and applicants are required to declare such matters.

In December 2012 the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged to create the Disclosure and Barring Service (DBS)

The DBS is an executive agency of the Home Office and has been set up to help organisations make safer recruitment decisions. By providing access to criminal record information the DBS will help organisations in the public, private and voluntary sectors and educational institutions identify candidates who may be unsuitable for certain work, especially that involving contact with children or other vulnerable members of society.

North Yorkshire Fire & Rescue Service is committed to equality of opportunity and unlawful discrimination of any kind will not be tolerated, including against ex offenders where this cannot be justified by the nature of the offence or the work which would be done by the subject of the disclosure.

Certain programmes within the Service require employees to have been screened by means of a certificate (previously known as a 'disclosure') obtained from the DBS. A certificate is an impartial and confidential document that details to an individual's criminal record and where appropriate, details of those who are banned from working with children. The DBS will carry out a criminal record check.

2. PURPOSE

North Yorkshire Fire and Rescue Service utilise the North Yorkshire County Council Service for processing disclosure information, to identify the suitability of employees in positions of trust to work with young or vulnerable people.

The Disclosure and Barring Service (DBS) acts as a 'one-stop-shop' for organisations regarding the checking of police records and, in relevant cases, information held by the Independent Safeguarding Authority (for positions working with children and adults).

North Yorkshire Fire & Rescue Service is committed to promoting the safety and wellbeing of all its service users, particularly those who would be incapable of protecting themselves from physical or sexual abuse, financial exploitation, or where there is a potential danger that their will or moral wellbeing may be subverted or over-powered (Police Act 1997).

There are two levels of DBS check currently available; Standard and Enhanced Disclosures. The two DBS checks are available in cases where an employer is entitled to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders Act (ROA). All checks processed by North Yorkshire Fire and Rescue Service are at the enhanced level for those staff or volunteers who apply to work with children or adults in regulated activity.

Enhanced checks contain details of

- Spent convictions
- Unspent convictions
- Cautions
- Reprimands
- Final Warnings
- Police Information held by the Police

This information comes from the Police National Computer (PNC) The DBS only reveals relevant information that is recorded by the Police on the PNC.

The Enhanced DBS check is the highest level of criminal record check available and is available for those working in Regulated Activity with children or adults. The definitions of regulated activity can be found at Appendix 1

There are some offences which may result in a person being subject to a Disqualification Order (DO). It is an offence for such a person to apply for a restricted post, and North Yorkshire Fire & Rescue Service will report any such applicant to the Police. Any person convicted of an offence under Schedule 1 of the Children and Young Persons Act 1933 (as amended by subsequent legislation) will not be eligible to apply for a restricted post.

3. SCOPE

This policy applies to employees, contractors, consultants, temporary, and other workers at North Yorkshire Fire and Rescue Service including all personnel affiliated with third parties.

As an organisation we will use the Disclosure and Barring Service to assess the suitability of applicants for positions of trust, North Yorkshire Fire & Rescue Service complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Certificate information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Certificate information.

The Equality and Safeguarding Officer will process all applications at the enhanced level for disclosure to enable suitable employees to carry out service activities with young and vulnerable people and investigate those disclosures where criminal

activities have been highlighted and consider each on a case by case basis.(appendix 2)

4. POLICY GOVERNANCE

The following table identifies who within North Yorkshire Fire & Rescue Service is Accountable, Responsible, Informed or Consulted with regards to this policy. The following definitions apply:

Responsible	Station Manager Prevention
Accountable	Deputy Chief Fire Officer
Consulted	Not applicable
Informed	All Staff

5. REFERENCES

The following North Yorkshire Fire & Rescue Service policy documents are directly relevant to this policy, and are referenced within this:

- Handling and Safekeeping of DBS Information SOP
- Statement of Policy on Disclosure and Barring Notifications

The following North Yorkshire Fire & Rescue Service policy documents are indirectly relevant to this policy:

- IRMP Strategy
- Vulnerable Person Strategy
- Community Safety Strategy
- Young Fire fighter Policy
- Life Policy
- Child Protection Policy
- Fire setter network Policy
- Young People Diversionary Schemes
- Recruitment and Selection Policy

* * * * *

If you have any questions concerning this policy or your obligations under it, you may direct them to either your line manager or Equality and Safeguarding Officer.

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¹Appendix 1

New definition of Regulated Activity relating to children effective from 1 Sept 2012.

The new definition of regulated activity relating to children comprises only:

- (i) Unsupervised activities: teach, train, instruct, care for, or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children.

- (ii) Work for a limited range of establishments ('specified places') with opportunity for contact with children: for example schools, nurseries, pupil referral units, children's centres, children's homes, childcare premises. This definition does not include work by supervised volunteers.

NOTE: Work under (i) or (ii) is regulated activity only if done 'regularly'. Further guidance is to be provided about supervision of activity which would be regulated activity if supervised.

- (iii) Relevant personal care, for example washing or dressing or health care by or supervised by a professional

- (iv) Registered child-minding and or foster carers.

Activities no longer covered by the new definition of regulated activity include:

- Activities supervised at a reasonable level – children
- Health care not by, or directed, or supervised, by a health care professional
- Legal advice
- Treatment/therapy

Activities in relation to 'specified places' that are no longer covered by the new definition include:

- Occasional or temporary services e.g. maintenance,
- Volunteers supervised at reasonable levels e.g. supervised voluntary football coach,
- Office Holders
- Governors
- Inspectorates removed

2. New Definition of Regulated Activity relating to adults effective from 1 Sept 2012.

The new definition of regulated activity relating to adults no longer labels adults as vulnerable. Instead the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. This means that the focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities. There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

Regulated activity continues to exclude any activity carried out in the course of family relationships, and personal, non commercial relationships. E.g. family relationships involving close and relationships between two people who live in the same household and treat each other as family.

An adult is a person aged over 18 years of age.

¹ Taken from information published on the NYCC/DBS Jan 2013

There are six categories of people who will fall within the new definition of regulated activity and this includes anyone who provides day to day management of supervision of those people.

A broad outline is set out below.

1. Healthcare:

a regulated healthcare professional or an individual acting under the direction or supervision of one, e.g. doctors, nurses. Health care includes all forms of healthcare, whether relating to physical or mental health or palliative care.

2. Personal Care:

assistance with washing and dressing, eating, drinking and toileting oral care or care of the skin, hair or nails because of an adult's age, illness or disability or teaching someone to do these tasks. This does not include physical assistance provided to an adult in relation to cutting their hair. This is not classed as regulated activity.

3. Social Work:

provided by a social care worker and is required in connection with any health care or social services to an adult who is a client or potential client. Including assessing and reviewing the need for health and social care services.

4. Assistance with general household matters:

any person who provides day to day assistance to an adult because of their age, illness or disability and includes at least one of the following – managing a person's cash, paying bills, or shopping on their behalf.

5. Assistance with the conduct of an adult's own affairs:

anyone who provides various forms of assistance in the conduct of an adult's own affairs. E.g. lasting or enduring power of attorney; or appointment as adults' 'deputy' under the Mental Capacity Act 2005

6. Conveying:

conveying adults for reasons of age, illness or disability to, from or between their place of residence and a place where they have or will be receiving healthcare, personal care or social work.

Note: Regulated activity for adults continues to exclude any activity carried out in the course of family relationships, and personal, non commercial relationships.

Important Guidance:

The activities and work that will no longer fall under these new definitions, but that satisfied the old definitions of regulated activity are still eligible for an enhanced CRB check, but they will no longer be eligible for barred lists checks. The reason for this is because the posts continue to meet the old definition of regulated activity and are therefore exempt from the rehabilitation of offenders act.

Old Definition of Regulated Activity, prior to September 2012

Involves contact with children or vulnerable adults
Of a specified nature

Or

“Frequently, intensively and/or overnight”

In a specified place

Or is a specified role:

- No distinction made between paid and voluntary work

In detail

of a specified nature

E.g. teaching, training, care, supervision, advice, treatment or transport

Or

“frequently, intensively and/or overnight”

- once a week for most services, but once a month or more for health and social care services involving personal care
- takes place on 4 days in one month or more
- Overnight: between 2 – 6am

In a specified place

E.g. Schools, Pupil Referral Units, Childcare premises (nurseries), Children’s homes and hospitals, children’s detention facilities, children’s centres, adult care homes

The guidance states that there is only a requirement to check if the frequent / intensive test takes place in a single specified setting.

- Or is a specified role

E.g. Directors of Children’s services, members of Youth Justice Board, School Governors

- There is no distinction made between paid and voluntary work

Appendix 2

The following principles will apply to the consideration of past convictions.

An applicant is required to be completely honest in disclosing any convictions throughout their entire life, from the age of criminal responsibility (10 years).

In terms of restricted posts, no convictions will ever be considered 'spent' and must be declared.

Applicants should be aware that if they have accepted a Caution, Warning or Reprimand from a police officer, then they have admitted their part in an offence. Cautions, Warnings and Reprimands therefore are to be declared.

In order to carry out thorough checks, North Yorkshire Fire & Rescue Service needs to know any names, name changes, or aliases that an applicant may have been known by in the past, for example maiden names, assumed name of step parent, change of name by deed poll etc. Sight of an applicant's birth certificate will be required and if there has been a change of name, sight of documentation to support each change including dates of change.

As part of North Yorkshire Fire & Rescue Service's commitment to the rehabilitation of offenders, there are offences which may not disqualify an applicant where:-

- the convictions are of a less serious nature; and/or
- were committed some time ago; and/or
- were committed when the applicant was a juvenile/young person; and/or
- there were extenuating circumstances; and/or
- there have been no further offences

In some cases, consideration of offences will take specific account of the post applied for.

Any information provided by the CRB will be securely stored and handled and the content will be confidential to the staff authorised to fulfil this role. However, where matters of legitimate concern are revealed, North Yorkshire Fire & Rescue Service reserves the right to advise other relevant organisations, having a statutory or other legitimate interest, as to the suitability of certain applicants for restricted posts. North Yorkshire Fire & Rescue Service will abide by the CRB Code of Practice, including the opportunity for applicants to appeal to the CRB about the information provided.

Applicants are required to disclose all offences and failure to do so may unfavourably affect consideration of an applicant's suitability to work with vulnerable people, or in a post dealing with personal confidential information.

POSTS REQUIRING DISCLOSURES

Station Manager Prevention

Watch Manager - Action Officer

Fire Setter Network Members

Cadet Scheme Members

Young FF Scheme Members

Life Project Scheme Members

Fire-fighters involved in work with Young and Vulnerable Groups