



**OXFORDSHIRE
COUNTY COUNCIL**

ENVIRONMENT & ECONOMY

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A Guide to Oxfordshire County Council's School & Social Care Transport DBS Disclosure Risk Assessment Process

This leaflet should be read in conjunction with the letter informing you that your Enhanced DBS Disclosure contains convictions/cautions/additional information which will need to be risk assessed

For Further Information Please Contact:
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Principles

- 1 Oxfordshire County Council Supports and seeks to promote the rehabilitation of offenders and to treat ex-offenders fairly in accordance with its Equality Policy. The Council recognises that many people with past criminal records do not present a risk in employment but work as responsible and productive members of the workforce.
- 2 The Council also has a duty of care to protect from criminal activity and abuse those who use its services, the public and public funds, and duty to comply with relevant legislation, codes of practice and national standards.
- 3 An applicant for employment or voluntary work with criminal convictions will be assessed on their relevant skills, qualifications and experience and will only be prevented from taking a job with the Council where any past offences are directly relevant to the job concerned and where it is judged that the applicant, if appointed would pose a significant risk to the public, clients, property or public funds.
- 4 The Council undertakes to operate effective and appropriate systems to comply with and fulfil these principles and requirements.

Definition of "Conviction"

- 5 In this guide, the term "conviction" relates to a finding of guilt following a hearing in a court of law, including Courts Martial. Prospective workers for jobs exempt from the Rehabilitation of Offenders Act working with children or vulnerable adults will also be asked to declare official warnings, reprimands, registration as a sex offender, cautions, bind-overs and other relevant matters. These will be taken into consideration. Where "soft information" is made available by the Disclosure and Barring Service, the police, or other relevant organisations will also be taken into consideration.

Employees, Volunteers and Contractors

- 6 Existing workers for the council are required to notify the Council if they are the subject of police investigations. In this case a risk assessment will be undertaken and appropriate action will be taken in accordance with the spirit of the policy and under the Council's agreed employment procedures where deemed necessary.
- 7 All applicants for employment, voluntary work or to deliver Council services under contract such as taxi and bus drivers and long-term contractors, including agency staff and interims, will be asked to declare any un-spent convictions, cautions, warnings, reprimands, bind-overs and any cases pending , in Great Britain or elsewhere, when applying to the Council.
- 8 Where the Council enters into contracts with external organisations which employ staff for the provision of services on the Council's behalf, it will ensure that the contractor's employment systems comply with this policy.

- 9 Work which involves substantial access to children and vulnerable adults or their records has special requirements and applicants for this type of work will be treated as set out in paragraphs 11 of this document.

Spent Convictions

- 10 Oxfordshire County Council will ask and take into consideration an applicant's spent convictions if the work is exempt from the provisions of the Rehabilitation of Offenders Act or is covered by the legislation relating to the protection of children and vulnerable adults and their records. See paragraphs 11.
- 11 **In the case of work with children, young people and vulnerable adults or their records, or for custodial sentences of more than 2.5 years, convictions can never become spent.**
- 12 All convictions must be declared by applicants. The School & Social Care Transport team will undertake and record a risk assessment, taking into consideration the advice in the Annexes to this document the nature, severity, frequency and timing of the convictions and the nature and requirements of the work.
- 13 Applicants for work on School & Social Care Transport contracts will only be appointed where the risk assessment carried out by the School & Social Care Transport Team indicates that the risks are judged to be low. In all cases where appointments are made subject to conditions, the School & Social Care Transport team will obtain **prior** written agreement from the Deputy Director, or Head of Service.
- 14 Where an applicant has criminal proceedings pending at the time an application for a job is made, full consideration will be given to the individual case before deciding on any offer of employment.

Special Checking Requirements for Employment and Voluntary Work with Children, Young People and Vulnerable Adults.

- 15 All applicants will be required to undergo a fresh check by the Disclosure and Barring Service (DBS) in accordance with the Disclosure Code of Practice and in addition to declaring any spent and un-spent convictions. Where an applicant has been living abroad checks will be carried out with the relevant countries. The types of work where applicants must be subjected to a DBS check are listed in the Criminal Justice Act 2003.
- 16 Due to the high risks involved, applicants will not start work until a fresh satisfactory disclosure has been received from DBS.
- 17 Applicants will be re-checked through the DBS every 3 years. If a re-check lapses, the applicant will be suspended until the re-check has been received. Service providers will be notified of renewals due.

- 18 In cases where an applicant does not previously disclose information on the Risk Assessment Part 1 and the School & Social Care Transport team after proper consideration judges that the appointee has acted dishonestly in not making a full declaration, this will normally result in the Oxfordshire County Council Approved badge being denied.
- 19 In cases where the DBS advise that a crime is currently under investigation or if „soft“ information is disclosed which cannot be shared with the employee, special arrangements will be discussed and agreed with senior management, the police, Solicitor to the Council and Human Resources Management Advisory Team (HRMAT) or Schools H.R. Team in Customer Services, as appropriate.
- 20 Where an applicant is not able to verify that his/her declaration of convictions is exhaustive he/she must obtain a schedule of these from DBS and submit this before a Risk Assessment Panel Meeting can take place.
- 21 Where the School & Social Care Transport team judges that service users, the public, or property may have been subject to significant risk of criminal action or abuse by an applicant, an appropriate investigation must be undertaken. The School & Social Care Transport team must bear in mind that secrecy from the individual may be important in investigating or detecting a crime and must seek advice straight away from Child Protection, Safeguarding or Solicitor for the council as appropriate.

Records & Data Protection

- 22 Oxfordshire County Council is a data controller under the Data Protection Act 1998 and will use the sensitive and non-sensitive personal data you provide for the purpose of security vetting to ensure your suitability to work with children and vulnerable adults. We may disclose your information to other Local Authorities, District Councils and Thames Valley Police where there are significant concerns or ongoing investigations relating to allegations made.

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- 24 The Council will comply with the Data Protection Act in respect of all records of criminal convictions. Where there is a conflict between disclosing information and possible contravening of the Data Protection Act and the safety of vulnerable groups a course of action will be agreed that prioritises the safety of children and vulnerable groups.

- 25 Your rights

Under the Data Protection Act 1998 you have a right of access to the information we hold about you for which we may charge a small fee, and you have a right to correct any inaccuracies in your information. Please contact the Complaints & Freedom of Information Team, Oxfordshire County Council, County Hall, New Road, OX1 1ND.

Review of the Policy

26 This policy replaces that of March 2010 and will be reviewed in March 2016.

Risk Assessment

A Risk Assessment Part 1 is a document that is prepared by the driver or escort from the information on an Enhanced DBS Disclosure.

A Risk Assessment Part 2 is prepared by Oxfordshire County Council based on the driver or escorts Risk Assessment Part 1, any additional/mitigating information given at a Risk Assessment Panel Meeting and a reference given by the applicant's employer. This document is prepared following a Risk Assessment Panel Meeting.

The panel considers information to assess whether the level of risk is acceptable to students and/or vulnerable adults. It also considers whether the applicant poses an acceptable risk to the individuals who they would be working if a badge is issued. Each case will be decided on its own merits, and there are 3 possible outcomes:

- An Oxfordshire County Council Approved Badge is granted.
- An Oxfordshire County Council Approved Badge is denied and the applicant will be offered the right to appeal the Panel Meeting's decision.
- An Oxfordshire County Council Approved Badge is denied with no right of appeal.

How long will the Council keep the information I provide

Please see attached Oxfordshire County Council's Policy Statement on Secure Storage, Handling, Use, Retention and Disposal of Disclosures certificates and Disclosure Information.

What is a Risk Assessment Panel Meeting?

A Risk Assessment Panel Meeting consists of two or three people (three people will sit on the panel if the categories of offence are of a Sexual or Violent Nature) who will meet with you to discuss your DBS disclosure and to hear what you have to say. They will then decide whether or not to approve your DBS application.

Who are the Risk Assessment Panel Meeting Members?

The Risk Assessment Panel Meeting Members consist of either two or three County Council Officers:

- One or Two Officers from the Environment and Economy Directorate, School & Social Care Transport Team.
- One Officer from the Children, Young People and Families Directorate, Safeguarding Team.

When will the meeting be?

A Risk Assessment Part 1 form should be completed by the driver using information provided on the DBS Disclosure Form, and returned to the School & Social Care Transport Team within 4 weeks of the date of the letter.

A letter will be sent advising a Risk Assessment Panel Meeting has been arranged. If the date or time of the meeting are inconvenient, please contact us to re-arrange. Contact details are at the front of this leaflet.

Should I Attend the Risk Assessment Panel Meeting?

It is in your interest to attend the meeting to present your case. The meeting members will make a decision using this information and information provided by the Disclosure and Barring Service.

Please tell us if you need assistance in the Risk Assessment Panel Meeting, for instance:

- You need assistance with access
- You need documents to be in large print
- You need an interpreter or signer

Can I bring someone with me to help me present my case?

You may bring your partner, friend, prospective employee or other representative to the hearing, either to speak on your behalf, or simply to provide support. Please advise us of this beforehand.

Please note, that if you choose to be represented by a professional person the council will not pay that person's fees even if your complaint is upheld.

Please note that details from your DBS Disclosure that are of a confidential nature will be discussed at the Risk Assessment Panel Meeting.

Who will be at the meeting?

- You
- Members of the School & Social Care Transport Team, and possibly the Childrens Safeguarding Team
- Your representative if you choose to bring somebody with you

How can I prepare for the meeting?

You might like to make a written submission to be considered. This might include a summary of the information provided on your DBS Disclosure but in your own words.

What do I need to bring to the Meeting?

- Your copy of the Enhanced DBS Disclosure through Oxfordshire County Council
- One form of photographic identification e.g. Passport or Driving Licence.

What will happen during the Meeting?

The meeting will be run as informally as possible:

- Welcome and introductions.
- Chairperson from Oxfordshire County Council briefly outlines the procedure to be followed.
- Chairperson presents the reasons for refusing DBS.
- You present your case.
- Questions to you.
- Questions from you
- Summing up by you.
- Summing up by chairperson.

Notes of the meeting - these notes will not be made public.

You will then be asked to leave.

How will I find out about the decision of the meeting?

The panel will discuss all the information provided in private. The outcome of the Risk Assessment Panel Meeting will be decided by the majority decision of the panel.

You will be informed, within 10 working days of the decision by email or letter from the chairperson, which sets out the reasons for the decision.

DBS Check Policy
Annex 1

Guidance on the categories of offences which may lead to refusal to appoint or require a risk assessment before appointment can take place.

This advice cannot be exhaustive. If you are in doubt consult the School & Social Care Transport Team

1. Employment and voluntary work with children, young people and Vulnerable adults or their records. (See paragraphs 15-21 of the Policy)

a) Sexual offences.

Convictions for the following offences will normally disqualify an applicant from appointment.

- I. Any Sexual offence involving a child or vulnerable adult, but see a) (v) below.
- II. Any sexual offence involving violence.
- III. Any sexual offence involving the misuse of drugs.
- IV. Any sexual offence involving organising sexual activity.

An assessment of risk needs to be undertaken when considering applicants with convictions for the following offences:

- V. Where an applicant was convicted of sex with an underage person when they themselves were of a similar age.
- VI. Other sexual offences.

b) Violent offences.

Convictions for the following offences will normally disqualify an applicant from appointment:

- I. Any violent offence against a child or vulnerable adult will normally disqualify.
- II. Murder, manslaughter, grievous bodily harm, aggravated bodily harm.
- III. See a) (II) for violent sexual offences.
- IV. Domestic Violence.

An assessment of risk needs to be undertaken when considering applicants with convictions for the following offences:

- V. Actual bodily harm, wounding, assault and battery
- VI. Possessing an offensive weapon.
- VII. Death by reckless or dangerous driving.
- VIII. Any other violent offence.

c) Offences relating to alcohol and drugs.

Convictions for the following offences will normally disqualify an applicant from appointment:

- I. Any offence relating to dealing, cultivating or supplying controlled drugs or substances.

An assessment of risk needs to be undertaken when considering applicants with convictions for the following offences:

- II. Possession of a class A, B or C drugs.
- III. Offences involving supplying alcohol to young people and children.
- IV. Repeated offences involving alcohol
- V. Being drunk or under the influence of drugs in charge of a motor vehicle. This will be a serious matter where jobs involve driving or transporting others.
- VI. Other offences involving alcohol or drugs.

d) Offences involving theft and dishonesty.

Convictions for the following offences will normally disqualify an applicant from appointment:

- I. Any offence involving theft or dishonesty with a child or vulnerable adult
- II. Any offence involving theft or dishonest, including benefit fraud, and associated violence.
- III. Burglary, aggravated burglary, robbery, blackmail, going equipped to commit burglary.

Other convictions involving dishonesty will be subject to a risk assessment.

e) Offences relating to misuse of the Intranet or Records

Convictions for misuse of the internet or records, involving child or other illegal pornography, using records for purposes of abusing others or involving violence or racism or similar will normally disqualify an applicant for appointment.

f) Other relevant matters which relate to children and young people.

The following will normally disqualify an applicant from appointment:

- I. Any offence against children, young people or other vulnerable adults.

An assessment of risk needs to be undertaken when considering applicants who declare the following:

- II. Where he/she has had a child taken into care, placed under a safety order for reasons relating to abuse or neglect.
- III. H/she has been dismissed from employment to misconduct.
- IV. H/she has been convicted of the mis-use of information.