



General Data Protection Regulation (GDPR)

DBS Application Privacy Notice

HR Service

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The purpose of this document

Hartlepool Borough Council (the Council) is a "data controller". This means that we are responsible for deciding how we hold and use personal information about you. You are being provided with a copy of this privacy notice because you are applying for a Disclosure and Barring Service (DBS) criminal record check via the Council to the North East Regional Employers' Organisation (NEREO). We are an authorised conduit to provide information to NEREO who link directly to the DBS as a Registered Body who will then provide you with a copy of what if any information they hold against your name. The process is the same whether you are an employee, worker, volunteer, contractor or through Foster Caring to the Council or an employee, worker, volunteer, contractor for an external organisation registered with the Council.

The DBS criminal record check helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children, but it is only one part of a safeguarding process.

This document makes you aware of how and why your personal data will be used, namely for the purposes of obtaining a DBS criminal record check and how long your data will usually be retained. It provides you with certain information that must be provided under the General Data Protection Regulation and the Data Protection Act 2018.

While a DBS check in relation to an individual's criminal record is a legitimate part of a safer recruitment process to protect children and vulnerable adults and there is an entitlement to obtain the check in accordance with legislation, an individual cannot be forced to undertake a DBS criminal record check. An individual has the right to decline obtaining a DBS record check; however in such circumstances it would be unlikely that an organisation would proceed with the application of that individual.

In most instances, a job applicant has no legal obligation to reveal spent criminal convictions. If an applicant has a criminal conviction that has become spent, the employer must treat the applicant as if the criminal conviction has not happened. A refusal to employ a rehabilitated person on the grounds of a spent criminal conviction is unlawful under the Rehabilitation of Offenders Act (ROA) 1974. However, certain areas of employment are exempt under the ROA 1974 (Exceptions) Order 1975 and employers may ask about spent criminal convictions. This is known as asking an exempted question. When answering, the applicant would have a legal obligation to reveal spent criminal convictions. We expect you to be open and truthful throughout this process.

In order to process criminal conviction data, we rely on Schedule 1, Part 1, (1) of the Data Protection Act 2018, the processing is necessary for the purposes of employment, social security and social protection law. The Council is also legally required to process this information as it has a duty of care towards the vulnerable adults and children that it provides services to.

Processing a DBS application for an individual who is a Council employee, worker, contractor, volunteer, or a person who has received a conditional offer of employment

and part of that conditional offer relates to undergoing a DBS criminal record check the lawful basis for the check under Article 6 of GDPR is based on contract.

For an individual who is undertaking a DBS criminal record check for an External Organisation, the lawful basis under Article 6 of GDPR for the Council to undertake the check is based on legitimate interest. The legitimate interest is processing your application for a criminal record check in order for you to work for a third party in either a paid or unpaid capacity. If we did not process the information you would be unable to receive the relevant DBS certificate. This would then prevent you carrying out such work and affect your personal interest in that task. You are reminded that you do not have to undertake a criminal record check if you do not wish to do so.

Processing a DBS application for an individual who is involved in a Fostering Application the lawful basis for the check under Article 6 of GDPR is based on legal obligation, in that the processing of the application is necessary for you to comply with the law.

1. Data Protection Principles

We will comply with data protection law and principles, which means that your data will be:

- Used lawfully, fairly and in a transparent way.
- Collected only for valid / relevant purposes that we have stated and not used in any way that is incompatible with those purposes.
- Accurate and kept up to date.
- Kept securely and only as long as necessary for the purposes we have told you about.

2. The types of information we hold about you

In connection with your DBS application, we will examine, collect, store, and use the following categories of personal information about you;

1. Title, e.g. Mr, Mrs etc.
2. Name (including previous names and the dates those names were used).
3. Address.
4. Previous addresses for the last 5 years.
5. Date of birth.
6. Town & Country of birth.
7. Your gender.
8. Personal telephone numbers.
9. Personal email address.
10. National Insurance number.
11. Driving Licence number.
12. Passport details.
13. Other forms of identification as set out in DBS guidance to evidence identity or address.
14. Scottish DBS Number (if any).
15. The post / reason why you require a DBS check.
16. Name of organisation requesting the check.
17. The type of DBS check you are requesting.
18. We will ask you if you are barred from working with children.

19. We will ask you if you are barred from working with adults.
20. We will ask you if children or adults will attend your home address.
21. We will ask you if you are requesting a DBS check as a volunteer in accordance with the DBS definition to determine if you have to pay for the check.

4. How is your personal information collected

For DBS purposes, all the data we collect on you will be provided by you only, either in document format or verbally.

When processing a DBS application for an individual who is a Council employee, worker, contractor, volunteer, or a person who has received a conditional offer of employment and part of that conditional offer relates to undergoing a DBS criminal record check, in addition to a DBS check, in some circumstances we may ask you to obtain additional criminal record checks from other countries you have lived or worked in that we think are reasonable and appropriate to obtain.

Any data obtained from such overseas checks would be held and managed in accordance with this statement on your personal file. The Council will pay for the cost of any additional Criminal Record Certificates we require, but will not pay for any additional / ancillary costs, e.g. travel regarding obtaining such overseas checks, these would be borne by the applicant. The applicant would retain ownership and control of the relevant certificate.

5. How we will use information about you

We will use the personal information we collect about you to complete an online DBS application form via the North East Regional Employers' Organisation (NEREO) portal

We need to process your personal information in this way to provide your DBS criminal record certificate.

6. If you fail to provide personal information

If you fail to provide all information when requested, which is necessary for us to complete the DBS application form, we will not be able to process your application successfully. If we cannot process your application because we have insufficient information you will not obtain a DBS certificate. You are reminded that an individual has the right to decline obtaining a DBS check; however in such circumstances it would be unlikely that an organisation would proceed with the application of that individual. This paragraph also applies to any request to obtain an overseas criminal record certificate (Section 4).

7. How we use particularly sensitive personal information (special categories)

The below information is an extract from the DBS website;

<https://www.gov.uk/guidance/transgender-applications>

Transgender process for DBS checks

The Disclosure and Barring Service (DBS) offers a confidential checking service for transgender applicants in accordance with the Gender Recognition Act 2004. This is known as the sensitive applications route, and is available for all levels of DBS check. The sensitive applications route gives transgender applicants the choice not to have any gender or name information disclosed on their DBS certificate that could reveal their previous identity.

The sensitive applications team

If you are asked to complete a DBS check and have a previous identity that you do not wish to be disclosed to your employer and/or on your DBS certificate, you should call or email the dedicated sensitive applications team before submitting your application. The team is experienced in dealing with sensitive cases and will advise you of the process and what you need to do. To contact the sensitive applications team, please telephone 0151 676 1452 or email sensitive@dbs.gov.uk.

If you are happy to have your previous identity disclosed on your certificate, you do not need to contact the sensitive applications team and can simply submit this information under the 'any other names' section of your application.

Please note, an applicant using the confidential checking service, will still complete the same application form as any other applicant.

8. Returned DBS Checks

Once a DBS check is submitted in all circumstances a certificate detailing whether or not you have any criminal convictions is posted by the DBS to the address given as your home. A copy of this certificate is **not** provided to the Council. The document is your property.

If you are a Council employee, worker, volunteer or contractor information is provided by the DBS service to NEREO which in turn is sent to the Council, which states the disclosure reference number, the date of the check and whether or not the check was flagged (the DBS certificate has a trace) or not flagged (the DBS is clear). The Council will decide if there is a need to meet with you and you may be contacted and asked to attend a meeting to discuss the content of your DBS certificate. You would be required to attend the meeting and produce the certificate for review by Council managers.

If you have obtained a DBS certificate via the Council through NEREO the application form is sent directly to the DBS. Any subsequent use of the DBS criminal record certificate by an external organisation is nothing to do with the Council and we do not need to see the certificate and we do not record any data from it.

9. DBS Update Service

The DBS Update Service allows an individual to use the same DBS certificate for multiple posts as long as certain criteria apply. A DBS online status check allows organisations to check if any relevant information has been identified about the individual since their certificate was last issued. Provided the same level of check is required, Update Service DBS certificates are accepted.

To use the Update Service, the original DBS certificate must be produced to the Council and an online check completed. If the original certificate has a trace the process set out in Section 8 applies in relation to the production of the document for review. If the online check indicates a change in circumstances from the original DBS certificate a new DBS check would be required. Again any trace would follow the process set out in Section 8

The Council do not check Update Service DBS certificates for external organisations.

10. Data Sharing - Why might you share my personal information with third parties

We will only share your personal information with third parties for the purposes of processing your application. The third parties are;

- North East Regional Employers' Organisation (NEREO) who process the DBS application to the DBS.
- Disclosure and Barring Service (to carry out criminal record checks).
- Zellis / North Yorkshire County Council and Granicus have systems access to maintain the Council's computer systems and software.
- Capita manage and maintain NEREO computer systems and software.

All our third-party service providers and other entities are required to take appropriate security measures to protect your personal information. We do not allow our third-party service providers to use your personal data for their own purposes. We only permit them to process your personal data for specified purposes and in accordance with our instructions.

11. Data Security

We have put in place appropriate security measures to prevent your personal information from being accidentally lost, used or accessed in an unauthorised way, or be altered or disclosed. In addition, we limit access to your personal information to those employees, agents, contractors and other third parties who have a business need-to know / purpose for accessing the data. They will only process your personal information for the purpose of the recruitment process and they are subject to a duty of confidentiality.

We have put in place procedures to deal with any suspected data security breach and will notify you and any applicable regulator of a suspected breach where we are legally required to do so.

12. Data Retention - How long will you use my information for?

In relation to DBS applications sent via the NEREO portal, we do not retain any data, i.e. copies of documents. We do retain a record of the fact that we sent the data to NEREO, the name and details of each individual and the level of check. If you are recruited into a post and become a Council employee, worker or volunteer we have additional policies and procedures that cover the management and storage of your personal data.

13. Rights of access, correction, erasure, and restriction

Your rights in connection with the personal information we hold in relation to you. Under certain circumstances, by law you have the right to:

- Request access to your personal information (commonly known as a "data subject access request"). This enables you to receive a copy of the personal information we hold about you and to check that we are lawfully processing it.
- Request correction of the personal information that we hold about you. This enables you to have any incomplete or inaccurate information we hold about you corrected.
- Request erasure of your personal information. This enables you to ask us to delete or remove personal information where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal information where you have exercised your right to object to processing (see below).
- Object to processing of your personal information where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground. You also have the right to object where we are processing your personal information for direct marketing purposes.
- Request the restriction of processing of your personal information. This enables you to ask us to suspend the processing of personal information about you, for example if you want us to establish its accuracy or the reason for processing it.
- Request the transfer of your personal information to another party.
- If you want to review, verify, correct or request erasure of your personal information, object to the processing of your personal data, or request that we transfer a copy of your personal information to another party, please contact the Data Protection Officer (DPO) (see below) in writing.

14. Data Protection Officer

We have appointed a Data Protection Officer (DPO) to oversee compliance with this privacy notice. If you have any questions about this privacy notice or how we handle your personal information, please contact the DPO at the address below:

Data Protection Officer
Civic Centre
Victoria Road

Hartlepool
TS24 8AY
Or via e-mail DataProtection@hartlepool.gov.uk

You have the right to make a complaint at any time to the Information Commissioner's Office (ICO), the UK supervisory authority for data protection issues. www.ico.org.uk.

DBS Contact Information

The Disclosure and Barring Service have a number of privacy statements which can be found on their internet web-site via the link;
<https://www.gov.uk/government/publications/dbs-privacy-policies>

Postal address

DBS Customer Services
PO Box 3961
Royal Wootton Bassett
SN4 4HF

Email customerservices@dbs.gov.uk

DBS helpline 03000 200 190