

ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE:	Standards Committee
DATE:	14th December 2010
TITLE OF REPORT:	Draft Criminal Records Policy
PURPOSE OF REPORT:	To consider recommending for adoption by the Council.
REPORT BY:	Senior Solicitor O.R.Hughes

1. Background – this is a new Policy

- 1.1 The Council has a duty to ensure that those who deliver services to vulnerable people and children are suitable to do so.
- 1.2 The Council is registered with the Criminal Records Bureau (“CRB”) and must by law undertake checks against those in posts which involve regular unsupervised direct contact with vulnerable people and children.
- 1.3 The Policy supplements personnel background checks procedures by providing guidance for identifying which jobs require what sort of check.
- 1.4 In addition the Policy proposes that every Elected and Co-Opted Council Member will be subject to an enhanced CRB check before being able to perform certain duties (for example serve on the Housing, Social Services or Education Committees) and being able to represent the Council on outside bodies (for example as a School Governor).
- 1.5 The draft Policy supplements the Draft Information Protocol presented to Committee today.
- 1.6 Few Councils have such a policy in force and very few have included the requirement for Council Members to be the subject of such checks. Denbighshire is one which does have a comparable policy in force and their Monitoring Officer has been included in the consultation process, along with the Acting Managing Director, Monitoring Officer, Corporate Information Officer, Corporate Directors, Human Resources Department.

2. Recommendation

- 2.1 That the Committee recommends the Council adopts the Policy.

**Cyngor Sir Ynys Môn/Isle of Anglesey
County Council**

*POLISI
GWIRIADAU
TROSEDDOL
DRAFFT /
CRIMINAL
RECORDS POLICY*

<i>Paratowyd gaN / Prepared by:</i>	<i>O.R.Hughes</i>
<i>Pwyllgor Safonau / Standards Committee</i>	<i>14.12.2010</i>
<i>Cyngor Llawn / Full Council:</i>	
<i>Gweithredwyd / Implemented:</i>	

Cyngor Sir Ynys Môn/Isle of Anglesey County Council

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POLISI GWIRIADAU TROSEDDOL

Cyflwyniad

CRIMINAL RECORDS POLICY

Introduction

All Local Authorities are closely involved with many aspects of life in the community. Most members of the community are capable of conducting their life, and that of their families, safely. The integrity of the community is protected by laws and duties imposed upon statutory agencies to investigate and protect individuals from harm.

The community as a whole has a moral duty towards individuals who are not capable of ensuring their own safety, most of these people, defined in this Policy as “vulnerable people” receive services from Cyngor Sir Ynys Môn/Isle of Anglesey County Council (“the Local Authority”). The Local Authority has a duty to ensure the suitability of those employed, those representing it and those undertaking a sensitive role within it. This enables safe delivery of services to clients and public confidence in the integrity of the Local Authority.

The Local Authority is registered to undertake checks with the Criminal Records Bureau (“CRB”) which supplement background, character and other vetting checks. Each Directorate within the Authority (“Directorate”) is responsible for implementing this corporate policy and may supplement it with additional internal guidance to staff undertaking the checking process – for example instigating a background check with any professional body with which the applicant is a member.

This policy applies to i) permanent and temporary staff ii) independent contractors iii) elected members and iv) volunteers.

This policy is based on relevant current legislation and guidance, including the Code of Practice for registered Persons and other recipients of Disclosure Information (“CRB Code of Practice”) published by the CRB April 2009 revision www.disclosure.gov.uk

A. LAW

- Rehabilitation of Offenders Act 1974
- Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
- Police Act 1997
- Data Protection Act 1998
- Protection of Children Act 1999
- Care Standards Act 2000
- Freedom of Information Act 2000

B. THE TYPES OF CRB CHECKS – TAKEN FROM THE CRB CODE OF PRACTICE

1. Standard check

“These are primarily for posts that involve working with children or vulnerable adults. Standard checks may also be issued for people entering certain professions, such as members of the legal and accountancy professions. The Standard check contains details of all convictions held on the Police National Computer (“PNC”) including current and 'spent' convictions as well as details of any cautions, reprimands or final warnings. If a position involves working with children, the CRB check will indicate whether information is held on three government lists of those who are banned from working with children or the vulnerable.”

2. Enhanced check

“These are for posts that involve a far greater degree of contact with children or vulnerable adults. In general the type of work will involve regularly caring for, supervising, training or being in sole charge of such people. Examples include a Teacher, Scout or Guide leader. Enhanced Disclosures are also issued for certain statutory purposes such as gaming and lottery licences.

This level of check involves an additional level of check to those carried out for the Standard CRB - a check on local police records. Where local police records contain additional information that may be relevant to the post the applicant is being considered for, the Chief Officer of Police may release

information for inclusion in an Enhanced check.”

In addition the Local Authority has decided that the following posts will all require an Enhanced check because of the significant direct contact with vulnerable people or the particular sensitivities involved with their duties within the Authority i) every member of Social Services ii) Housing iii) Leisure and iv) Education (staff and Independent contractors) and also v) every elected member of the Authority.

3. How to decide upon a Standard or an Enhanced check

a) Staff, Independent Contractors and Volunteers:-

Directorates will use the checklist in Appendix A to risk assess every post to determine whether, at what level, and at what frequency CRB checks will be undertaken and by whom. This will be recorded with the Human Resources Section.

b) Anyone undertaking a post subject to an Enhanced check will not have unsupervised significant contact with vulnerable people see notes 3.1.4, 5, and 6.

c) All CRB checks will be repeated every 3 years for all those posts for which checks are required and in the case of elected members, after each election or by-election.

d) Directorates may decide to repeat a CRB check more frequently or change the type of check at their discretion.

It shall be the responsibility of individual Officers and Members to notify the Council of any circumstance affecting them that would, or would be likely to, be demonstrated on the CRB check. Failure to advise the Council will be considered a disciplinary matter.

4. Definitions for use in this policy

“Vulnerable people” - these comprise children and vulnerable adults.

a) A child is someone under the age of 18

years old (Children Act 1989 s105 (1)).

b) A vulnerable adult may be defined as an adult who “is or may be, in need of community care services by reason of mental or other disability, age or illness and who is, or may be, unable to take care of himself or herself, or unable to protect himself or herself against significant harm or serious exploitation” Law Commission (Who decides?; Making decisions on behalf of mentally incapacitated adults 1997) as adopted by the North Wales Policy and procedure for the protection of Vulnerable Adults “POVA”.

5. Information from the CRB.

Cyngor Sir Ynys Môn/Isle of Anglesey County Council will comply with the Data Protection Act 1998 and the CRB Code of Practice regarding the correct handling, use, storage, retention and disposal of Checks and Disclosure information. This is set out in Appendix C.

C. PROCEDURE

C1. Employment by the Local Authority in a post requiring a CRB check

a) Every post requiring a CRB check will be advertised as being conditional upon a satisfactory CRB check. The application pack for such a post will include the Authority's Policy Statement on the Recruitment of ex-Offenders. (Appendix B).

b) Every post requiring a CRB check will require the disclosure of all offences including spent convictions, details of any cautions, reprimands or warnings. Employment is conditional on a satisfactory CRB check.

c) CRB checks will be submitted to the CR Bureau once an offer of employment has been accepted so that employment commences upon the return of the CRB check.

d) CRB Disclosure Applications will be submitted once an offer of employment has been accepted with the aim that employment

will only commence upon the return of a satisfactory CRB check.

e) The applicant for the post will verify his/her identity by producing **original** documents for inspection and copying. The following are essential;

- Birth certificate
- Evidence of any change of name,
- Passport, or photo card driving licence or a paper driving licence.
- 2 documents proving current address e.g. utility bills or bank/credit card statements.

f) If there is delay in receiving the CRB check then the Directorate will decide whether it is able to arrange supervision of the prospective post holder's duties until a satisfactory CRB check is received. In particular no significant direct contact with vulnerable people will be allowed.

C2. Criminal records disclosed by the applicant – Paid Employees

a) Past convictions/cautions/reprimands or warnings may not necessarily be a bar to obtaining employment.

b) Consideration will be given to the nature of the matters disclosed by the applicant in his/her application forms and relevance to the post applied for. This will be considered by designated officers of the Directorate who would interview the person and assess the risk against set criteria (Appendix D).

c) Failure to disclose past criminal history at the application stage may be seen as an attempt to gain employment by deception, and will normally result in the withdrawal of any offer of employment.

d) Failure to return a correctly completed CRB Disclosure Application (together with the documentation required for identification purposes) within a timescale set by the officer designated to oversee the recruitment process will lead to a withdrawal of any offer of employment. **A CRB check is one part of a sound recruitment process and does not**

obviate the need for a thorough selection process appropriate to the level of the post, the checking of work and personal references and any gaps in employment.

C3. Independent Contractors and other types of Agency Workers (“the contractor”) undertaking work on behalf of the Local Authority

a) The work to be undertaken will be risk assessed (as for employed staff see C.1.a) and the advertisement and contract of work will state whether a satisfactory standard or enhanced CRB check is required. The CRB check will not be more than 2 years old.

b) The contractor will produce an original CRB check and evidence as to identity (as set out in C.1.e above) for every person undertaking the work. Copies will be retained securely by the Directorate.

c) A contractor with a criminal history wishing to undertake work with vulnerable people will be subject to the same process as set out in C.2.b above.

d) For the avoidance of any doubt these requirements are in addition to the requirements of the Care Standards Act 2000 and regulations and the Care and Social Services Inspectorate Wales.

C4. Elected and Co-Opted Members of Cyngor Sir Ynys Môn/Isle of Anglesey County Council

a) Notification of each Election and Elected Members’ information packs will state that Enhanced CRB checks are required for each Elected Member of the Local Authority. Co-Opted Members will be informed that they will be required to undertake the same CRB checks as Elected Members. Non-participation with CRB vetting will require the Council to restrict the activities of the individual member in accordance with this policy.

b) Within 1 month of being elected or accepting nomination each Elected and Co-

Opted Member will complete an Enhanced CRB check Application form.

c) Elected and Co-Opted Members are an integral part of the Local Authority's work. They are the public face of the Local Authority and undertake vital and sensitive roles on Committees, internal and external Panels and other Bodies for example on the Corporate Parenting Panel and as School Governors in accordance with the Local Authority Constitution and any Political Management Protocols in force from time to time. The public are entitled to expect a high standard of behaviour from them both in their personal and private lives, the CRB vetting process will ensure that any person who ought not undertake sensitive work is identified at the earliest opportunity.

d) The Managing Director and Monitoring Officer will, following consultation with the Leaders of the Council, the Group Leaders (and the Chairman of the Council in relation to unaffiliated and co-opted members):-

- (i) determine whether an Elected or Co-Opted Member is not eligible to be appointed to any internal or external post by virtue of information disclosed during the process of CRB checks, and;
- (ii) hold all CRB check disclosure information.

C5. Volunteers who undertake tasks on behalf of the Local Authority or Independent Contractors.

a) A volunteer is defined on the CRB web site as:

“a person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives.”

Directorates will use the checklist in Appendix A to risk assess every voluntary opportunity to determine whether, at what level, and at what frequency CRB checks will be undertaken and by whom. This will be recorded with the Human Resources Section.

b) Volunteers who have significant direct contact with vulnerable people will require Enhanced CRB checks, for example these include a classroom helper / chaperone on school trips or assists with leisure activities. This classification of person is not to be confused with extended family and friends who make private arrangements

Appendix A

- Risk Assessment Checklist – is a CRB check required? If so whether it is to be a Standard or Enhanced CRB check?
- Will the position involve one to one contact with vulnerable people (n.b this definition includes children) whether as employees, customers, Elected Members or as clients?
- Will the work involve regularly caring for, supervising, training or being in sole charge of vulnerable people?
- Does the position involve direct contact with the public in their homes e.g. housing maintenance?
- Does the nature of the job present opportunities for the post holder to offend or behave inappropriately when involved with vulnerable people?. e.g. tour/visitor guides.
- Will the person have, be held out to have, or likely to be considered to have influence over Local Authority policies and procedures which relate to vulnerable people?
- Will the person take part, be held out as , or likely to be considered to be taking part, in decisions regarding the services to, or safety of, vulnerable people?

If the answer to any of the questions above is yes, then a CRB check is required.

To determine the level of check required the following should be taken into consideration.

- What level of supervision will the individual receive?

- What are the tasks, and in what circumstances are the duties to be carried out e.g. What level of autonomy will the individual have to visit premises and have access to vulnerable adults or children alone and unsupervised.
- N.B. it has been decided that all Elected Members are to undertake an Enhanced CRB check.

Following a consideration of the above if the individual will have unsupervised significant direct contact with a child or vulnerable adult then an enhanced check will be required. Enhanced checks provide significant additional local information and indicate levels of risk not available through a standard check.

Costs with effect from 29th October 2010

Standard	£26
Enhanced	£36

Checks on volunteers are free of charge

**POLICY STATEMENT ON THE
RECRUITMENT OF EX-OFFENDERS**

Having a criminal history will not necessarily bar you from working with us.

This will depend upon the nature of the work.

1. Cyngor Sir Ynys Môn/Isle of Anglesey County Council (“the Local Authority”) complies fully with the CRB Code of Practice and undertakes to treat all applicants for positions fairly, It undertakes not to discriminate unfairly against any applicant who discloses a criminal history.
2. The Local Authority is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
3. We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select candidates for interview based on their skills, qualifications and experience.
4. A CRB check is only requested after risk assessment indicates that a check is proportionate and relevant to the position concerned. For those positions where a CRB check is required, all application forms and any advert will contain a statement that a satisfactory CRB check will be requested in the event of the individual being offered the position.
5. Where a CRB check is required all applicants called for interview will be asked to provide details of any criminal history. Such disclosure will be made to the Local Authority under separate, confidential cover to ensure it is only seen by those who need the

information as part of the recruitment process. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

6. Those involved in the recruitment process are trained to identify and assess the relevance and circumstances of any criminal history and relevant matters. Appropriate guidance in the employment of ex-offenders under the Rehabilitation of Offenders Act 1974 will be available.

7. An open and measured discussion about an applicant's criminal history and any other relevant history or matter will be undertaken with the applicant.

8. Every subject of a CRB check will be informed of the existence of the CRB Code of Practice on www.crb.homeoffice.gov.uk and a copy made available if required..

9. We undertake to discuss any matter revealed in a CRB check with the person seeking the position before withdrawing a conditional offer of employment.

POLICY STATEMENT ON THE SECURE STORAGE, HANDLING, USE, RETENTION AND DISPOSAL OF CRB CHECKS AND DISCLOSURE INFORMATION SUPPLIED BY THE CRIMINAL RECORDS BUREAU

1. General Principles

The Criminal Records Bureau service assists the process of assessing the suitability of applicants for employment. The Local Authority complies fully with the CRB Code of Practice and the Data Protection Act regarding the correct handling, use, storage, retention and disposal of CRB checks and Disclosure information (together referred to below as "Disclosure Information").

2. Storage and Access

In the case of Officers, disclosure information will not be kept on an applicant's personnel file. Evidence that a CRB check has been undertaken e.g. top of disclosure certificate will be kept on the individual's personnel file .

The information will be kept separately and securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties. The information will be processed in accordance with the Data Protection Act 1998.

3. Handling

In accordance with section 124 of the Police Act 1997, Disclosure Information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom disclosures have been revealed and we recognise that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

4. Usage

Disclosure Information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

5. Retention

Once a recruitment (or other relevant) decision has been made, we do not keep Disclosure Information for any longer than is absolutely necessary. This is generally for a period of up to 6 months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure Information for longer than 6 months, we will consult the CRB about this and will give full consideration to the Data Protection and Human Rights of the individual subject before doing so. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.

6. Disposal

Once the retention period has elapsed, we will ensure that any Disclosure Information is safely destroyed, i.e. by shredding,. While awaiting destruction, Disclosure Information will not be kept in any insecure receptacle (eg waste bin or confidential waste sack). We will not keep any photocopy or other image of the Disclosure Information or any copy or representation of the contents of a CRB check. However, notwithstanding the above, we will keep a record of the date of issue of a CRB check, the name of the subject, the type of check requested, the position for which the CRB check was requested, it's unique reference number and the details of the recruitment decision taken.

CRIMINAL RECORDS BUREAU - ENHANCED DISCLOSURE .

CHECKLIST FOR MEETING TO REVIEW INFORMATION DISCLOSED AND RECORD A DECISION ON EMPLOYMENT.

SUBJECT NAME:

POSITION APPLIED FOR:

Date of Meeting:

Present at meeting:

PRINT NAME/TITLE.....

1	Does the post involve one-one contact with children or other vulnerable groups as employees, customers and clients.	
2	What level of supervision will the post holder receive	
3	Does the post involve any direct responsibility for finance or items of value	
4	Does the post involve direct contact with the public	
5	Will the nature of the job present any opportunities for the post holder to re-offend in the place of work?	
6	What is the seriousness of the offence and it's relevance to the safety of other employees, customers, clients and property	
7	What is the length of time since the offence occurred	
8	Any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example the influence of domestic or financial difficulties	

9	Was the offence a one-off, or part of a history of offending	
10	Have the applicant's circumstances changed since the offence was committed, making re-offending less likely	
11	The country in which the offence was committed; some activities are offences in Scotland and not in England and Wales, and vice versa.	
12	Whether the offence has since been decriminalised by parliament	
13	Is there verification of the explanation from other sources e.g. references, CRB	
	Comments:	
	Advice from Personnel or Legal sections as appropriate.	

RECOMMENDATION

Having interviewed the above named person, it is my view that the applicant is * suitable / unsuitable for employment
 * please delete as appropriate

Signed.....Date.....

HEAD OF SERVICE/DIRECTOR

* Agree/disagree that the applicant is suitable for employment.
 * please delete as appropriate

Signed.....Date.....

PRINT NAME/TITLE.....

Once the decision has been made, only the date of the meeting and the decision can be kept on file, details received from Criminal Records Bureau should be destroyed.