



PEOPLE MATTER

The Organisational Development Plan



SAFER PEOPLE FOR SAFER SERVICES POLICY



<u>CONTENTS</u>	<u>PAGE</u>
<u>SECTION 1 – POLICY</u>	
1. Introduction and Aims	3
2. Safer People for Safer Services – Policy Statement	3
<u>SECTION 2 – RELEVANT AND SUPPORTING INFORMATION</u>	
3. Legislation Relevant to The Policy	3/4/5
4. The Criminal Records Bureau	6
5. Posts Covered By This Policy	6/7
<u>SECTION 3 – OPERATIONAL REQUIREMENTS</u>	
6. Advertising & Information to Applicants	7/8
7. Shortlisting	8/9
8. Proof of Identity	9
9. References & Previous Employment	9
10. Confirmation of Employment	10
11. Overseas Applicants	10/11
12. Special Conditions of Employment	11
13. Probation Period	11
14. Existing Staff	11/12
15. Duty To Report	12
16. Agencies	13
17. Consultants	13
18. Voluntary & Partner Organisations	14
19. Councillors	14
20. Contractors and Contracted Out Services	14
21. Training	14
22. Monitoring & Review	14
23. Data Protection Act 1998	15
24. Advice	15
Glossary of Terms	16

SECTION 4

APPENDICES

1. Rehabilitation of Offenders Act - Rehabilitation Periods	17
2. Criminal Records Bureau – Disclosure	18/19
3. Posts Exempt From The Rehabilitation of Offenders Act	20/21
4. Post Assessment Form	22/23
5. Applicant Declaration - Disclosure	24
6. Applicant Declaration – Safer People For Safer Services	25
7. Convictions/Information Requiring Automatic Bar or Risk Assessment	26
8. Applicant Assessment Form	27/28
9. Information Presented At Interview	29/30
10. Extract from Warner Report (choosing with Care)	31/32/33/34
11. Employment History Letter	35
12. (i) Reference Request	36
(ii) Reference Questionnaire	37/38
13. New Starter Checklist	39
14. Agency Checklist	40
15. List of Countersignatories	41

SECTION 1

1. INTRODUCTION AND AIMS

This Policy entitled Safer People for Safer Services sets out the standards and requirements that will apply in cases of appointment to positions involving contact with vulnerable clients. It is supplementary to the *Recruitment and Selection Policy and Standards* and the *Employment of Ex-Offenders Policy*. Both Policies are subject to this Policy and should be read and applied in conjunction with it.

The aim of this Policy is to bring into practice a comprehensive recruitment and ongoing integrity standard whilst recognising that this particular area requires a systematic and sensitive approach. It therefore requires that all those involved in the process of Recruitment and Selection strictly adhere to the demands of the Policy, the essence of which is set out in the Policy Statement below.

2. SAFER PEOPLE FOR SAFER SERVICES – POLICY STATEMENT

As an Equal Opportunity employer, we aim to ensure that no job applicant or member of staff suffers unfair treatment on the basis of unjustifiable criteria. This includes discrimination on the grounds of criminal convictions, which are “spent” or unrelated to the job in question.

We also recognise our responsibility for protecting vulnerable groups and individuals within our care.

Accordingly, and so that public confidence in our management of these sensitive areas is high, we undertake to ensure, so far as is reasonably practicable, that people who carry out work for us, or with us – including staff, Councillors, partners, agencies, consultants, contractors, voluntary organisations and others - pose no risk to service users.

SECTION 2

3. LEGISLATION RELEVANT TO THE POLICY

Rehabilitation of Offenders Act – General Principles

The Rehabilitation of Offenders Act (1974) was designed to ensure that a person convicted of a criminal offence, which carried a sentence of up to 2½ years imprisonment and who subsequently did not re-offend for a specified period of time related to the severity of the sentence, would thereafter be freed from the stigma of the conviction and treated as if the offence, conviction and sentence had never occurred. The conviction would be regarded as “spent” and the person would not need to disclose the information when applying for a job, or if asked at interview or subsequently. Details of the Rehabilitation Periods are contained at Appendix 1.

The provisions relating to the non-disclosure of “spent” convictions do not apply to certain occupations (including those involving work with children and vulnerable persons) and applicants for employment in these exempt occupations must disclose all convictions if

asked on the application form or at interview. Failure to do so may result in their elimination from the Recruitment and Selection process and, if appointed, dismissal.

The following areas and occupations are exempt from the Rehabilitation of Offenders Act.

'Working with children'

For the purpose of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, the definitions of 'working with children includes

- (a) work in a regulated position
- (b) work in a further education institution where normal duties involve regular contact with persons aged under 18.
 - 1 an institution which is exclusively or mainly for the detention of children
 - 2 a hospital exclusively or mainly for the reception and treatment of children
 - 3 a care home, residential or nursing home or private home exclusively or mainly for children
 - 4 an educational institution
 - 5 a children's home or voluntary home
 - 6 a home provided under 82(5) of the Children Act 1989

A position whose normal duties include the following

- work on a day care premises
- caring for, training, supervising or being in sole charge of children
- unsupervised contact with children under arrangements made by a responsible person
- caring for children under the age of 16 in the course of the children's employment
- supervising or training children under 16 in the course of the children's employment
- supervising or managing an individual in their work in a regulated position
- work in a further education institution involving regular contact with persons aged under 18

Including the following positions

- Members of the governing body of an educational institution
- Member of a relevant local government body
- Director of Social Services
- Chief Education Officer
- Children's charity trustee
- Member of Youth Justice Board for England & Wales
- Children's Commissioner or Deputy for Wales
- Member or Chief Executive of the Children and Family Court Advisory and Support Service

'Working with vulnerable adults'

For the purpose of the ROA 1974 (Exceptions) Order 1975, a person who regularly cares for, trains, supervises or is in sole charge of vulnerable adults. A vulnerable adult for the purposes of an enhanced disclosure is a person aged 18 or over who receives services of a type listed in paragraph 1) below and in consequence of a condition of a type listed in paragraph 2) below, has a disability of a type listed in paragraph 3) below

1. The services are
 - a) accommodation and nursing or personal care in a care home
 - b) personal care or support to live independently in his or her own home
 - c) any services provided by an independent hospital, independent clinic, independent medical agency or National Health Service body
 - d) social care services, or
 - e) any services provided by an establishment catering for a person with learning difficulties

2. The conditions are
 - a) a learning or physical disability
 - b) a physical or mental illness, chronic or otherwise including an addiction to alcohol or drugs, or
 - c) a reduction in physical or mental capacity

3. The disabilities are
 - a) a dependency upon others in the performance of, or a requirement for assistance in the performance of, basic physical functions
 - b) severe impairment in the ability to communicate with others, or
 - c) impairment in a person's ability to protect him or herself from assault, abuse or neglect.

A list of exempt occupations and posts can be found in Appendix 3.

Protection of Children Act 1999, Care Standards Act 2000, Criminal Justice and Courts Services Act 2000

The Protection of Children Act 1999 (the "1999 Act") at section 7(2) provides that where a child care organisation proposes to offer an individual a child care position it must first ascertain if the person is included on the statutory lists maintained under the Act and/or the Education Reform Act 1988. If they are listed then they must not be offered that employment. A similar requirement is set out in section 89 of the Care Standards Act 2000 (the "2000 Act") for persons who provide care for vulnerable adults. A person who is on the 1999 Act list is also not to work with vulnerable adults and vice versa. It is a very serious criminal offence for a person who is listed or disqualified from working with children or vulnerable adults to seek such employment. Likewise it is further a serious offence to knowingly seek to employ or continue to employ a listed or disqualified person. The offence carries an indictment of up to 5 years imprisonment.

Police Act 1997

Part V of the Police Act 1997 includes measures that will enable all organisations in England & Wales to obtain criminal record information about prospective staff from a centralised source. This centralised source is now known as the Criminal Records Bureau.

4. THE CRIMINAL RECORDS BUREAU

The Criminal Records Bureau (CRB) is a central co-ordinating and contact point that enables employers and voluntary organisations to make safe recruitment decisions. The CRB will assist in identifying those prospective candidates, or staff, or other persons who may be unsuitable for certain work especially involving contact with children and/or vulnerable people.

The CRB help to protect the public through a service called “**Disclosure**”.

Disclosure

Disclosure is the name of the service provided by the CRB and it draws upon four primary sources of information:

- The Police National Computer - A Centralised information point for the police forces of England and Wales
- Local Police force records
- Records held by the Department of Health about people considered unsuitable to work with children (Protection of Children Act list)
- Records held by the Department for Education and Skills (“List 99”)

The service provides a national standard throughout England and Wales in the form of a one-stop service, removing the need to contact the other record holders.

All posts deemed exempt from the Rehabilitation Act require Disclosure. Information about the Disclosure Service and levels of checks available can be found in Appendix 2.

5. POSTS COVERED BY THIS POLICY AND ITS REQUIREMENTS

Posts that are identified as being “exempt” from the Rehabilitation of Offenders Act are simply referred to in this document as “exempt posts”. However, the policy also relates to posts that are not deemed exempt but, because of the nature of the work and contact that may be involved, will be covered by this policy.

There are 4 types of post at the Council

- a) A post that is not covered by Safer People for Safer Services Policy and is not exempt from the Rehabilitation of Offenders Act, e.g. HR Officer
- b) A post that is covered by Safer People for Safer Services Policy and is exempt from the Rehabilitation of Offenders Act, e.g. Social Worker
- c) A post that is not covered by Safer People for Safer Services Policy but is exempt from the Rehabilitation of Offenders Act, e.g. CCTV Operator, Solicitor

- d) A post that is covered by Safer People for Safer Services Policy but is not exempt from the Rehabilitation of Offenders Act, e.g. Estate Officer or any post that may have contact with vulnerable adults but not provide a care service.

Obvious examples of an exempt post at the Council are those who will work with vulnerable service users on a daily basis such as staff of a residential facility. The requirement of course goes further than that and thought must be given as to whether the occupation may lead to the worker gaining unsupervised substantial access to children or other vulnerable people. As detailed at the beginning of this section, posts that are not necessarily exempt may still be covered by the policy requirements.

The safety and welfare, and avoidance of risk, to vulnerable service users is of paramount importance to the Council. It is important that potentially good applicants are not deterred from applying for posts which have been classified as exempt and/or covered by the policy without proper consideration. For this reason, and in view of the diversity of occupations within Local Authorities, careful consideration needs to be given to these posts. All well-reasoned proposals will be supported. Those, which cannot be objectively justified, will not.

An accurate list of all exempt posts and posts covered by the policy within this Authority will be maintained and held centrally within the HR Service.

The provisions of this Policy apply to:

- all permanent and temporary staff of the Council up to and including Chief Executive level, where the respective posts have been classified as “exempt” under Section 3 above; and
- all other groups and individuals, referred to in this Policy, who may be engaged in work which allows access to vulnerable clients, or to services that have exempt posts.

In order to establish whether or not a post should to be covered by the policy requirements, an assessment process has been designed.

The Head of Service, in liaison with the Recruiting Manager, will undertake the assessment of each post within his/her department. The details of the assessment will be recorded on the assessment form contained at Appendix 4. The assessment will identify whether or not the post is covered by the Policy and its requirements.

SECTION 3

6. ADVERTISING & INFORMATION TO APPLICANTS

Advertisements for all exempt posts will indicate that the post is exempt under the terms of the Rehabilitation of Offenders Act (exemptions) Order and the following statement will be included on the advertisement

“The post is exempt from the Rehabilitation of Offenders Act 1974 and a comprehensive screening process will be undertaken on the successful applicant including a Disclosure.”

Where a post is not deemed exempt but is covered by the policy requirements, the following statement will be included :

“The post is covered by the Council’s Safer People for Safer Services policy and a comprehensive screening process will be undertaken on the successful applicant”

In addition, applicants will be sent a declaration note which gives further details of the Policy requirements and which outlines in detail the investigations that will be undertaken.

Under the terms of the Rehabilitation of Offenders Act (Exceptions) Order applicants will be asked to disclose all criminal offences (whether “spent” or “unspent”) and all other criminal record details. The investigation checks will also extend to disciplinary records held by previous employers. This ‘Applicant Declaration’ note is contained at Appendix 5.

7. SHORT LISTING

Any applicant who does not return the completed “Applicant Declaration” form will have their application rejected.

This form will not be considered until after the usual short listing process. Completed application forms will be screened, by trained staff only, against the requirements of the person specification, as detailed in the Recruitment & Selection Policy and Standards.

Once it has been decided that an applicant should be short listed, the Applicant Declaration form should be considered. If the form does contain information regarding previous disciplinary action or contact with the criminal justice system, a check must be made to ascertain if what has been disclosed automatically bars the applicant from employment in a post which is covered by the Safer People for Safer Service Policy (see Appendix 6 for information on automatic bars).

Unless an automatic bar applies, an applicant who declares a conviction and/or other criminal record details, and/or disciplinary record details will not necessarily be barred from employment into the post. Instead, careful consideration will be given to the individual merits of the case in the form of a risk assessment.

The risk assessment should consider

- Any Official Guidance e.g. Home Office, Department of Health etc
- An examination of circumstances leading up to an offence
- Whether the individual has carried out a number of offences and whether those offences are similar
- The length of time since an offence took place
- The nature of the job, workplace environment, exposure to money, property and vulnerable people/children
- The sentence(s) given by the Court to the offender
- The extent of job supervision

In accordance with the Employment of Ex-Offenders Policy, the issues should be discussed with the applicant concerned so full details can be obtained. As it has already been decided that the applicant should be short listed, they should be invited for interview and the discussion regarding their disciplinary history or contact with the criminal justice system should take place at the interview.

At whatever stage a decision is made in relation to an applicant's past disciplinary record or contact with the criminal justice system, to ensure consistency of approach in these circumstances, the assessment and decision will be made using the Applicant Assessment form contained at Appendix 7. This form should be completed by the relevant Recruiting Manager and will be submitted to the Director/Borough Officer for final decision.

Where there is any doubt about the relevance of the conviction or criminal record details the Council will always err on the side of caution and the application will be rejected.

8. PROOF OF IDENTITY AND CERTIFICATES

Applicants invited to interview will be required to bring to the interview, their passport/driver's licence, birth certificate and/or any other certificates/paperwork detailing a change of name. In addition, applicants will be required to bring to the interview, original certificates in respect of relevant qualifications.

If these are not produced they should be warned that failure to produce them or authentic duplicates/replacements within a specified period of time may lead to withdrawal of consideration for the post.

A form has been designed to assist the gathering of this information at the interview stage. A sample of this form can be found in Appendix 8.

9. REFERENCES AND PREVIOUS EMPLOYMENT

References will be taken and followed up in accordance with Warner Guidelines (an extract of the recommendations is to be found at Appendix 9).

Referees should be authenticated and particularly treated with caution if they appear incongruent with the application (normally, this judgement will be made by the Recruiting Manager and Departmental HR Department. Where there is any doubt, the matter will be referred to the Borough Personnel Officer for final decision).

In addition to seeking disclosure of criminal record details, every effort will be made to check the accuracy of the information provided by applicants. This will include asking referees and current/ex employers for full details of all disciplinary matters and/or other information that might have a bearing on the selection process. Furthermore, all applicants to exempt posts and posts covered by this policy and requirements will be required to provide a full career history including periods of unemployment. The employment history should be scrutinised and where there are gaps or the chronology appears contradictory, they must be followed up and challenged. Care should be taken that, if there is a change of name, checks are carried out for details under both old and new names. A sample of the type of letter used to check an employment history is contained in Appendix 10.

Because of the nature of the work involved, particular care will be given to the drafting of reference requests. A sample of the type of reference request to be used, which incorporates these points, is contained at Appendix 11(i) & 11(ii).

10. CONFIRMATION OF APPOINTMENT

Official confirmation of appointments will depend on the Council receiving satisfactory written references. It is the Council's final decision as to whether the references are satisfactory.

In the case of exempt posts, confirmation of appointment will also depend on the receipt of a satisfactory disclosure check.

It may be possible for an applicant to commence their employment before their references and disclosure checks have been received. This will need to be agreed with the Recruiting Manager and the Departmental HR Department.

In this situation the manager must undertake a risk assessment to establish which of the tasks in the exempt post the applicant would not be able to undertake until the disclosure check has been received. Consideration should be given to how much of the job this assessment removes and whether or not it is still a viable option. A specified duty list should be drawn up and the decision must be recorded. Managers should be clear with applicants at all times regarding any restricted duties.

No successful applicant will be allowed to begin work on exempt post tasks without supervision unless and until the disclosure check has been received and cleared. They should therefore not have unsupervised access to vulnerable clients.

In the event of an applicant being unable to undertake tasks in exempt posts as outlined above, consideration should be given to the impact this may have on the probationary period.

The supervising manager must regularly review any appointment that is affected by delays in screening.

To assist the process of confirming the appointment, a New Starter Checklist will need to be completed for every appointment. A copy of this Checklist is contained at Appendix 11.

11. Overseas Applicants

The CRB does not have access to overseas criminal records but are currently studying the availability of overseas pre-employment vetting services. The Police National Computer contains a limited number of overseas convictions and it may be of limited value to request a disclosure in respect of a person with very substantial gaps in their UK residence or no previous residence in the UK. However, applicants who have been offered an exempt post and have a substantial record of overseas residence must be checked against the Protection of Children Act list, the Protection of Vulnerable Adults list and List 99 with the DFES. Therefore a Disclosure must be completed.

Overseas applicants should also be asked to obtain and produce a testimony or criminal records check from their country of residence.

A substantial period of overseas residency should not exclude the applicant from the recruitment process or be used as a reason to reject an application.

12. SPECIAL CONDITIONS OF EMPLOYMENT

To eliminate any uncertainty regarding the standards expected of staff in exempt posts and posts covered by this policy and requirements, all new contracts of employment in these areas will contain the following clause:

“As a condition of your Contract as member of staff working in this post, you are required to notify your Chief Officer of any future criminal justice record details, including when you know you are under investigation for a criminal offence; or charged; and convictions, cautions, reprimands, warnings, and other information (e.g. bindovers and acquittals), so that the Council can take a view as to whether this has a bearing on your employment in that post. Similarly, you are expected to have declared any past criminal record details (only unspent convictions would be declared for posts that are not exempt from the Rehabilitation of Offenders Act) and other relevant information, including disciplinary warnings received or investigations undertaken, as requested at the time of your application. Failure to comply with any of the above is likely to lead to disciplinary action which could include dismissal under the Council’s Disciplinary provisions”.

Add the following sentence for posts that are exempt from the Rehabilitation of Offenders Act :-

“Whilst you remain in this post, you will be required to undergo further disclosure checks at regular intervals.”

13. PROBATION PERIOD

All persons appointed from outside the Council to posts where the Safer People for Safer Services Policy applies, including those with continuous local government service, will be subject to the formal probationary process.

14. EXISTING STAFF

The Council has a responsibility to ensure a fair and consistent approach in all of its policies and procedures. It also has a responsibility to its service users to provide a safe service through safe people.

If, as a result of obtaining a disclosure, an existing member of staff is found to have convictions that have not previously been disclosed, they should not necessarily be dismissed. A full assessment of the situation and the risks involved should be undertaken by the line manager. Consideration should be given to whether the conviction is relevant to the post and also to whether the information was deliberately withheld.

The same process would need to be followed for any individual who personally discloses new information relating to their criminal record.

Falsifying and/or deliberately withholding information on application is a disciplinary offence and should be dealt with according to the disciplinary procedure.

Disclosed convictions must not be used as an excuse to discipline or dismiss for poor performance. Information disclosed should be discussed with the member of staff and track records should be carefully assessed. In undertaking their assessment, all managers should consider the following issues as a minimum requirement

- the seriousness and relevance of the offence to the post
- the length of time since the offence occurred
- relevant information offered by the member or staff regarding the circumstances
- was the offence a one off or part of a history of offending
- likelihood of re-offending (change in circumstances)
- degree of remorse expressed by the member of staff and their motivation to change

The continued employment of existing staff in an exempt post will be subject to the same special conditions of employment as detailed in section 12.

All members of staff working in an exempt post will be subject to a disclosure check every 3 years thereafter.

15. DUTY TO REPORT

The Council has a statutory requirement placed on them by the Protection of Children Act and the Care Standards Act. This requirement is to refer the names of any member of staff who is disciplined or dismissed on the grounds of misconduct, which harmed or placed a child or vulnerable person at risk.

Details of any such persons should be passed to the Department of Health (address below) so that they may be considered for inclusion on the Protection of Children Act list and the Protection of Vulnerable Adults list.

The Manager
Protection of Children Act list/Protection of Vulnerable Adults list
Room 134
Wellington House
133 – 155 Waterloo Road
London
SE1 8UG

The Council also has a duty, under the Education (Restriction of Employment) Regulations 2000, to report to the Department for Education & Skills (address below) when a person is dismissed on the grounds of misconduct, or resigns in circumstances that may have led to their dismissal.

DFES
Teachers Misconduct Team
Ground Floor
Area E
Mowden Hall
Darlington
DL3 9BG

16. AGENCIES

It is acknowledged that agency staff may be engaged temporarily to cover staff sickness/vacancies etc, and to some extent that this unavoidable. However, in respect of exempt posts, such staff will only be engaged where this is absolutely necessary, and on no account will they be given access to children or other vulnerable clients unsupervised or not, unless they can comply with the same requirements as set out above with regards to the obligations on the Council under the 1999 & 2000 Acts and satisfy a Disclosure check and references from their most recent employer.

Agency staff for employment in exempt posts will be obtained from a list of agencies who have been approved for the purpose. A Checklist of issues can be found at Appendix 12.

Police checks will still be accepted as documentary evidence for agency staff until 2005, provided they are less than 3 years old and are full Scotland Yard checks. Evidence of Protection of Children Act and List 99 checks will also be required in this instance and local police checks will not be accepted under any circumstances.

In addition, any agency providing staff for exempt posts will be required to provide details of

- how long the individual has been on the agency's books
- the number, nature, and duration of assignments for the agency
- an opinion as to the individual's suitability for the work in question, based on reports received, etc.

Each Director/Borough Officer has the responsibility to ensure that such agencies take all reasonably practicable steps to ensure that their practices and procedures are sufficient to satisfy the high expectations of the Council. In furtherance of this, it will be a condition of any contract with such organisations, that the Council reserves the right to do "spot checks" on systems, processes, references, etc.

To eliminate any uncertainty regarding these expectations, a copy of the Policy will be given to all approved agencies.

17. CONSULTANTS

It is acknowledged that consultants may be engaged periodically to undertake specific projects covering a post which may be exempt and/or be covered by this policy.

Consultants who are engaged in work involving exempt posts will be obtained from a list of consultants who have been approved, by the Directors/Borough Officer for the purpose.

Because of the particular implications and sensitivities relating to this area, all consultants engaged by the Council will have the provisions of this document applied to them. Any consultant who is not prepared to accept this term of engagement shall not be considered for work in this area.

To eliminate any uncertainty regarding the standards expected, all consultants approved for employment in these areas will be given a copy of this Document.

18. VOLUNTARY AND PARTNER ORGANISATIONS

The Council values its links with voluntary and other partner organisations involved in providing services. It is acknowledged that staff from these organisations may be invited to undertake work on behalf of the Council, or may otherwise come into contact with vulnerable clients in the care of the Council.

In all such cases, the relevant Director/Borough Officer must be satisfied that all reasonably practicable steps have been taken to ensure that their practices and procedures are sufficient to satisfy the high expectations of the Council, as set out in this document. In furtherance of this, it will be a condition of any contract with such organisations, that the Council reserves the right to do “spot checks” on systems, processes, references, etc.

To eliminate any uncertainty regarding the standards expected, all voluntary and partner organisations will be given a copy of this document.

19. COUNCILLORS

Periodically, Members of the Council may be given specific responsibilities, or be asked to undertake projects, in areas which include exempt posts.

Because of the particular implications and sensitivities relating to this area, and to raise and maintain the level of public confidence in the elected body, all Members of the Council will have the provisions of this Policy applied to them.

20. CONTRACTORS AND CONTRACTED OUT SERVICES

Some Council services have already been contracted out to external organisations and it is possible that others may be contracted out in the future.

Where these services include posts that have been classified as exempt, it will be a condition of agreement that they follow these provisions.

21. TRAINING

Because of the particular implications and sensitivities relating to this area, all those involved in the non-routine aspects of recruitment and selection to exempt posts, will be required to undergo a departmental briefing in the application of this Policy and its requirements, in addition to the corporate training required under the provisions of the Recruitment and Selection Policy and Standards.

22. MONITORING AND REVIEW

The Borough Personnel Officer will conduct an audit process annually, to ensure that the requirements of this Policy are being applied as intended. Information on this is held by the Corporate HR Department.

The Policy and requirements will be reviewed periodically so that areas requiring further development can be identified and changes made as necessary.

23. DATA PROTECTION ACT 1998

This Policy and its requirements will be operated in accordance with the provisions of the Data Protection Act 1998, its Regulations, Codes of Practice and Guidelines.

24. ADVICE

Advice on any issues that may arise can be obtained from your Departmental Human Resource Service.

Policy on Safer People for Safer Services: Glossary of Terms

- Director/Borough Officer/
Borough Personnel Officer**
- References to the Director/Borough Officer or Borough Personnel Officer means that they have accountability in a particular area. However, this also includes any officer acting on their behalf.
- Countersignatories**
- This is the term given to those officers authorised to request Disclosure checks relating to Applicants /staff.
- Substantial Access**
- The considerations relating to the suitability of an applicant for employment into an exempt post require judgements to be made about the individual's ability to cause harm. If the access to a vulnerable client could potentially result in abuse, then it will be assumed that their access is substantial.
- Exempt Posts**
- This is the term given to positions which have been excluded from the non-disclosure provisions of the Rehabilitation of Offenders Act, because of the particular nature of the work. Applicants to such posts, if asked, are required to give details of all criminal convictions – even where these would otherwise have been regarded as “spent” because a “rehabilitation period” has been served.
- Disclosure Check**
- The Criminal Records Bureau will undertake disclosure checks to establish whether or not an applicant for employment has a criminal record. This facility is only available for positions which allow postholders access to children and vulnerable adults, in the normal course of their duties (See also Appendix 13).
- Criminal Convictions/Records**
- A criminal **conviction** means that a court has found a person guilty. A criminal **record** is a wider term and covers convictions, cautions, reprimands, warnings, and other information (e.g. bind-overs and acquittals).

**Policy on Safer People for Safer Services: Rehabilitation of Offenders Act –
Rehabilitation Periods**

<u>Sentence</u>	<u>Rehabilitation Period</u>	
	People aged 18 or over when convicted	People aged 17 or under when convicted
Prison sentences ¹ of 6 months or less	7 years	3½ years
Prison sentences ¹ of more than 6 months to 2½ years	10 years	5 years
Borstal (abolished in 1983)	7 years	6 years
Detention centres (abolished in 1988)	3 years	3 years
Fines ² , compensation, probation ³ , community service, combination, action plan, curfew, drug treatment and testing, and reparation orders	5 years	2½ years
Absolute discharge	6 months	6 months

With some sentences the rehabilitation period varies:

<u>Sentence</u>	<u>Rehabilitation Period</u>
Probation*, supervision, care order, conditional discharge or bind-over (whichever is longer).	1 year or until the order expires
Attendance Centre orders	1 year after the order expires
Hospital orders (with or without a restriction order)	5 years or 2 years after the order expires (whichever is longer).

* For people convicted before 3 February 1995.

- 1 Including suspended sentences, youth custody (abolished in 1988) and detention in a young offender institution.
- 2 Even if subsequently imprisoned for fine default.
- 3 For people convicted on or after 3 February 1995.

The Criminal Records Bureau

How Does It Work ?

The CRB provide a service to recruiters and voluntary groups of all kinds. They are able to ask successful and voluntary position applicants to apply for a criminal records check. The recruiter will be able to use this to help establish whether the candidate has a background that might make him or her unsuitable for the job, or voluntary position in question. Recruiters are not able to apply to the CRB to run a check without the knowledge and consent of the person concerned. There are safeguards including making it a criminal offence to misuse information obtained regarding convictions from the CRB.

What Do the CRB do?

The CRB undertake criminal record checks for individuals on application, in exchange for a fee. The CRB will issue three types of certificate, each representing a different level of check. The level of check will be determined by the duties of the job or the position to be taken up. The CRB will advise applicants and recruiters which kind of certificates are needed in individual cases. In general, work that brings adults into close contact with children or other vulnerable groups, and jobs that are sensitive for other reasons will qualify for the most detailed checks.

Types of Certificate

There ARE three types of certificate namely

- High level checks
- Intermediate level checks and
- Basic level checks

High Level Checks - Enhanced Disclosure (ED)

This type of check will contain details of all convictions on record, including those spent under the Rehabilitation of Offenders Act 1974. This means that even minor convictions, perhaps dating from years ago will be included on the certificate. An ED will also contain details of any cautions, reprimands and warnings recorded against a person. Where a job or voluntary role involves close contact with children, an ED will also contain details of whether the applicant is named on the lists held by the Department of Health and the Department for Education and Skill of those thought to be unsuitable to work with children. Finally, an ED may contain information held by the Police that is not about convictions but which they may feel to be relevant to the job or voluntary work.

This check will be available to those who apply for work that regularly involves caring for, training, supervision or being in sole charge of those under aged 18 or vulnerable adults. Amongst other things, they will be issued in respect of those seeking gaming and lottery licences and judicial appointments. The certificate will be sent to the applicant and a copy to the registered body (the Council).

Intermediate Level Checks - Standard Disclosure (SD)

This will contain similar details to the ED but without the Police non-conviction information. The SD will be available for those seeking work with children in “regulated positions” but those who may not meet the criteria necessary to justify an ED. A SD will be available for those entering other occupations, including accountancy. The certificate will be sent to the applicant and a copy to the registered body (the Council).

Basic Level Checks - Basic Disclosure (BD)

These will be available for all types of employment or voluntary service not covered by the higher level checks. A BD will only contain details of convictions considered unspent under the Rehabilitation of Offenders Act 1974. This disclosure will be issued only to the applicant and they will be able to decide whether to show it to the recruiter. It will not be job specific and may be used more than once.

Application for the Checks

Applications for EDs and SDs will need to be counter-signed by an authorised person who is registered with the CRB and who is acting on behalf of the organisation offering the position. The disclosures will relate specifically to the position being offered and are designed to be used once only.

In accordance with the CRB’s requirements the Council, as a registered body, now has written policies on the recruitment of ex-offenders and are expected to undertake to store certificates securely and dispose of them once used. The relevance of any convictions will be considered in assessing a person’s suitability so that those with convictions are not unfairly excluded from employment opportunities.

As a registered body, the Council will adhere to the CRB’s code of practice that will help to ensure that information released by the CRB is used sensibly and fairly. This code of practice can be accessed through the CRB’s website www.disclosure.gov.uk

**Policy on Safer People for Safer Services:
Posts Exempt From Rehabilitation of Offenders Act**

The following list defines the occupations and professions that are exempt from the provisions of the Rehabilitation of Offenders Act.

- **Working with children - includes any work that is :**

- (a) Work in a regulated position
- (b) Work in a further education institution where the normal duties of that work involve regular contact with persons aged under 18.

- **Working with vulnerable adults**

Any employment or other work which is concerned with the provision of care services to vulnerable adults and which is of such kind to enable the holder of that employment or the person engaged in that work to have access to vulnerable adults in receipt of such services in the course of his/her normal duties.

All posts that fall within the remit of the two categories above will require an Enhanced Disclosure.

Social Services

- a) Social Workers
- b) Posts having direct contact with children; elderly or disabled people; chronically sick; or persons addicted to drugs or alcohol
- c) Foster & Adoptive parents and other parents in the household
- d) Social Work students

Education, Arts and Libraries

- a) Teachers/Tutors/Instructors
- b) Non-teaching employees in educational establishments
- c) Education Inspectors, Advisors and Advisory Teacher
- d) Education and Psychiatric Social Workers
- e) Educational Psychologists
- f) Nursery Nurses
- g) All volunteers in Educational Establishments (including School Governors)
- h) All workers and volunteers in Youth Clubs and Centres
- i) Caretakers
- j) Trainee Youth Workers
- k) Leisure Attendants and Assistants in School Sports Centres
- l) Coach Drivers, Attendants and Escorts

Leisure & Environmental Services

- a) Sports Development Officers and Assistants
- b) Play Organisers and Play Leaders
- c) Leisure Attendants/Coaches
- d) Parking Enforcement Officers and Security Officers/CCTV Monitoring Assistants

- e) Social Alarm Assistants
- f) Parks and Countryside Rangers
- g) All Workers and Volunteers in the Broadway Theatre

Chief Executives

- a) Solicitors
- b) Accountants
- c) Welfare Officer
- d) Community Hall Supervisors

Housing & Health

Housing Wardens

Policy on Safer People for Safer Services: Post Assessment Form

1. Post Title:		No of posts :	
2. Section:			
3. Division:			
4. Department:			
5. Briefly describe the purpose/main duties of the post:			
6. Will the post holder have contact with the following groups of individuals in the normal course of his or her duties?			
i)	Persons aged over 65	Yes <input type="checkbox"/>	No <input type="checkbox"/>
ii)	Persons with a disability (learning, physical, sensory)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
iii)	Persons who are addicted to drugs or alcohol	Yes <input type="checkbox"/>	No <input type="checkbox"/>
iv)	Persons under the age of 16 or under 18 with special needs	Yes <input type="checkbox"/>	No <input type="checkbox"/>
7. How regular is the contact with the particular group of individuals? (please select one of the following)			
Continuous <input type="checkbox"/> At specific times only <input type="checkbox"/> Occasional <input type="checkbox"/> In exceptional circumstances <input type="checkbox"/>			
Please give details:			
8. Is the contact un-supervised? i.e. where no other responsible adult is likely to be present (please select one of the following)			
Always <input type="checkbox"/> At specific times only <input type="checkbox"/> Occasionally <input type="checkbox"/> In exceptional circumstances <input type="checkbox"/>			
Please give details:			
9. Does the position involve one-to-one contact with persons from one of the particular groups mentioned above? i.e. contact separate from other adults (vulnerable or otherwise) or children Yes <input type="checkbox"/> No <input type="checkbox"/>			
10. Any additional reasons why the position should/should not be covered by the Safer People for Safer Services Policy:			
Form completed by:		Name:	
		Position:	
		Date:	
To be completed by Manager undertaking assessment			
Findings: Post should be covered by Safer People for Safer Services Policy		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Disclosure should be undertaken (only available if post is exempt from Rehabilitation of Offenders Act)		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Disclosure should be: Standard <input type="checkbox"/> or Enhanced <input type="checkbox"/>			

To be completed by Divisional Head

Name: _____ Signed: _____

Position: _____ Date: _____

Policy on Safer People for Safer Services: Applicant Declaration (Disclosure)

Because of the nature of the work on offer, this post has been classified as “exempt” from the provisions of the Rehabilitation of Offenders Act 1974 so all convictions, both spent and unspent, need to be disclosed. You are also asked to provide any other criminal record details you may have.

This does not necessarily mean that an applicant who discloses conviction or criminal record details will be automatically excluded from employment into this post. Instead, the nature of the information disclosed will be considered in relation to the duties of the post, and automatic exclusion will only occur where the information is relevant.

The Council has tried to reconcile its responsibilities towards vulnerable clients and also towards ex-offenders and has adopted the following Safer People for Safer Services Policy Statement outlining the approach:

“As an Equal Opportunity employer, we aim to ensure that no job applicant or employee suffers unfair treatment on the basis of unjustifiable criteria. This includes discrimination on the grounds of criminal convictions, which are “spent” or unrelated to the job in question.

We also recognise our responsibility for protecting vulnerable groups and individuals within our care. Accordingly, and so that public confidence in our management of these sensitive areas is high, we undertake to ensure, so far as is reasonably practicable, that people who carry out work for us, or with us – including employees, Councillors, partners, agencies, consultants, contractors, voluntary organisations and others - pose no risk to service users”.

In addition to seeking disclosure of criminal record details, we will make every effort to check the accuracy of the information provided by applicants. This includes asking referees and ex employers for full details of all disciplinary matters that might have a bearing on the application process. Furthermore, all applicants to exempt posts will be required to provide a full career history including periods of unemployment, part time work, etc.

Therefore, if you continue with this application, you should to provide a full and honest account. Where applicants are found to have deliberately made false or misleading statements, or failed to disclose relevant information, the application will be rejected.

Should your application be rejected for any of the following reasons,

- Contact with the criminal justice system
- Previous disciplinary record
- Deliberate incomplete, inaccurate or misleading information

- the Council will retain a record of your application, and the reasons for its’ rejection, indefinitely.

The information will remain confidential and only be considered in relation to an application for a position to which the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and this policy applies. **If you do not complete and return the below slip with your application form, you will not be considered for an interview.**

Finally, you should understand it is a criminal offence, punishable by up to 5 years in prison on conviction, to knowingly seek employment to work with children or vulnerable adults if you are subject to a Disqualification Order or on a statutory list maintained by the Department of Health or the Department for Education and Skills.

□ _____

I understand the information above and hereby (please □where appropriate):

Give my consent for the Council to undertake whatever checks it may deem necessary, in connection with my application.	
Confirm that I am not subject to a Disqualification Order not to work with Children and/or vulnerable adults.	
Confirm that I have no criminal record details to disclose.	
Confirm that I have no disciplinary or other relevant information to disclose.	
Set out details of my criminal record/disciplinary record/any other relevant information (including action commenced but not concluded) as follows (please continue on back of sheet if necessary)	
.....	

Signed _____ **Print Name** _____ **Date** _____

Policy on Safer People for Safer Services: Applicant Declaration

Because of the nature of the work on offer, this post has been classified as being covered by the Councils Safer People for Safer Services Policy.

The Council has tried to reconcile its responsibilities towards vulnerable clients and also towards ex-offenders and has adopted the following Safer People for Safer Services Policy Statement outlining the approach:

“As an Equal Opportunity employer, we aim to ensure that no job applicant or employee suffers unfair treatment on the basis of unjustifiable criteria. This includes discrimination on the grounds of criminal convictions, which are “spent” or unrelated to the job in question.

We also recognise our responsibility for protecting vulnerable groups and individuals within our care. Accordingly, and so that public confidence in our management of these sensitive areas is high, we undertake to ensure, so far as is reasonably practicable, that people who carry out work for us, or with us – including employees, Councillors, partners, agencies, consultants, contractors, voluntary organisations and others - pose no risk to service users”.

The Council will make every effort to check the accuracy of the information provided by applicants. This includes asking referees and ex employers for full details of all disciplinary matters that might have a bearing on the application process. Furthermore, all applicants will be required to provide a full career history including periods of unemployment, part time work, etc.

Therefore, if you continue with this application, you should to provide a full and honest account. Where applicants are found to have deliberately made false or misleading statements, or failed to disclose relevant information, the application will be rejected.

Should your application be rejected for any of the following reasons,

- Unspent criminal convictions
- Previous disciplinary record
- Deliberate incomplete, inaccurate or misleading information

- the Council will retain a record of your application, and the reasons for its’ rejection, indefinitely.

The information will remain confidential and only be considered in relation to an application for a position to which this policy applies. **If you do not complete and return the below slip with your application form, you will be considered for an interview.**

I understand the information above and hereby (please where appropriate):

Give my consent for the Council to undertake whatever checks it may deem necessary, in connection with my application.	
Confirm that I have no ‘unspent’ criminal record details to disclose.	
Confirm that I have no disciplinary or other relevant information to disclose.	
Set out details of my criminal record/disciplinary record/any other relevant information (including action commenced but not concluded) as follows (please continue on back of sheet if necessary).....	

Signed _____ **Print Name** _____ **Date** _____

**Policy on Safer People for Safer Services: Convictions/Information
Requiring Automatic Bar or Risk Assessment**

If an individual seeking employment to a post that is covered by the Safer People for Safer Services Policy does have a criminal record, etc, careful consideration must be given as to whether that record should prevent them from being appointed. However some offences, as detailed below, are of such a nature that it is felt that they constitute an automatic bar from working in the areas covered by the Policy. For all other offences, examples of which are listed below, a risk assessment should be undertaken.

Automatic Bar from Employment in a Post Covered by Safer People for Safer Services	Risk Assessment Required for Posts Covered by Safer People for Safer Services
Unspent offences against the person	Spent offences against the person
Unspent or spent sexual offences	Spent offences relating to the supply of drugs
Unspent offences relating to the supply of drugs	Unspent or spent offences relating to the possession of drugs
Disqualification Order not to work with children and/or vulnerable adults	Unspent or spent offences relating to theft or dishonesty
Previous dismissal in relation to abuse of or failure to take proper care of clients	Previous disciplinary action in relation to abuse of or failure to take proper of clients
Entry on the Registers created by the Protection of Children Act 1999 or the Care Standards Act 2000	Previous disciplinary action in relation to dishonesty
Entry on the Sex Offenders Register	Unspent or spent driving offences

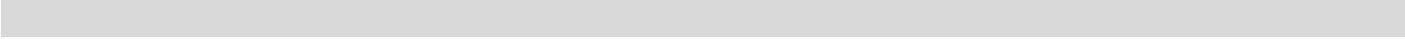
Policy on Safer People for Safer Services: Applicant Assessment Form

Post Title:				
Section:				
Division:				
Department:				
Is this a profession directly exempted under the Rehabilitation of Offenders Act 1974?				
Yes <input type="checkbox"/> No <input type="checkbox"/>				
Is the post covered by the Council's policy on "Safer Services"?				
Yes <input type="checkbox"/> No <input type="checkbox"/>				
Agreed by: _____				
Date agreed: _____				
Were applicants notified of this exemption?				
Yes <input type="checkbox"/> No <input type="checkbox"/>				
At what stage did the applicant declare criminal record details, including spent or unspent convictions; something pending; a caution; or disciplinary information? (please tick appropriate box)	Application Form	Interview	Disclosure of Information Form	Did not notify
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Please give details including nature of offence; date committed; whether this was an isolated offence or part of a pattern of offending; relevance of offence to nature of work applied for; work/personal record since then:				
Selecting manager's opinion regarding whether applicant should proceed to next stage of recruitment:				
Final decision to be made by (Name) _____				
Divisional Head or nominated Deputy: (Position) _____				
Should applicant proceed to next stage of recruitment:				
Yes <input type="checkbox"/> No <input type="checkbox"/>				

Reasons for decision:

Signed: _____

Date: _____



**Policy on Safer People for Safer Services:
Information Presented at Interview form**

Applicant

Name.....

Position Applied for.....**Ref.**
No......

Passport

Passport No.....Date of
Birth.....

Nationality.....Issue Date.....

Driving Licence

Driving Licence No.....

Driving Licence Type - Paper or Photocard (Circle type seen)

Date of Birth.....Licence valid from

Birth Certificate

Date of Birth.....Issue Date.....

Country of
Issue.....

Document showing applicant's name and National Insurance Number from previous employer, the Inland Revenue, Benefits Agency, P45, P60 or NI card (must be shown if the applicants passport does not indicate the individual is either a British citizen, a European Economic Area National or otherwise entitled to live a work in the UK)

National Insurance
Number.....

A letter from the Home Office confirming the applicant is allowed to work in the UK (must be shown if the applicants passport does not indicate the individual is either a British citizen, a European Economic Area National or otherwise entitled to live a work in the UK and the applicant has not brought details of their Nation Insurance Number)

Letter seen (please tick).....

Marriage Certificate (must be shown if the applicant's surname has changed as a result of marriage)

Issue date.....
Any other document confirming name change, e.g. deed poll
State document seen
Proof of address
Please specify documents seen.....
Form completed by
NameDate.....
Position.....

Note for Interviewer :

It is imperative that you are satisfied, when obtaining the above information that you have checked all documents to ensure that you are able to validate

- The applicant's current name/name change
- The applicant's address
- The applicant's date of birth

Please ensure the details in the documentation match those given on the application form.

**Policy on Safer People for Safer Services:
Extract From The Warner Report (Choosing With Care) 1992**

References

General

4.41 The current position on the pursuit and use of references is unsatisfactory, even though potentially information from previous employers can be very revealing about candidates. Although employers in all sectors seek reference from two or three previous employers, many do not seek or obtain references until after the final interview. The norm in all sectors is to seek references between shortlisting and interview (except in London Boroughs, where it is the norm to seek references after interview). In about a quarter of local authorities and voluntary organisations references are sought after the final interview. In the private sector this is the practice in nearly 40% of head of home appointments and over 50% of care officer appointments. Thus a high proportion of appointments are offered - subject to references admittedly - without any information from a previous employer. Although some appointments are terminated when unsatisfactory references are received the opportunity to probe ambiguities at interview has been lost. We suspect also that this approach encourages employers to give questionable candidates the benefit of the doubt because following up references after appointment is more difficult.

4.42 The evidence presented to us suggests that the current system of references is of little value to many employers. In particular, employers may continue to give good references to help difficult or poor quality staff to find employment. This was noted by both the AMA and the National Association of Local Government Officers (NALGO) in their written evidence. A common method of obtaining references is to simply request the names of one or two (sometimes more) referees from the applicant and at a relatively late stage in the selection process write to the named referees asking for a general statement about the character of the applicant. There is very little follow-up of references by telephone calls. In most local authorities this practice is forbidden on the grounds that it is inconsistent with equal opportunities policies because some candidates may be treated differently. Phone calls are used in only 15% of local authorities, although the figures for the voluntary and private sectors are 20% and 35% respectively.

4.43 We do not consider that the present inconsistencies between employers should continue, in our view appointments should never be made 'subject to references'. Prospective new employers should take the initiative in obtaining information about candidates from previous employers or line managers before final interview. Previous employers have the information that enables a new employer to form a rounded picture of a candidate's strengths and weaknesses, and this information should be sought by letter and telephone. Information obtained by telephone is often more accurate and revealing, and to forbid the obtaining of it by this means through some misguided view of equal opportunities policies is simply to neglect the interests and safety of children. We consider that local authorities should abandon any embargoes on obtaining information about candidates by telephone.

4.44 The basis for our approach is that candidates should be asked to name all previous employers (with dates and other details, such as the address and the nature of the work) on their application form. This will reveal any gaps in employment that need further inquiry. They should be told when applying that the new employer reserves the right to approach any previous employer and will specifically ask about disciplinary offences. This should encourage applicants to be more forthcoming in their applications and prevent them from 'selecting out' referees who are less likely to provide a satisfactory reference. It should also deter candidates who have

something to hide from applying. What we are proposing is a more 'positive vetting' approach by employers for staff working in children's homes, because of the vulnerability of the children, even though this may not be necessary for other staff employed by a local authority.

4.45 Even though in future the emphasis should be on finding out about a candidate's previous employment record, applicants should still be able to provide the name of a referee other than a previous employer. This may be for example, someone who has worked with the candidate in a voluntary capacity, or an academic referee. Generally this reference should be taken up by the employing authority.

Information requested

4.46 Employers must be specific about the categories of information required from referees. This will be best achieved by sending a copy of the job description and person specification for the job with the request for information; and asking for comments to be related to the needs of the post. Referees should also be asked specifically about the candidate's weaknesses as well as their strengths. Requests for references should also ask for information about previous disciplinary offences. This may cause some difficulties for employers where records are 'time-expired', ie destroyed after a fixed period of time. However, a parallel may be drawn with police checks where, in order to protect the welfare of children, criminal offences committed by people working with children are exempt from the provisions of the Rehabilitation of Offenders Act, and details of expired offences are passed on. We consider local authorities should retain records of disciplinary offences where they would be relevant to employment with children, and pass on information to a further employer where it is requested in connection with a post involving work with children.

4.47 It is important that references are provided by people with direct experience of the candidate. Many candidates will come from a local authority background and it should be possible to use personnel networks to ensure that references are provided by people with direct knowledge of the candidate. It is important that internal candidates have proper references sought as well, particularly if they are moving to work in a children's home for the first time. We do not believe that senior managers should be discouraged from using their informal networks to find out more about candidates and making this information available to those responsible for making appointments.

Timescales

4.48 Sufficient time should be allowed for references to be available to those making final decisions on appointments. Employers should be free to contact referees where they feel that more information is needed after the reference has been received. Where such informal contact does take place, a written record of the conversation should always be made and retained with other papers relating to the candidate's application.

4.49 We recognise that the more rigorous and pro-active approach to references that we are proposing will cause difficulties and probably irritation in some quarters. Many local authorities will need to change their attitudes. Record-keeping in the independent sector will need to improve. There will be anxieties in the many local authorities where there is an 'open file' policy, whereby applicants are able to gain access to references - both those which were provided in the course of their application for their current post, and those which their current employer has provided in respect of an application elsewhere. This makes it important that references should not say anything which the candidate has not already been told by line management; and this should improve the quality of management. More time will need to be spent on checking previous employment records. Telephone inquiries and informal networks will have to become acceptable

with those employers who are opposed to their use. We do not make these proposals for change lightly but consider the safety and welfare of children justify them.

Legal considerations

4.50 No doubt there will be some who will argue against what we are proposing on legal grounds. There will be anxieties about the practice by local authorities of putting disclaimers on references with respect to their liability if the appointment made turns out to have been unsuccessful. The legal liabilities of referees is a matter to which we have given some consideration.

4.51 There is a clear legal liability for references. The person giving the reference should ensure that it contains no material misstatement or omission relevant to the suitability of the applicant for the post. A person providing the reference can be held liable if the reference is defamatory. A statement is defamatory if it is false and lowers the person in the eyes of right thinking members of society. This should not discourage referees from revealing relevant information. Providing the reference has been given with due care and without malice the referee will have a defence - known as 'qualified privilege' - against an action for damages by a claimant who thinks that he or she has suffered as a result of the reference. If a reference omits relevant information about an applicant, a new employer who suffers resulting damage may have a cause of action against the referee. References should draw to the attention of prospective employers any concerns they have about applicants, whether or not they have been the subject of disciplinary proceedings. The applicant should then have an opportunity of dealing with the concerns. Employees do not generally have a right to see a reference, but disclosure cannot be resisted on the grounds that it was given in confidence.

4.52 We do not consider that this legal context should prevent an employer from providing honest, frank or timely references for a person seeking employment in a children's home. It is in the best interests of children that they do so and this should override any concerns about making critical remarks about a current or previous employee.

Recommendation 17

Employers should require candidates when applying to provide a full employment history, including periods of unemployment, with dates (to the nearest month) and the names and addresses of past employers. Candidates should be free to provide the name of a referee in addition to an employer if they wish.

Recommendation 18

Employers should always approach an applicant's present employer; should tell applicants that they reserve the right to approach any previous employer (or line manager) about a shortlisted candidate's character performance before interview; should seek written references on the basis that referees have the job description and person specification and are encouraged to comment frankly on shortlisted candidates' strengths and weaknesses in relation to those two documents; and where necessary should explore any aspects of references by telephone with a current or past employer.

Recommendation 19

Employers should keep a record of conversations with referees and pass the result to those responsible for making appointments; and they should retain records of disciplinary offences or concerns that enable them to be passed on to a potential employer when requested in connection with a job which involves working with children.

Policy on Safer People for Safer Services: Employment History Letter

Dear Sir/Madam,

Employment History Check for:
Name and address.

The above named individual has applied for the post of *****Post***** in the Borough's *****Dept***** Division. During the course of his/her employment she will have substantial access to children and/or vulnerable people. As you will appreciate it is essential to screen out those individuals where it would be inappropriate for them to work with children and/or vulnerable people. Part of this process is to undertake a thorough check of the individual's employment history.

***** Name ***** has stated on her application form that she was employed by your organisation as a ***** Job Title ***** from ***** Date *****. I should therefore be obliged if you would confirm the employment details supplied to the Department together with any comments that you consider appropriate in respect of the individual's suitability for employment with children and/or vulnerable people.

I thank you in anticipation of your assistance in this matter. Please reply to me either by post, fax or e-mail (details as above).

If you wish to discuss this matter on the telephone please contact me on the above telephone number.

Yours sincerely

Policy on Safer People for Safer Services: Reference Request

Dear Sir/Madam,

Re: Appointment to Post of

Mr/Mrs/Miss/Ms has applied for the position of with the Council and has given permission for me to write to you for a reference. To assist you in these considerations, I enclose for your perusal: a copy of a Job Specification for the post; a Person Specification/Job Competency Profile; and a copy of the Safer Services – Policy Statement.

This position has been classified as an “exempt post” under the Council’s Safer Services Policy, which means that the postholder will have access to vulnerable clients. For this reason, I would ask that you provide as much information as possible on the applicant’s suitability for this employment, on the reference questionnaire attached.

I am sure that you will appreciate and agree with the rationale behind this request and I trust therefore that you will take particular care in the preparation of this reference. I can also advise you that the applicant has given written consent for the Council to undertake whatever checks it may deem necessary in connection with this application.

Thank you in advance for your co-operation in dealing with this matter and I look forward to hearing from you soon. All information you give will be treated in strict confidence.

Yours faithfully,

Head of Human Resources

Policy on Safer People for Safer Services: Reference Questionnaire

NAME: _____

ADDRESS: _____

The above named has applied for a position which has been classified as “exempt” under the Council’s Safer Services Policy, which means that the postholder will have access to vulnerable clients. For this reason, I would ask that you complete this questionnaire, as fully and as honestly as possible, and return this in the pre addressed enveloped provided.

- How long have you known the applicant?

- In what capacity do you know the applicant? (e.g. employer, friend, colleague, other).

- Describe the attendance record of the applicant (e.g. excellent, satisfactory, poor).

- Indicate the amount of sickness absence taken by the applicant in the past 2 years.

- Does the applicant, to the best of your knowledge, have a criminal record? If yes, please provide full details, including convictions which may otherwise be regarded as “spent” under the provisions of the Rehabilitation of Offenders Act 1974.

- Are you aware of any sensitive issues which the applicant has handled particularly well or, alternatively, where the matter was not dealt with fully or appropriately? This could involve, for example, incidents where the applicant had to investigate the actions of subordinates.

- Are you aware of any investigations, either past or outstanding, involving the applicant that have given cause for concern and/or have resulted in disciplinary action being considered or taken against him/her?

- How well does the applicant get on with colleagues, members, clients, etc. and what is your opinion as to his/her personality?

- Are you aware of any other matters that might reasonably be considered to have a bearing on this application (e.g. please indicate below if you have agreed a reference with the applicant or if this was part of a "compromise agreement")?

- Would you re-employ this person?

- Explain how the applicant's experience and abilities make them a suitable candidate for this position (please continue on a separate sheet, if necessary).

SIGNED _____ **PRINT NAME** _____

POSITION _____ **DATE** _____

Policy on Safer People for Safer Services: New Starter Checklist

New Starter Checklist

Name			
Address			
Telephone No.			
Post		Location	
Employee No.		N.I. Number	
Perm. or Temp. appointment		End date if Temp.	

References									
1.	Date requested		Date received		Satisfactory (please <input type="checkbox"/>)	Yes		No	
2.	Date requested		Date received		Satisfactory (please <input type="checkbox"/>)	Yes		No	

Medical Clearance									
Date received			Satisfactory (please <input type="checkbox"/>)			Yes		No	

For Posts covered by Safer People for Safer Services Policy									
Applicant Declaration on file (please <input type="checkbox"/>)						Yes		No	
If information given on the Declaration form, has this been discussed and accepted by the Council (please <input type="checkbox"/>)									
Original Birth Certificate seen (please <input type="checkbox"/>)						Yes		No	
Original qualification certificates seen (please <input type="checkbox"/>)						Yes		No	
If appropriate, change of name documentation seen (please <input type="checkbox"/>)						Yes		No	
Previous Council has been checked & is satisfactory (please <input type="checkbox"/>)						Yes		No	
Satisfactory Employment History (please <input type="checkbox"/>)						Yes		No	
Please details any gaps in Employment history									

For Posts that are exempt from the Rehabilitation of Offenders Act and subject to a Disclosure									
Level of Disclosure (please <input type="checkbox"/>)			Standard		Enhanced				
Disclosure Information Record on file (please <input type="checkbox"/>)									
Disclosure information satisfactory - appointment to proceed (please <input type="checkbox"/>)									

For All Appointments									
Date Statement of Particulars sent			Date signed Statement of particulars received						
Date of Corporate Induction course			Date of Departmental Induction course (if available)						
Date End of Induction form received		Date End of Probation form received			Date Confirmation of Appointment letter sent (if appropriate)				

Details checked by									
Name					Position				

Policy on Safer People for Safer Services: Agency Workers Checklist

Name of Agency Worker:
Name of Placement Agency:
Responsible Manager:
Team/Service:

Please ensure that the following is completed and all required attachments are obtained prior to the agency Worker commencing work for the Department

Photocopy of Worker's CV	
Written record as to why selected	
Photocopy of worker's qualification certificates	
Photocopies of references supplied to Agency (one must be from most recent employer other than Agency)	
Photocopy of Birth Certificate or Passport and evidence to support change of name if necessary	
Evidence of CRB Disclosure Check	
or	
Evidence of Police Check, including Protection of Children Act list (DoH) & list 99	

Signed:

Date:

N.B. Please confirm with the CRB the validity of the Disclosure Check, by contacting them with the reference number of the check. They will be able to confirm whether the check is legitimate.

Policy on Safer People for Safer Services: List of Countersignatories

The following have been appointed as the official countersignatories for their respective departments. All requests for disclosure checks on applicants for employment can only be done by them, and by using the form at Appendix 10.

For security reasons, the Council has decided that Service Managers will not be eligible as "Nominated Officers" and that this function will be undertaken by Directors/Borough Officers and Human Resources staff only.

The Nominated Officers are the Chief Executive, All Directors, All Borough Officers and the following posts:

1. **Chief Executives Department**
Head of Human Resources
Principal Human Resources Adviser
2. **Social Services Department**
Head of Human Resources
Human Resources Adviser
3. **Education Department**
Education Officer, Personnel
Senior Personnel Officer
Personnel Services Co-ordinator
4. **Leisure and Environmental Services**
Head of Human Resources
Human Resources Team Manager
5. **Housing and Health Department**
Head of Human Resources
Human Resources Support Manager

In addition, Alan Beadle, in his capacity as the Borough Personnel Officer, Eileen Newman and Malcolm Simons in their capacity as the Head of Corporate Human Resources - Policy Strategy and Review and Head of Corporate Human Resources - Support Services, together with Paul Feild, Corporate Lawyer, are designated as Nominated Officers for all departments.

In the event of changes to this list, (e.g. because of staffing movements, etc.), the respective Director/Borough Officer must, as soon as possible, notify the Metropolitan Police, and the Borough Personnel Officer of the replacement Nominated Officer.

The above list is accurate as at September 2002.

