

RHA



Railway Housing Association



Disclosure & Barring Service Checks Policy

www.railwayha.co.uk

1 STATEMENT OF INTENT

1.1 The Association promotes equality of opportunity for all applicants with the appropriate skills; and welcomes applications from a wide range of candidates, including those with criminal records.

1.2 We will not discriminate unfairly against any person on the basis of a conviction or other information revealed in a criminal record check. We will assess suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the Disclosure and Barring Service (DBS).

1.3 The Association will carry out checks with the Disclosure and Barring Service (DBS) for those posts where the duties involve regulated activity relating to vulnerable adults.

1.4 We will meet our obligations under the DBS Code of Practice and The Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012.

1.5 The Association will pay the cost of all DBS checks carried out as a result of this policy, with the exception of agency staff who will be subject to their direct employer's policy with regard to payment.

2 LEGISLATION

2.1 The Rehabilitation of Offenders Act 1974 was introduced to prevent ex-offenders who have not re-offended for a significant period of time from being denied access to jobs on the basis of their past criminal convictions. It entitles the ex-offender to present him or herself to employers as if s/he had never been convicted in the first place.

2.2 Certain occupations are excluded from the scope of the Act and applicants/employees in such occupations must disclose unprotected cautions and convictions, regardless of whether they are 'spent' or 'unspent'. These include posts which involve 'regulated activity' with access to children, young people, the elderly, disabled people, alcohol or drugs mis-users and the chronically sick.

2.3 Under the Safeguarding Vulnerable Groups Act 2006, regulated activity includes any form of assistance, advice or guidance provided wholly or mainly to vulnerable adults. It also includes the day to day management or supervision of persons carrying out regulated activity.

2.4 The Protection of Freedoms Act 2012 amended the definition of 'regulated activity' and the Association does not have any posts that involve activities within the amended definition. However, those posts that met the original definition are still eligible for enhanced checks.

2.5 The Association does not have any posts that require a barring check, as defined by the Protection of Freedoms Act 2012.

2.6 The Association does not have any posts where the duties involve regulated activities, as defined by the Safeguarding Vulnerable Groups Act, or as amended by the Protection of Freedoms Act 2012, relating to children.

3 IMPLEMENTATION

3.1 General Principles

3.1.1 The Association will not seek registration with the DBS, but will use an umbrella body who can countersign applications on our behalf.

3.1.2 An Enhanced Level Disclosure, without a check of the barred list, will be obtained before appointment to any of the following posts (this checks for spent and unspent convictions under the Rehabilitation of Offenders Act 1974, cautions, reprimands and final warnings held on the Police National Computer) -

- Director of Customer Services
- Housing Manager
- Scheme Manager
- Housing Officer
- Tenancy Services Officer
- Asset Manager
- Project Manager
- Maintenance Surveyor

3.1.3 Ultimate responsibility for compliance with the parts of the code of practice relating to receipt of Disclosure information lies with the Chief Executive.

3.1.4 An applicant will not be appointed if they refuse to give their consent to a DBS check.

3.1.5 All application packs for positions where Disclosure will be requested will contain a statement explaining that a Disclosure will be requested in the event of a successful application.

3.1.6 It will also be made clear that a criminal record or conviction will not necessarily be a bar to obtaining employment.

3.1.7 Disclosures will be reviewed every 3 years for the post holders listed in 3.1.2 above by carrying out a 'status check'. This is an online check to see if anything has been added since the original check was carried out.

3.1.8 If a current employee refuses to give their consent to a DBS check this may be seen as a refusal to carry out a reasonable request and may affect their employment. Redeployment or removal of specific duties will be considered but if these options are not viable it may result in termination of employment.

3.1.9 Current employees are expected to inform their line manager, Director or the Chief Executive's PA, in confidence of any changes to their circumstances which affects their criminal record status, in order that the impact upon their suitability to undertake their role may be reviewed, appropriate support provided and/or action taken. This includes any criminal investigations, convictions or warnings. Failure to disclose convictions may result in disciplinary action.

3.2 Consideration of Information

3.2.1 Current Employees

Any relevant matters received in the Disclosure will be discussed with the employee -

- They will be advised of the DBS appeal process and, if applicable, the possibility of re-deployment to another post within the organisation
- If the Association is unable to help with re-deployment then, we reserve the right to terminate employment.

3.2.2 New Employees

Before reaching a decision about the appointment of a new employee the following will be considered -

- Whether the conviction or other matter revealed is relevant to the post in question

- The seriousness of any offence or other matter revealed
- The length of time since the offence or other matter revealed
- Whether the offence was a 'one off' or the applicant has a pattern of offending behaviour or other relevant matters
- Whether the applicant's circumstances have changed since the offending behaviour or other relevant matter
- The circumstances surrounding the offence and the explanation offered by the convicted person.

We will discuss any matter revealed in a DBS check with the person seeking employment before withdrawing a conditional offer of employment.

3.3 Security

3.3.1 Disclosure information will usually only be available to the following staff -

- Chief Executive
- PA to the Chief Executive
- Director of Customer Services

3.3.2 Other members of staff who interviewed an applicant or who are responsible for managing the member of staff may be informed that a DBS check has resulted in an unsatisfactory Disclosure but not the specific details, unless they are included in discussions to decide on the action that will be taken in response to the Disclosure.

3.3.3 All Disclosures and other related documents will be kept in a locked cupboard in the Chief Executive's office, to which only the Chief Executive and the Chief Executive's PA have access.

3.4 Retention of Information

3.4.1 Documentation relating to a Disclosure will be retained for 6 months after the relevant decision.

3.4.2 Should the decision be the subject of a dispute or appeal, it will be retained for 6 months after resolution of the dispute or appeal.

3.4.3 All disclosure information will be destroyed by secure means.

3.5 Duty to refer information

3.5.1 The Association recognises the legal obligation to refer information to the Disclosure and Barring Service when –

- An employee is removed from carrying out a regulated activity on the basis that they have caused harm to a child or vulnerable adult.

- An employee is dismissed because s/he has harmed, or may harm a child or vulnerable adult

- An employee has been suspended because there is reason to believe that s/he has engaged in relevant conduct, or has harmed or may harm a child or vulnerable adult, or has received a caution or a conviction for a relevant criminal offence

- An employee has resigned in circumstances where there is a suspicion that s/he harmed, or may harm, a child or vulnerable adult, for example, where an employee resigns before disciplinary action is taken by the organisation.

3.6 Staff Awareness

3.6.1 Each employee will receive a copy of this policy as part of the recruitment process.

3.6.2 All staff involved in the recruitment process will receive appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders.

3.7 Equality

3.7.1 This policy will be implemented in accordance with our Equality and Diversity policy.

4 APPEAL

4.1 There is a right of appeal against any decision made by the Association in relation to this policy. Applicants may appeal via the Association's complaints procedure; and members of staff may appeal via the grievance procedure.

4.2 An individual can also challenge any information that is disclosed on a DBS certificate relating to an enhanced disclosure (under the Protection of Freedoms Act 2012). A request should be made to the Independent Monitor to review the certificate and, if appropriate, the Independent Monitor can ask the DBS to issue a revised certificate

5 RESPONSIBILITY

5.1 The Chief Executive is responsible for the effective implementation of this policy.

6 REVIEW

6.1 This policy will be reviewed every five years or sooner if there are any changes in legislation or the Association's staffing structure.

