



EDEN HOUSING ASSOCIATION LIMITED

**DISCLOSURE AND BARRING SERVICE
(DBS) POLICY**

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Policy Author	Eleanor Morland
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Revision cycle (2 years), or upon changes to legislation (whichever is sooner)	

Review/Amendments Record

Date	Change by	Summary of Change
Aug 2013	Rosie Sergison	<p>Due to changes in legislation (Oct 2012) this policy amalgamates and replaces the following Eden Housing Association policies with effect from the Implementation date:</p> <ul style="list-style-type: none"> • Policy and Procedure on Obtaining CRB Disclosures • Policy on Employing People with Criminal Convictions • Policy on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information
January 2016	Eleanor Morland	<p>Reviewed procedure and made following amendments:</p> <ul style="list-style-type: none"> • Added in ability to allow new employees to commence work pending a DBS subject to conditions outlined below. • Added in Disclosure Scotland check process • Added in requirement for staff to subscribe to DBS Updates service • VFM review of Umbrella company carried out and changed from Capita to Disclosure Services

1. POLICY STATEMENT

1.1 It is the policy of Eden Housing Association (EHA) to safeguard the welfare of any individuals considered to be vulnerable through undertaking DBS checks during the recruitment and ongoing employment of people in positions of trust in accordance with legislation.

2. REFERENCES.

2.1 Legislation

- Rehabilitation of Offenders Act 1974
- Data Protection Act 1998
- Protection of Children Act 1999
- Care Standards Act 2000
- Criminal Justice and Court Services Act 2000
- Education Act 2002
- Safeguarding Vulnerable Groups Act 2006
- Bribery Act 2010
- Protection of Freedoms Act 2012
- Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 SI 1975/1023
- Police Act 1997

2.2 Other relevant policies

- Access to Information and Confidentiality Policy
- Data Retention Policy
- Equality and Diversity Policy
- Recruitment Policy
- Safeguarding Policy

3. KEY BUSINESS OBJECTIVES

3.1 To ensure 'safe appointments' of both staff and volunteers by identifying potential employees who may be unsuitable to work with children and/or vulnerable adults.

3.2 To ensure equality of opportunity and fair treatment without prejudice or discrimination for all employees, job applicants and service users regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, disability or 'offending' background.

3.3 To ensure a request for a DBS check is proportionate and relevant to the position concerned by carrying out DBS checks responsibly. (If a check is requested for a role which does not fully qualify within the

legislation this can have significant consequences and may result in a police investigation).

3.4 To ensure vacancy advertisements detail the requirement for a satisfactory disclosure being essential for applicable posts.

3.5 To monitor existing staff and volunteers to ensure they are suitable to work with children/vulnerable adults.

3.6 To ensure value for money by arranging DBS checks for successful applicants only.

4. POLICY CONTENT

4.1 Aim of the Policy

This policy aims to set out the requirements of Disclosure & Barring Service (DBS) checks within Eden Housing Association and the process that is followed to obtain these checks. It outlines which roles require what level of DBS check to be carried out and the process that should be followed should a any convictions/cautions of relevant information be disclosed.

4.2 Disclosure and Barring Service (DBS) and Disclosure Scotland

DBS Definitions:

Regulated Activity

Changes to the law in September 2012 re-defined “regulated activity” in relation to children and vulnerable adults. Additionally adults are regarded as vulnerable adults if they require regulated activities to be provided on their behalf at that particular time.

Regulated activities include:

- Activities that involve the provision of healthcare to an adult by or under the direction or supervision of a healthcare professional;
- The provision of relevant personal care to an adult (e.g. physical assistance with, prompting of or training, instruction, advice or guidance in relation to, eating, drinking, toileting, washing and dressing);
- The provision of social work to an adult;
- The provision of assistance with general household matters to an adult (namely managing cash, paying bills and shopping);
- The conduct of an adult’s affairs (e.g. through a power of attorney);
- The transportation of adults where this is necessary because of their age, illness or disability.

There is NOT a requirement for the activity to be carried out frequently or intensively for it to be classed as 'regulated activity'.

Activities that regularly involve the day-to-day management or supervision of persons carrying out the above are also regulated activities.

Regulated activity does not include family or personal arrangements.

Vulnerable Adult

Anyone over the age of 18 who is unable to make their own decision and/or protect themselves from abuse in relation to their financial, physical or psychological well being. These are people who are, or may be, in need of community care services by reason of age, long term illness, and/or mental or physical disability; unable to take care of themselves or to protect themselves against significant harm of exploitation by others.

4.3 Types of Checks

Basic Disclosure (Provided by Disclosure Scotland)

As Disclosure Scotland is a basic disclosure on an individual and will only contain details of convictions that are unspent under the Rehabilitation of Offenders Act 1974.

Standard

This details all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC). This check relates to positions that are exempt from the provisions of the Rehabilitation of Offenders Act 1974.

Enhanced

This is the highest level of criminal record check. It will contain the same PNC information as the Standard check but also includes a check of local police records and whether or not the individual is on either of the barred lists held by the Disclosure and Barring Service. It is primarily for positions that involve working with children or vulnerable adults in a regulated activity (see below).

4.4 Posts Requiring DBS checks

Many of Eden Housing Associations customers would be considered vulnerable (as defined above) in the context of the DBS Scheme. The Association therefore has both moral and legal obligations to carry out background checks of employees who may be required to visit customers in their homes.

A review of each post within the Association is carried out in line with the DBS guidelines to establish whether a DBS check is required and if so at what level. Any post that does not qualify for a DBS check, but is assessed as posing a potential risk to our customers will be subject to a Basic Disclosure through (Disclosure Scotland).

Posts which require a DBS check and the level of the check required will be determined through discussion between the line manager (of the post concerned) and a member of the HR team taking into account the relevant applicable legislation and definitions outlined above.

Posts with responsibility for processing financial information/transactions may be subject to DBS levels due to the opportunity for fraud.

Posts may be permanent, temporary or casual. The list of jobs/professions detailed within the Rehabilitation of Offenders Act 1974 should also be utilised to determine if a check/what level of check are required. This decision must be made prior to advertising to ensure all relevant information is included in the advert.

Where there is significant uncertainty on the eligibility of a post for a DBS check contact should be made directly with DBS to discuss.

<https://www.gov.uk/crb-criminal-records-bureau-check/contact-disclosure-and-barring-service>
customerservices@dbs.gsi.gov.uk

Telephone: 0870 909 0811

4.5 Umbrella body

Eden Housing Association is not registered to submit our own DBS forms due to the small number of DBS checks required each year. The association uses an 'umbrella' company to carry out this task on its behalf. The current umbrella company used is Disclosure Services.

4.6 Appointments

A conditional offer of employment will be made to the preferred applicant subject to a satisfactory DBS check. The successful candidate will not normally be able to start work until a satisfactory DBS/Scotland disclosure has been obtained.

However in exceptional circumstances when it is deemed necessary for an employee to start in post pending a DBS check, the following steps must be followed:

- Only an Assistant Director can authorise an employee to commence in their role pending a DBS check
- The contract of employment is subject to a satisfactory DBS check being received in due course and may be terminated if one is not received, without notice.

- Until a satisfactory check has been received the employee **MUST NOT** be permitted to work on a one to one basis with any individual who is classed as vulnerable (children or the elderly). Any such work must be done with another member of the team present at all. Line Managers must ensure that appropriate steps are taken to ensure this is complied with at all times.

4.7 Fair Treatment of Ex-Offenders

The Rehabilitation of Offenders Act 1974 enables some criminal convictions to become 'spent' or ignored after a rehabilitation period. Section 5 of the Act details precisely when certain convictions become spent depending on the type and length of sentence imposed.

The Rehabilitation of Offenders Act 1974 gives individuals the right not to disclose details of 'spent' offences if asked about their criminal record. However, for certain exempted occupations employers are allowed to ask about these offences. Some posts within EHA will have this requirement and a DBS check will be necessary.

The Association is committed to the fair treatment of ex-offenders. Job applicants will be considered based on their suitability for the job and criminal records will be taken into account only where the conviction is relevant. Having an 'unspent' conviction will not necessarily bar anyone from employment; it will depend on the post, circumstances and background of any offence.

Appropriate discussions will be held with job applicants before/at or after interview in relation to any offence or disclosure information which may have an impact in relation to appointment to the post. EHA will withdraw a conditional offer where disclosure information is revealed which excludes the applicant from employment in the post. Failure on the part of the job applicant to reveal directly relevant information could lead to withdrawal of an offer of employment.

4.8 Renewal of DBS Check/DBS Update Service

Existing Employees and new job applicants

Whilst DBS checks do not expire, the older they are the less reliable they are. It is EHA's policy that a DBS check will be repeated every three years for holders of relevant posts. This will be co-ordinated by the HR team.

Once an individual has had a DBS check carried out they can subscribe to the DBS update service which allows applicants to keep their DBS certificates up to date online and allows employers to check a certificate online.

An applicant can register for the update service when they make the initial application for a DBS certificate, or within 19 days of receipt of their DBS

certificate. Registration lasts for 1 year and there is a fee payable (currently £13.00 per year). The online account allows the individual to:

- take the certificate from one job to the next
- give employers permission to check the certificate online, and see who has checked it
- add or remove a certificate

The HR team will ask new employees and existing staff if they have registered for the update service before undertaking a new check. Employees will be asked to subscribe to this service going forward for as long as the employee's require a DBS check in their role, and the Association will refund the subscription fee upon submission of an expense claim with receipts. The HR department will then contact an employee at the time a review of a DBS check is required (usually every 3 years) to request consent to carry out a check on the DBS update service.

4.8 Retrospective Checking

EHA also reserves the right to arrange for DBS checks to be undertaken retrospectively. By way of examples this could be applicable where there is a departmental/organisational review, a legislative change or there is a change to duties commensurate with a role which would result in a post requiring a DBS check.

Consultation and discussion with the employee will take place and where possible, agreement reached to instigate the process. It is vitally important that any convictions are disclosed by the employee during these discussions. Any information provided will be treated with confidentiality and sensitivity, aiming to resolve any issues through open discussion with the employee. If relevant information is not forthcoming and is discovered during the check this will be considered a breach of confidence and an investigation will be carried out with the potential for disciplinary action.

Where a criminal conviction comes to light for an existing employee (advised verbally by the employee or as the result of a DBS check), EHA will consider the relevance of the criminal record in relation to the post and determine whether or not it is appropriate for the individual to continue working in the post. If it is determined that the individual should not continue in the role, a consultation process will be entered into. Ultimately this could lead to termination of employment.

4.9 Consent

Under no circumstances will an applicant/volunteer be appointed to a role if consent to a DBS check is refused.

Where an existing employee/volunteer refuses a repeat or retrospective check, this could be seen as a refusal to carry out a reasonable request and may affect their employment/post. Redeployment or removal of

specific duties will be considered but if these options are not viable termination of employment may result.

4.10 Agency workers/Contractors/Volunteers

If appropriate to the post, Agency workers/Contractors/Volunteers must not commence employment without an original DBS certificate. This must be requested, sighted and approved by the HR Department prior to commencement of duties. The HR team will ensure the certificate is the correct level for the post and that it has been renewed within the previous 12 months.

4.11 Payment

The Association will pay for DBS checks for all relevant employees/successful applicants and volunteers and reimburse the cost of subscription fee's associated with joining the DBS Updates Service. If an employee fails to subscribe to the update service they may be charged part/full costs for future routine DBS rechecks.

Contractors/Agency staff will be subject to their direct employer's policy with regard to payment.

4.12 Training

EHA will ensure all staff involved in the recruitment process will be suitably trained to identify and assess the relevance of offences and the application of the relevant legislation.

4.13 Storage and Access

Any copy of disclosure information, provided by a job applicant/existing employee, is kept separately from other documentation, in a locked filing cabinet and is not held on an individual's personal file. Access to the information is controlled and restricted to those who are required to see it as part of their duties.

4.14 Handling of Data

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. A record is kept of all those to whom disclosure information has been revealed. It is a criminal offence to knowingly pass this information to anyone who is not entitled to receive it and the 'umbrella' company recognise this. Examples of those entitled to view the information on certificates are, Line Managers, Managing Director and Assistant Directors and HR staff. Viewing of information is subject to the applicant/employee's consent.

4.15 Data 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.

4.16 Retaining Records

Once a recruitment, or other relevant decision, has been made, the 'umbrella' company on behalf of EHA does not keep disclosure information for any longer than absolutely necessary. This is normally for a period of 6 months, to allow for any queries or complaints to be resolved. If, in exceptional circumstances, it is considered necessary to keep disclosure information for longer than 6 months, the 'umbrella' company, on behalf of EHA, will consult with DBS about it, and will also give full consideration to the Data Protection and Human Rights implications of the decision. During the period of retention, the usual conditions of safe storage will apply and strictly controlled access will prevail.

4.17 Disposal of Information

Once the retention period has elapsed, all disclosure information will be destroyed by secure means. Photocopies or other images of the disclosure or any copy or representation of the contents of a disclosure will not be kept.

Notwithstanding this, the 'umbrella' company may keep a record of the date of issue of a disclosure, the name of the subject, the type of disclosure requested, the position for which the disclosure was requested, the unique reference number issued by the DBS, and recruitment decision that was made for reference only.

4.18 DBS Code of Practice

EHA will make every subject of a DBS check aware of the existence of the DBS Code of Practice and will provide a copy upon request.

The Recruitment Policy has a specific link to this policy.

5. RESPONSIBILITIES

The Assistant Director (Corporate Services) retains the overall responsibility for the implementation of this policy.

The HR Coordinator is responsible for the operational delivery of this policy and any associated procedures/guidance. This includes responsibility for monitoring and review, staff awareness and training, policy development and communication to relevant parties via Assistant Directors as appropriate.

6. CUSTOMER INVOLVEMENT AND ACCESSIBILITY

This policy will be circulated to the Leadership and Wider Leadership teams for onward circulation to all staff as part of the internal consultation process. It will be shared with relevant providers of staff e.g. Contractors/Agency workers as required. This policy will be available on ERNIE for Association wide access at any time once approved.

7. VFM

Value for money will be achieved by reviewing the umbrella bodies service/costs to ensure we have the most cost effective provider and by making safe appointments through compliance with all relevant legislation to avoid any costly and timely claims against the Association.

8. POLICY MONITORING AND REVIEW

EHA will monitor this policy in relation to compliance with the DBS Code of Practice and the success of its appointments. The aim is to review the policy every two years, however if a need arises, i.e. legislative changes, it will be reviewed sooner. All reviews will consider whether:

- the current policy adheres to legislative and regulatory requirements, and reflects current good practice;
- the aims and objectives of the policy are being met;
- the current policy outcomes meet the needs and aspirations of our customer base;
- service users are aware of and understand the policy and believe it to be consistent and fair;
- value for money is being achieved;

Overall monitoring and review of the policy will be undertaken in consultation with:

- staff;
- board members;

9. POLICY PROCEDURES AND GUIDELINES

The associated procedures and guidelines supporting this policy consist primarily of documents available from the www.gov.uk website and should be read in conjunction with this policy for full understanding of the applicable legislation.

Appendix A – List of all Posts and DBS Check requirements

Job Title	Level of Check Required
Scheme Cleaner	Standard
Scheme Catering Assistant	Standard
Corporate/EIL Administrator	None required
EIL Support Advisor	Enhanced
ILA	Enhanced
Property Repairs Assistant	None required
Activity & Support Co-ordinator	Enhanced
Customer Advisor	None required
Independent Living Service Co-ordinator	Enhanced
SILA	Enhanced
ICT Support Assistant	None required
Finance Assistant	Standard
HR Officer	None required
Joiner/Plumber	Standard
Facilities Management Officer	None required
HR/H&S Officer	None required
Finance Officer	Standard
Extra Care Scheme Co-ordinator	Enhanced
Leadership Team Support Officer	None required
Capital Investment Officer	None required
Repairs Advisor (Hotline)	None required
Property Technical Support Officer	Standard
Community Development Officer	Enhanced
Housing Officer	Standard
Homeless Prevention Officer	Standard
Housing Advice Officer	Standard
ICT Co-ordinator	None required
Governance & Support Co-ordinator	None required
EIL Development Manager	Standard
ICT Team Leader	None required
Capital Investment Co-ordinator	None required
HR Co-ordinator	None required
Management Accountant	Standard
Financial Accountant	Standard
Team Leader (Strategic Maintenance)	None required
Repairs Team Leader	None required
Housing Team Leader (General Needs)	Standard
Housing Team Leader (Sheltered Schemes)	Enhanced
Assistant Director (Asset Management)	None required
Assistant Director (Corporate Services)	Standard
Assistant Director (Housing)	Standard

Assistant Director (Finance)	Enhanced
Managing Director	Standard
EIL Volunteer - Reception	Standard
EIL Volunteer – Maintenance	Standard
EIL Volunteers – Reception	Standard