



Positive Disclosure Risk Assessment Guidance

Summary

This Positive Disclosure Risk Assessment Guidance document provides a framework to help fire and rescue services take a risk-based approach to managing information found on Disclosure and Barring Service (DBS) checks.

This guidance supports services to meet the requirements of the [Safeguarding Fire Standard](#) and the [Fire and rescue national framework for England](#), along with being responsive to the local needs of communities in meeting the national requirements across the UK. More information can be found in Appendix A - Northern Ireland FRS Recruitment of Ex Offenders Feb 2020 of this guidance. The focus of this guidance is on the management of risk, whilst demonstrating the sectors commitment to the Rehabilitation of Offenders.

The guidance is designed to ensure that if information is shared or disclosed it is done so in accordance with the law but in such a way that allows appropriate and proportionate enquiries to be made that ensures adults and children at risk are protected and public confidence in services is maintained.

There is a clear expectation that fire and rescue services offer support and develop partnerships for those identified as vulnerable and at risk from exploitation or abuse to deliver their core functions, including protection, prevention, and safeguarding.

Fire and rescue services must also have appropriate safeguarding arrangements in place to provide the public with the reassurance and confidence that they have every right to expect.

This Risk Assessment will support the appropriate application of Disclosure Barring Service (DBS) checks and takes full account of any potential changes to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

Reference to this document should be made to ensure that a reasonable and proportionate decision is made when a 'positive disclosure' (when a DBS check reveals that a current or prospective employee has previous convictions) is received against an individual.

Introduction

When using this risk assessment, you should consider the main principles (among others that may be relevant) to ensure an appropriate and proportionate approach is taken and to which the National Fire Chiefs Council (NFCC) and Fire and Rescue Authorities (FRAs) are committed to support the rehabilitation into employment of reformed ex-offenders who have stayed on the right side of the law.

Fire and rescue services are also organisations committed to public safety. Therefore, the potential risks to public safety identified through a DBS check must be carefully evaluated and appropriately mitigated.

[The Public Sector Equality Duty](#) which provides that we should seek to eliminate discrimination, advance equality of opportunity, and foster good relations between people with protected characteristics. We recognise that individuals with different protected characteristics may be more likely to have a criminal record and could therefore be more likely to be subject to actions to mitigate identified risks. We recommend that services collect and analyse data on any actions agreed through these risk assessments so any discriminatory impacts can be mitigated.

Efficiency and effectiveness are key elements of services achieving value for money. In adhering to this principle, you should consider the need to expeditiously make any considerations relating to risk ensuring, for example, that recruitment is not delayed, and unnecessary costs are not incurred.

Under the Rehabilitation of Offenders Act 1974, following a specified period of time which varies according to the disposal administered or sentence passed, all cautions and convictions (except those resulting in prison sentences of over 30 months) are regarded as 'spent'. As a result, the offender is regarded as 'rehabilitated'. For most purposes, the Act treats a rehabilitated person as if they had never committed an offence and, as such, they are not obliged to declare their caution(s) or conviction(s), for example, when applying for employment or insurance.

All individuals have a right to a private life which should not be interfered with except, for example, where in the interests of public safety. You should, for example, limit the circulation of information regarding a positive disclosure to a need-to-know basis only.

Process

The Risk Assessment should be undertaken by the Head of Safeguarding and a Human Resources Manager when a positive disclosure is received against an individual. This will support your Service in making a proportionate and reasonable decision about whether to employ or continue to employ an individual or volunteer. Prior to any formal decision being reached about the individual, they must be offered the opportunity to discuss the contents of their DBS certificate with the Safeguarding professional, Line Manager and/or Human Resources professional.

It is the responsibility of the Safeguarding professional within your service to ensure that the appropriate timeframes are adhered to, in regard to the reporting of cases to the local authority. As such, it is imperative that the safeguarding team are engaged at the earliest opportunity.

Once the risk assessment has been carried out and a final decision made, the wording on the form must be agreed and **must** be signed off by a Senior Manager within the Safeguarding and Human Resources Team.

Any disclosure regarding existing employees which raise concerns about children or vulnerable adults, will be shared by the safeguarding team to the appropriate local authority officers.

CONSULTATION DRAFT

Positive Disclosure (DBS) Risk Assessment - Template

Name of Employee or Applicant:		Date of Birth:	
Address:			
Post Held or Post Applied for:		Service Area:	
HR Professional contact name:			
Head of Safeguarding contact name:			

Assessment of risk

The Disclosure and Barring Service (DBS) barred lists are designed to prevent unsuitable people from entering the workforce – it is an offence to employ a person to do work with children or vulnerable adults if they have been barred from doing so.

Does this person appear on the barred list, yes or no? If the answer is **yes**, then the appointment is automatically unlawful, and the person **must not** be appointed to the post.

You **do not** need to complete the Decision Record Sheet for external applicants.

You may wish to continue for internal applicants to support decision making about suitability for different or adapted roles to demonstrate our commitment in relation to the Rehabilitation of Offenders Act 1974.

The scoring for this risk matrix gives a re-offending score based on risk factors.

Risk Factors	Score 0 for Green	Score 1 for Amber	Score 2 for Red	Total Score
<p>A. Criminal History: An offender's criminal history is extremely important.</p> <ul style="list-style-type: none"> • Offence(s) have been carried out in the last two years (Score 2) • Under the age of 24 when an offence took place (Score 1) • Previous convictions unspent (Score 1) • 1-2 Previous convictions (score 1) • 3 + Previous convictions (score 2) 	No	Yes	Yes	
<p>B. Were the offence(s) first disclosed by the individual? Note that a failure to disclose a relevant offence, without a satisfactory reason, will be a breach of contract and render any employment offer void. If the individual is an employee, consider the potential for disciplinary action.</p>	Yes	N/A	No	
<p>C. Burglary: Offences of burglary are more likely to re-offend than other types of offences.</p> <p>Does the offence(s) – caution or conviction include burglary? Include 'Aggravated Burglary' and 'Attempted Burglary'.</p>	No	N/A	Yes	

Risk Factors	Score 0 for Green	Score 1 for Amber	Score 2 for Red	Total Score
D. Sexual Offences: Does the offence (conviction or caution) involve a sexual or sexually motivated offence?	No	N/A	Yes	
E. Age of first offence (conviction or caution)? The risk of conviction or caution is higher the younger the person is when first in contact with the Police.	18+ years old	14-17 years old	Under 14 years old	
F. Breaches: Breach of previous Court Orders increase the risk. Such as, breaches of: <ul style="list-style-type: none"> • Conditional discharge • Bail • Licence • Failure to comply with any Order 	No	N/A	Yes	
G. Criminal Versatility: Research evidence suggests that generic offenders are more prolific and more likely to re-offend than offenders who specialise in one type of offences. Use the categories below to differentiate groups of offences: <ul style="list-style-type: none"> • Violence against the person • Sexual offences • Burglary • Robbery 	0 offences	1 - 4 offences	5+ offences	

Risk Factors	Score 0 for Green	Score 1 for Amber	Score 2 for Red	Total Score
<ul style="list-style-type: none"> • Theft and handling • Fraud and forgery • Criminal damage • Drug offences • Other indictable offences (serious enough to be dealt with at Crown Court – excluding motor) • Indictable Motoring Offences • Other summary offences (can only be dealt with at Magistrates Court) – excluding motor. This includes Public order offences (threatening behaviour), harassment, drunk and disorderly • Summary motoring offences 				
<p>H. Is the role holder public facing or a person in a position of trust?</p>	No	N/A	Yes	
<p>I. Did the offence include any of the following?</p> <p>Research indicates when certain factors are present, it increases the likelihood of further incidents of serious harm:</p> <ul style="list-style-type: none"> • Carrying or using an offensive weapon • Any violence, threat of violence of coercion • Excessive use of violence of sadistic violence 	No	N/A	Yes	

Risk Factors	Score 0 for Green	Score 1 for Amber	Score 2 for Red	Total Score
<ul style="list-style-type: none"> Arson Physical damage to property (but not caused when committing another offence, for example burglary or theft) Sexual element to offending (such as disclosing private sexual images without consent) 				
<p>J. Do offences form part of an established pattern?</p> <p>Note, these might not be the same category of offence, but could stem from same motivation), such as:</p> <ul style="list-style-type: none"> Burglary or break ins Theft Fraud (financial) Drug or Alcohol related (drug or drink driving, drunk and disorderly or assault under the influence of drugs or alcohol) 	No (No pattern evident)	N/A	Yes (A pattern is demonstrated)	
<p>K. Are there any concerns in regard to the employee's motivations for working with children or vulnerable adults?</p>	No	N/A	Yes	
<p>L. Is there any evidence in regard to any inability to manage conflict, cope with challenging behaviour?</p>	No	N/A	Yes	
<p>Risk Factors - Total Category Scores: Grand Total (from all categories in grey box):</p>				

Assessment Results

Using the Total Score, identify the scale of risk and consider the following:

0 - 4 Low Risk

1. If **low risk** and nothing highlighted in question (I - Factors which indicate increase in likelihood of further incidents of serious harm) – OK to employ or continue in post. Exclude suspend or redeploy (pending internal investigation) if the individual has committed sexual offence(s) or offence(s) against a child or vulnerable adult.
2. If **low risk** but offence(s) have been highlighted in question (I - Factors which indicate increase in likelihood of further incidents of serious harm), consider the factors highlighted in (A - Criminal History) and the nature of employment or role. Exclude suspend or redeploy (pending internal investigation) if the individual has committed sexual offence(s) or offence(s) against a child or vulnerable adult.

5 - 9 Medium Risk

3. If **medium risk** action is required. For an existing employee, consider actions to mitigate any potential risks to members of the public, the employee or applicant, and the organisation. These actions should follow your disciplinary processes or withdrawal of offer of employment for new applicants. Consider whether there has been a breakdown of trust for non-disclosure. Exclude or suspend (pending internal investigation) if the individual has committed sexual offence(s) or offence(s) against a child or vulnerable adult.

10 - 20 High Risk

4. If **high risk** action is required immediately. For an existing employee consider actions to mitigate any potential risks to members of the public, the employee or applicant, and the organisation. These actions should follow your disciplinary processes or withdrawal of offer of employment for new applicants. Consider whether there has been a breakdown of trust for non-disclosure. Exclude or suspend (pending internal investigation) if the individual has committed sexual offence(s) or offence(s) against a child or vulnerable adult.

'Soft Information' Disclosed

If 'soft information' is disclosed on an Enhanced DBS Form, note the following actions:

- For an individual who has no other offending history, and this does not include factors listed in question (I - Factors which indicate increase in likelihood of further incidents of serious harm) – **treat as low risk as per assessment result 1.**
- For an individual who has identified other offending history but does not include factors listed in question (I- Factors which indicate increase in likelihood of further incidents of serious harm) consider the factors highlighted in (A - Criminal History) and the nature of employment or role, which would increase risk action accordingly.
- If this information does include factors listed in question (I - Factors which indicate increase in likelihood of further incidents of serious harm), but no other offending history treat as per **assessment result 2.**
- If this information does include factors listed in question (I - Factors which indicate increase in likelihood of further incidents of serious harm) and other offending history treat as per **assessment result 4.**

Decision Record Sheet

Low Risk:	Medium Risk:	High Risk:
Total score recorded:	Total score recorded:	Total score recorded:
Recommended Outcome Recorded (To be retained with both Safeguarding and HR systems)		
Action Decided:		
Report Summary:		

Signed by: Safeguarding Lead:		Date:
Printed Name: Safeguarding Lead:		
Signed by: Human Resources Lead:		Date:
Printed Name: Human Resources Lead:		
Signed by Head of Safeguarding or Director of People (HR):		Date:
Printed Name of Signatory:		
Department of Signatory:		
<p>Note: If the above post holders of Signatory are not available, consider Principle Officer, equivalent to ACO level or above as a signatory.</p>		