



LISKEARD COUNCIL
WORKING FOR YOU

LISKEARD TOWN COUNCIL

CRIMINAL RECORDS CHECKS POLICY

1. INTRODUCTION

This Policy sets out the Council's approach to undertaking criminal records checks for staff, Councillors and volunteers.

2. SAFEGUARDING

Liskeard Town Council has a Safeguarding Policy which can be found on its website at <https://www.liskeard.gov.uk/key-documents/policies-and-procedures/> which should be read in conjunction with this policy.

Safeguarding is everyone's responsibility, and all staff, Councillors and volunteers have a responsibility to safeguard and promote the welfare of children, young people and adults.

There is a duty on organisations to make appropriate arrangements to safeguard and promote the welfare of children and adults. Also, government guidance makes it clear that it is a shared responsibility and depends upon effective joint working between agencies and professionals that have different roles and expertise.

Liskeard Town Council recognises that, under the Children Act 2004, it has a statutory duty to make arrangements to ensure all its functions are discharged having regard to safeguarding and promoting the welfare of children in its facilities.

3. SAFER RECRUITMENT

Liskeard Town Council demonstrates its commitment to safeguarding and promoting the welfare of children, young people and adults at all stages of the recruitment and selection process.

It has in place consistent, fair and thorough safer recruitment practices and processes that aim to deter, reject or identify people who might abuse children, young people or adults and to ensure that those recruited are suitable to work within Liskeard Town Council's services.

Councillors are subject to the disqualification criteria set out in the Local Government Act 1972, s79 & 80. Regarding criminal activity not related to election practices, a person is disqualified from standing for election or holding public office if they have been convicted of any offence and have

received a sentence of imprisonment (suspended or not) for a period of no less than three months (without the option of a fine) or more in the five-year period before the relevant election.

The [Local Government \(Disqualification\) Act](#) updates the disqualification criteria for local authority members (councillors, mayors of combined authorities, the mayor of London and London assembly members) to explicitly disqualify individuals who are subject to relevant notification requirements or orders due to sexual offences from standing for or remaining in office. The Act came into force on 28 June 2022. This Act is essential in ensuring that the public continues to have confidence in their elected representatives and local democracy.

4. DISCLOSURE & BARRING SERVICE (DBS) CHECKS

There are different levels of DBS checks, and eligibility for each is set out in legislation:

- Basic – unspent convictions and conditional cautions – no eligibility criteria
- Standard - spent and unspent convictions and cautions (subject to filtering) – the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975
- Enhanced - spent and unspent convictions and cautions (subject to filtering) and relevant police intelligence - the position must be included in both the ROA Exceptions Order and in the Police Act 1997 (Criminal Records) Regulations
- Enhanced with Barred list(s) - spent and unspent convictions and cautions (subject to filtering), relevant police intelligence, and Barred List(s) information – the position must be eligible for an enhanced level DBS certificate and be specifically listed in the Police Act 1997 (Criminal Records) Regulations as being eligible to check the appropriate barred list(s).

The Council will ensure that before allowing a DBS check application to be submitted it has assessed the role to be eligible under current legislation, correctly applied for the right level of check, and correctly requested the appropriate barring information, and is therefore legally entitled to request the DBS product being applied for.

5. ASKING FOR CRIMINAL RECORDS INFORMATION

Staff, Volunteers and Contractors

A DBS check will only be requested after a thorough risk assessment, with external professional advice if necessary, has indicated that one is both proportionate and relevant to the position concerned. For those positions where a DBS check is required, all job adverts and recruitment briefs will contain a statement that a DBS check will be requested in the event of the individual being offered the position.

Where a DBS check is to form part of the recruitment process, the Council encourage all applicants called to interview to provide details of their criminal record at an early stage in the application process. The information should be sent under confidential cover, to a designated person within the Council, and it guarantees that this information will only be seen by those who need to see it as part of the recruitment process.

Liskeard Town Council is committed to the provision of equality and diversity and fair treatment; subject to the over-riding consideration of protecting children and vulnerable people. It undertakes not to discriminate unfairly against any subject of a DBS check on the basis of a conviction or other information revealed.

Having a criminal record will not necessarily bar you from working for the Council. This will depend on the nature of the position and the circumstances and background of the offences with due consideration given to our responsibilities to protect children and vulnerable adults.

Councillors

As noted in section 3, Councillors are subject to the disqualification criteria set out in law. Liskeard Town Council recognises that the Government has legislated in a manner and to a level that is considered as proportionate to the need, and therefore a DBS check will not be a routine requirement.

When a Councillor is undertaking additional responsibilities, where a thorough risk assessment indicates that it is proportionate and relevant to the role, an appropriate DBS check will be requested, for example a Councillor working closely with the Youth Council, and may be undertaken by the relevant external professional organisation facilitating the project.

While Councillors may be asked to undertake visits to schools, youth groups, care homes etc, these will only be conducted with the permission of the organisation involved and in accordance with their safeguarding procedures. Councillors will not be unaccompanied with vulnerable people.

The Council also encourage all candidates putting themselves forward for election or co-option to provide details of any criminal record at an early stage in the process. The information should be sent under confidential cover, to the Town Clerk, who can obtain advice as required.

The Council is aware of the Independent Review of the Disclosure and Barring Regime, published in February 2023, on the effectiveness of the disclosure and barring regime, with reference to the eligibility of local councillors for checks (section 4). The report concludes that there should be consistency in the practice adopted by councils in relation to DBS checks and that checks should be carried out where appropriate. It recommends that an enhanced criminal record check is made mandatory for all Councillors in Unitary and Upper Tier Authorities who are being considered for appointment to any committee involved in decisions on the provisions of children's services or services for vulnerable adults. Although the report notes that a basic check can be obtained by any individual for any purpose, so all local councillors are eligible, it does not recommend that these are carried out.

6. DEALING WITH POSITIVE DISCLOSURES

There are two types of disclosure results, a **clear** disclosure result (certificate contains no information) and a **positive** disclosure result (contains a criminal record) when it will be necessary to arrange to see the applicant's certificate.

Staff, Volunteers and Contractors

The Council undertakes to discuss any matter revealed in a DBS check with the person seeking the position and carry out a risk assessment before withdrawing a conditional offer of employment or voluntary work.

Councillors

Subject to compliance with the statutory rules on being eligible to be elected to office and to remain in that office, the Council cannot prevent the election or continuation in office of any Councillor, irrespective of what might be disclosed by a criminal records check. Steps proportionate to the conviction, caution or other issue disclosed can still be taken.

7. CONFIDENTIALITY

All information must be kept strictly confidential. It should be disclosed on a 'need to know' and lawful basis only. Any actions or decisions of the Council must be in the context of putting its safeguarding responsibilities first. Certificate information will only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Once a recruitment (or other relevant) decision has been made, Liskeard Town Council will not keep the certificate information any longer than is necessary. However, it may keep a record of the date of issue of the certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment (or other relevant) decision.

Liskeard Town Council will continuously monitor and review all recruitment and induction processes, including procedures for criminal records checks, in line with evolving legislation and best practice.

**Approved by Liskeard Town Council
Review**