

To: Members of the Special Sub-Group

Councillors Hayfield, Phillips, Smith, M Stanley and Sweet

For the information of the other Members of the Council

SPECIAL SUB-GROUP

19 AUGUST 2013

The Special Sub-Group will meet in the Committee Room, The Council House, South Street, Atherstone, Warwickshire on Monday 19 August 2013 at 5.30pm.

AGENDA

PART I - PUBLIC BUSINESS

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**
- 4 Public Participation**

Up to twenty minutes will be set aside for members of the public to ask questions or to put their views to elected Members. Participants are restricted to five minutes each. If you wish to speak at the meeting please contact David Harris on 01827 719222 or email democraticservices@northwarks.gov.uk.

PART A – ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

- 5 **Proposed Replacement of Indoor Leisure Facilities in Coleshill** – Report of the Assistant Director (Leisure and Community Development)

Summary

This report advises the Sub-Group of, and seeks its views on, a number of risks associated with the proposed scheme to redevelop indoor leisure facilities in Coleshill.

The Contact Officer for this report is Simon Powell (719352).

- 6 **Policy on Recruitment and Employment of Ex-Offenders** Report of the Assistant Director (Finance and Human Resources)

Summary

This report reviews the existing policy. The revision has been consulted on with senior managers and the trade unions.

The Contact Officer for this report is Janis McCulloch (719236)

- 7 **Pay Award 2013/14** – Report of the Assistant Director (Finance and Human Resources)

This report advises that the pay award for NJC (Green Book) employees has been agreed for 2013/2014.

The Contact Officer for this report is Janis McCulloch. (719236)

JERRY HUTCHINSON
Chief Executive

For general enquiries please contact David Harris, Democratic Services Manager, on 01827 719222 or via e-mail – davidharris@northwarks.gov.uk. For enquiries about specific reports please contact the officer named in the report.

Agenda Item No 5

Special Sub-Group

19 August 2013

**Report of the
Assistant Director
(Leisure and Community Development)**

**Proposed Replacement of Indoor
Leisure Facilities in Coleshill**

1 Summary

- 1.1 This report advises the Sub-Group of, and seeks its views on, a number of risks associated with the proposed scheme to redevelop indoor leisure facilities in Coleshill.

Recommendation to the Sub-Group

That in noting the content of the report, the Sub-Group considers and confirms its stance on the Borough Council's willingness, or otherwise, to spend money "at risk" in advance of receipt of the outcome of the S77 application.

2 Consultation

- 2.1 The Chairman, Vice-chairman and Opposition Spokesperson for the Community and Environment and Resources Boards, The Safer Communities Sub-Committee, Members with responsibility for Health, Well-being and Leisure and Young People and Coleshill Ward Members have all had an opportunity to comment on the content of this report. Any comments received will be reported verbally to the Sub-Group.

3 Background

- 3.1 Members are aware that the Community and Environment Board, at its meeting held in July 2012, resolved that The Coleshill School be the preferred site for any future replacement of Coleshill Leisure Centre. Accordingly, Officers were instructed to enter into negotiations with representatives of The School in order to determine the viability of, and means by which, any development of indoor leisure provision, accessible by the local community, could be undertaken on its site.
- 3.2 The subsequent negotiations have resulted in the signing of a Memorandum of Understanding with The School in relation to the proposed development of a new leisure facility at this location, the preparation of a draft underlease, user agreement and various licences through which the facility will be developed and subsequently managed, the adoption of a shared design option, which received Planning Consent in April 2013, the appointment of project managers, a design and build construction company and a CDM Co-ordinator through to the end of the project, progression into Gateway 4 (the

pre-construction phase) of the EMPA Intermediate Projects Framework, inclusion of the project within the approved capital programme in the sum of £4.426 million and the submission of detailed applications for external funding to both the Education Funding Agency (EFA) and Sport England.

4 Applications for External Funding

- 4.1 The application to the EFA was for a grant of £1,461,366. The bid to Sport England's Inspired Facilities Fund was made in the sum of £150,000.
- 4.2 The application to the Education Funding Agency was approved on appeal in June 2013, as a consequence of which, based on the Feasibility Study and business plans that have previously been considered by Members, the proposed development of a leisure facility at The School is now considered to be a financially viable proposition.
- 4.3 Regrettably, the application for Inspired Facilities funding was unsuccessful. The Fund itself was almost four times over-subscribed and whilst Sport England commended the Borough Council on both the quality of the proposed project and the funding bid, it prioritised applications from the community and voluntary sector in the allocation of its £15 million budget. In this way, Sport England felt that it could both maximise the impact of its grant awards and support more schemes across the country.
- 4.4 Clearly, the unsuccessful application to Sport England reduces the sum potentially available to the project by up to £150,000. The School, project managers and design and build contractor have been notified accordingly and due account is being taken of this factor in the development of the detailed design and the consequent target cost. The National Governing Body of Sport (NGB) for Squash had expressed an initial interest in supporting aspects of the proposed development (principally associated with sports development opportunities). Receipt of notification of the outcome of the Inspired Facilities bid, however, has now resulted in a discussion relating to the potential availability of funding support for the scheme from the NGB. Whilst there is absolutely no guarantee of financial assistance through England Squash and Racketball, negotiations are continuing in respect of a potential contribution of up to £40,000. Whilst this would not bridge the gap caused by the unsuccessful bid to Sport England, it would provide a valuable contribution to the project.
- 4.5 As identified above, the loss of up to £150,000 from the capital sum available to support the scheme has the potential to impact on the detailed design of the facility. It could even result in the need to reduce the space available in which to accommodate community services and, therefore, the ability to generate income. The potential financial implications are being analysed and modelled, with a view to determining whether it would be most economically advantageous to reduce the size of the scheme and, therefore, the associated capital cost and future income potential or, alternatively, retain the proposed level of activity space and projected income levels and fund the additional level of prudential borrowing that would be required to bridge the shortfall in the required level of capital funding. The outcome of this exercise will be reported to an early future meeting of the Sub-Group. If it becomes

necessary to reduce the size of the development, then the inevitable “value engineering” process will focus on the need to limit the impact on those areas of the facility that will support direct service provision.

5 Design and Target Cost Fee

5.1 At the meeting of the Special Sub-group held on 5 July 2013, Members approved the appointment of Wates Construction through to the end of Gateway 6 (Post Project Completion) of the EMPA Intermediate Projects Framework. For information, Gateway 4 of the Project Framework involves detailed pre-construction design and target cost work, further refining that undertaken to date, whilst Gateway 5 incorporates the construction phase of the proposed development. As requested by the Executive Board, a Briefing Note relating to how the EMPA Framework process works is attached at Appendix A.

...

5.2 The reported delay in securing a positive response to the application for EFA funding has led to an inevitable interruption in proceeding with the development of the project, in respect of which there is a current EFA grant offer condition requiring practical on-site completion by August 2014. Mindful of the need to re-work the initial delivery programme and target cost, the Sub-group was informed of the need to sign a Memorandum of Agreement with Wates Construction on or before 7 July 2013, which the Authority duly completed on time. The Memorandum of Agreement is limited to a package of “enabling work”, which includes the erection of site fencing, asbestos removal, disconnection of services and the demolition of The School swimming pool, as well as Wates Construction’s design fees and target cost work. Whilst the Agreement does not bind the Borough Council to anything from which it cannot be released and, further, that the Authority will only pay for work and services actually and properly completed, the Sub-group was informed that once an “instruction of authority to proceed” had been issued the Council would begin to incur further fee-related costs. It was reported that these costs were not expected to exceed £184,845. Wates Construction’s element of this sum totals £106,060, in addition to its costs incurred up to the end of Gateway 3 (the submission of a planning application). Any costs incurred prior to securing the required S77 permission from the Secretary of State is being incurred “at risk” of the project not proceeding through to completion.

6 At Risk Costs

6.1 In order to facilitate progress, Warwickshire County Council made the S77 application (to build on land currently occupied by three redundant tennis courts) to the Secretary of State on 15 July. The process leading to determination of the application can take anything up to 16 weeks. Whilst there is a clear need to make progress on site as early as possible, not least in order to meet the grant offer condition of “practical completion” by August 2014, there is a financial risk associated with undertaking any activity in advance of receipt of the S77 decision (a rejected S77 application would mean that the project could not proceed, a consequence of which is that any money spent in advance of the decision could be wasted).

- 6.2 There is, therefore, a potential conflict caused by the need to make on-site progress during the school summer holiday period and the need to await the outcome of the S77 application, which may take until October / November to resolve. For Members information, an on-site start during the October school half-term period (it is advantageous if early demolition works are undertaken whilst students are not at school) would leave 44 weeks until The School opened in September 2014. Wates Construction has estimated that the project will take 46 weeks to reach the point of practical completion.
- 6.3 Perhaps not unsurprisingly, there has been a discussion about the willingness, or otherwise, of partners to spend money “at risk” in advance of receipt of the outcome of the S77 application. On this point, to date, it has been made clear to all parties that the Borough Council is not prepared to commit any further "at risk" money to the project (in addition to the almost £100,000 that it has already spent and the costs referred to in paragraph 5.2 above).
- 6.4 The School has enquired about the EFA’s preparedness for use to be made of a proportion its £1.46 million project grant prior to the outcome of the S77 application being known. The EFA’s response was as follows:

“I understand that the necessary [S77] permissions for the new sports hall project have not yet been received. Given the importance of staying “on programme” as far as possible, I agree that it is vital that the demolition of the swimming pool goes ahead over the summer holidays, whilst pupils are not on site. To this end, this email is a confirmation of my agreement to contribute up to 33% of the costs of the demolition works, should the project be halted once the demolition has been done. This figure represents the same proportion as the ACMF’s [Academies Capital Maintenance Fund] contribution of the overall project costs.

Could I impress upon you and your wider project team the importance of getting on with the wider development project as quickly as possible. ACMF monies are very limited, and there is a significant demand on funding. If the project cannot proceed due to statutory permissions not being in place in a timely manner (i.e. the completion date is likely to slip significantly beyond your revised August 2014 date), the terms and conditions of grant give us the right to withdraw funding approval for the project and direct these monies elsewhere - £1.46 million buys a number of roofs and boilers required by other academies. Given the importance of developing the sports hall in time for September 2014 from the Academy’s perspective, there is now very little float left in the programme. I would be grateful if you can reassure me as soon as possible that all the necessary permissions are in place and that there is no additional slippage on the programme”.

- 6.5 The School welcomed this response from the EFA and enquired about the Borough Council contributing the remaining two thirds of the total demolition cost of approximately £87,000. At this point, the Authority's current position not to incur any more expenditure "at risk" was re-affirmed. A request was subsequently made by The School to the County Council in order to establish if it would be prepared to fund the required balance, either by way of a direct contribution or loan. Regrettably, the County Council has subsequently confirmed that it is not in a position to either fund two thirds of the pool demolition cost or loan the money to The School.
- 6.6 Two alternative proposals would be for the Borough Council to either fund the balance required (approximately £58,000) at risk of the S77 application being rejected, or to loan the balance to the project, with this sum becoming repayable by The School should the S77 application not be approved, again under terms to be agreed.
- 6.7 There is a clear inference in the response from the EFA (above) about the need for early progress and the possible consequence if that progress is not evidently being made. The Sub-group, therefore, is requested to consider and confirm its stance on the Borough Council's willingness, or otherwise, to spend money "at risk" in advance of receipt of the outcome of the S77 application.

7 Report Implications

7.1 Finance and Value for Money Implications

- 7.1.1 Any further delay in the implementation of the project timetable could result in an inability to meet the conditions of the EFA grant and, therefore, the possible loss of more than £1.4 million of financial assistance for the project.
- 7.1.2 To date, a total of £96,270 has been spent on "at risk" items to move the project through to the stage of seeking Planning Consent (Gateway 3), approval for which was granted by the Executive Board on 24 September 2012. Further to this, there is the potential for additional "at risk" expenditure of £106,060, which relates to Wates Construction's design fees and target cost work, plus an extra £58,000 for the demolition of The School swimming pool and related works. The table below summarises the maximum potential "at risk" expenditure which this Authority could lose if approval for the Section 77 request is not granted:

"At Risk" Expenditure	£
Up to Planning Submission Stage	96,270
Wates Construction's Design Fees and Target Cost Work	106,060
Swimming Pool Demolition Cost	58,000
TOTAL	260,330

7.1.3 The financial implications of the unsuccessful application to Sport England for funding of £150,000 are currently being assessed and will be reported to the Sub-group as soon as possible. The Authority is working with its project partners to review the impact of the “loss” of the potential grant on the current capital scheme and any actions that can be taken to mitigate that impact. Any substantial alteration to the project design could impact on the revenue position of the new facility. In that case, it may be more economically advantageous to consider additional prudential borrowing if to do so would benefit the overall revenue position of the Authority.

7.2 Safer Communities Implications

7.2.1 The provision of good quality leisure facilities and services has profound and positive implications for the development of safer communities and a reduction in the likelihood of criminal and / or anti-social behaviour.

7.3 Legal and Human Rights Implications

7.3.1 Any future replacement of Coleshill Leisure Centre will have direct and positive implications for the Authority’s ability to meet the requirements of Equalities and other legislation and on its determination to equitably enhance access to good quality services for the local community.

7.4 Environment and Sustainability Implications

7.4.1 The proposed investment of resources is required if the Council is to maintain and enhance the quality, consistency and sustainability of its indoor leisure provision in Coleshill. The services provided through the proposed new leisure facility will make a positive and lasting impact on individual and collective quality of life within North Warwickshire.

7.5 Health, Well-being and Leisure Implications

7.5.1 Leisure facilities have a positive impact on the health and well-being of individuals and communities through the provision of opportunities for formal and informal recreation and by contributing to an enhanced quality of life in the Borough.

7.6 Human Resources Implications

7.6.1 There is no immediate human resource implication arising directly from this report.

7.7 Risk Management Implications

7.7.1 The condition and potential future replacement of Coleshill Leisure Centre has been the subject of a detailed risk assessment, a copy of which was presented to the Community and Environment Board in July 2012.

7.7.2 The risks associated with incurring expenditure in advance of receipt of notification of the outcome of the S77 application are detailed in the main body of the report.

7.8 **Equalities Implications**

7.8.1 Any scheme undertaken to replace Coleshill Leisure Centre would be designed to positively impact on the corporate priority to protect and provide easier access to Council services. An Equality and Impact Needs Assessment (EINA) has been carried out and was presented to the Community and Environment Board at its meeting held in July 2012.

7.9 **Links to Council's Priorities**

7.9.1 An undertaking to replace Coleshill Leisure Centre would have positive and direct links to the following corporate priorities:

- Public service
- Crime and disorder
- Access to services
- Consultation and communication
- Health and well-being

7.9.2 The future replacement of Coleshill Leisure Centre with a new development at The Coleshill School would also have positive implications for the Sustainable Community Strategy priorities to:

- Raise aspirations, educational attainment and skills
- Develop healthier communities
- Improve access to services

The Contact Officer for this report is Simon Powell (719352).



Contract Process Briefing Note

August 2013

Background

The appointment of both the contractor (Wates Construction) and its design team (IDP Midlands) has been made under the EMPA (East Midlands Property Alliance) Framework.

The EMPA delivery model utilises the NEC 3 (New Engineering Contract) Option C Contract, which is a comprehensive and widely used form of contract within design and build developments.

The headline process elements for Option C of the NEC 3 contract are as follows:

- The contractor tenders a target price for the work (against a detailed and agreed design) using an “activity” schedule.
- Each activity (or work package) is market tested and then priced as a lump sum, to which a fee is applied as a percentage for sub-contract work and for the contractor’s own direct work.
- The initial target price is the sum of the activity prices and the fee.
- During the course of the contract, the target price is adjusted to cater for “Compensation Events” that are set out in the contract. A compensation event is effectively an agreed variation to the “Works Information”.
- Payment is made on the basis of actual cost.
- There is an incentive mechanism for the contractor to minimise cost, in that savings and overruns are shared between the parties.
- The sharing of risk in this approach reduces the likelihood of disputes.

Employer Protection

Cost Overrun

The NEC contract, as stated above, operates on a target cost basis. The tendered set of works packages includes a target to achieve on cost outturn whilst maintaining programme and specification levels as set out in the Works Information (drawings, specifications, etc.)

If the actual cost (plus fee) is less than target, the Borough Council will enjoy a “gain” share of the difference.

If, on the other hand, the actual cost (plus fee) is more than target (i.e. an overspend) the Contractor will take a “pain” share of the difference. This creates a natural incentive for both parties (the Borough Council and Wates Construction) to seek continuous value engineering from inception through to completion.

“Early Warning Notices” are used and can be created by anyone involved in the project to formally notify the Project Manager of a suspected issue or cost overrun that has arisen, or could arise in the future. The contract has mechanisms in place that requires the Project Manager to act upon these notices to protect the success of the project.

If a change to the Works Information is required, a Compensation Event (variation) is issued which takes account of cost, programme and any peripheral implications to the project. Before the Compensation Event is agreed it requires approval from the Project Manager. To further protect the Borough Council, the Project Manager is required to ensure that the Authority has access to the documentation well in advance of its approval.

Programme Overrun

The NEC contract, consistent with other more traditional forms of contract, allows an opportunity to levy damages if the contractor fails to deliver the project by the contractual completion date.



This is referred to as “Take Over” and there is an option to add further “Key Dates” (or milestones) to commit the contractor to complete certain elements of work before the Take Over date. In addition, the contract is very “programme” bias, in that there are set timescales within which any changes need to be reported and agreed.

All parties involved in this project have an acute desire to deliver the project on time, on budget and to the correct specification levels.

Supporting Local Opportunities

EMPA Expectations

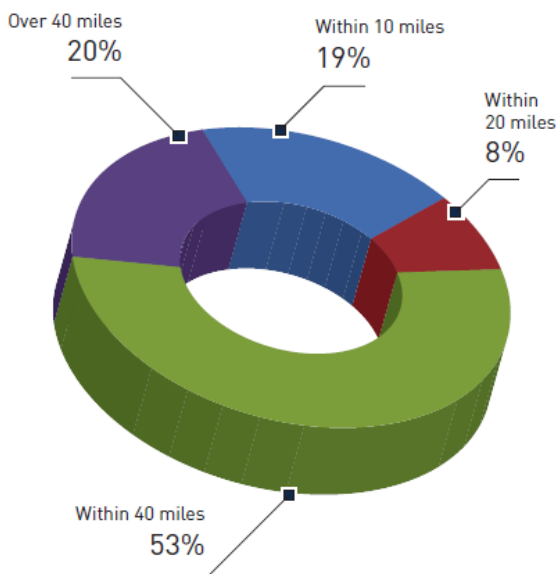
The EMPA Framework (a subsidiary of SCAPE) contains inherent requirements to source and use local labour, supplies and create opportunities for local engagement.

The headlines requirements of the Framework in this regard are as follows:

- Commitment to a “fair pay” charter – requiring payments to SMEs to be processed promptly.
- Active encouragement of apprenticeships – project specific and local to the site.
- Use of local suppliers, contractors and resources generally.
- Skillset workshops to promote supply chain efficiencies.
- Hold “meet the buyer” events to offer opportunities to local SMEs for project specific involvement

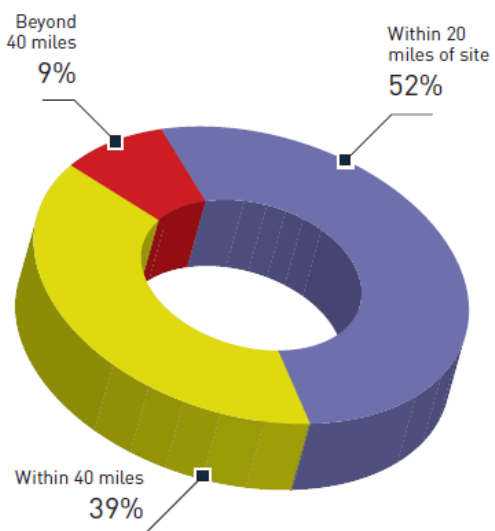
Facts

KPI Special: LOCAL SPEND



KPI 6b: TRAVEL

52% of site labour lives within 20 miles of site and 39% within 40 miles.



NWBC Specific

Wates, IDP and Coventry City Council are committed to actively working with the Borough Council, The Coleshill School and other key stakeholders to promote work experience and apprenticeship opportunities and to encourage engagement with the construction and delivery process.

Agenda Item No 6

Special Sub Group

19 August 2013

**Report of the
Assistant Director
(Finance and Human Resources)**

**Policy on Recruitment and
Employment of Ex-Offenders**

1 Summary

- 1.1 This report reviews the existing policy. The revision has been consulted on with senior managers and the trade unions.

Recommendation to the Sub Group:

To adopt the revised Recruitment and Employment of Ex-Offenders Policy.

2 Introduction

- 2.1 Human Resources' policies are reviewed periodically to ensure that they remain up to date and incorporate any changes in legislation. The Recruitment and Employment of Ex-Offenders Policy has been updated to meet recent changes in legislation.

3 Background

- 3.1 The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions that prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).
- 3.2 The CRB and the ISA have been brought together and criminal record checks are now carried out by the new body, the DBS. There have been some changes to the documents required for this check.
- 3.3 Previously the Council applied for the criminal record check and received the results of that check directly. Under the new system, the Council will no longer receive a copy of the criminal record check but will be able to track an application on line and will therefore know when it has been posted to the applicant. This provides the applicant with the opportunity to review and challenge any of the certificate's content before they show it to / or it is released to a registered body, the Council. The onus will be on the applicant to let the Council see the certificate before they can start work. If the applicant subscribes to the DBS update service, they can provide their DBS certificate to the Council. With their permission, the Council can carry out a

status check. Amendments have been made to our policy and application forms to meet this requirement.

- 3.4 The changes to the policy reflect the changes in legislation and the changes in our processes and practice. A copy of the reviewed policy can be found at Appendix A.

4 **Report Implications**

4.1 **Human Resources Implications**

- 4.1.1 As detailed in the report.

4.2 **Risk Management Implications**

- 4.2.1 Attached as Appendix C.

4.3 **Equalities Implications**

- 4.3.1 As attached at Appendix B.

4.4 **Safer Communities Implications**

- 4.4.1 The Council works with other partners including the Probation Trust to help identified offenders from North Warwickshire to try to change their behaviours to reduce re-offending. At a Warwickshire level there is an agreed Warwickshire Reducing Re-offending Strategy. The arrangements set out in the report for the potential recruitment and employment of ex-offenders are consistent with the reoffending strategy. Examples of the support provided for offenders include assistance with housing, training and work preparedness.

4.4 **Links to Council's Priorities**

- 4.4.1 The use of the policy will reduce the risk of employing unsuitable people from working with vulnerable groups, including children. Proper management of employee issues through policies contributes to the Council's priority relating to the effective use of resources.

The Contact Officer for this report is Janis McCulloch (719236).



North Warwickshire Borough Council

Recruitment and Employment of Ex-Offenders Policy

June 2013

Contents

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5	Relevance of Convictions
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8	Communication and Training

Appendices

1	Categories of employees subject to DBS Disclosure
2	Letter for Recruitment Pack
3	Letter for Recruitment pack
4	Shortened Version of Policy
5	Starter Form pending DBS Disclosure

1. Aims

- 1.1 North Warwickshire Borough Council ('the Council') aims to ensure that the Council's arrangements in respect of criminal record checking comply with relevant legislation, guidance and good practice and to communicate clearly these arrangements to ensure consistent application across the Council. The Council complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure and Barring Service (DBS) check on the basis of a conviction or other information revealed.
- 1.2 The Council is committed to fulfilling its duty to protect children and vulnerable adults to whom it provides a service, by ensuring the highest integrity of those appointed to positions of trust. It is also committed to emphasising this integrity of those appointed to positions of trust by undertaking the appropriate level of criminal record check.
- 1.3 The Council aims to promote equality of opportunity for all of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background. The Council actively promotes equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from a wide range of candidates, including those with criminal records. The Council selects all candidates for interview on their skills, qualifications and experience.
- 1.4 A policy statement on the recruitment of ex-offenders is made available to all DBS applicants at the outset of the recruitment process

2. Introduction

- 2.1 The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions that prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).
- 2.2 DBS introduced the new Update Service in line with a change in the law, which made a significant change in that Registered Bodies such as the Council, no longer receive a copy of the applicant's DBS Certificate unless the applicant subscribes to the Update Service as explained at 2.7 below. This provides the applicant with the opportunity to review and challenge any of the certificate's content before they show it to / or it is released to a registered body, the Council.
- 2.3 The Council will be able to track an application on line and will therefore know when a certificate has been posted to the applicant. The onus will be on the applicant to let the Council see the certificate before they can start work. The Council can take a copy but must not keep it longer than 6 months.
- 2.4 As the Council meets the requirements in respect of exempted questions under the Rehabilitation of Offenders Act 1974, candidates offered employment in a certain range of posts will be subject to a criminal record check undertaken by the DBS. This will include details of cautions, reprimands or final warnings, as well as convictions.
- 2.5 The Council will approve an appropriate number of individual officers, on behalf of the rest of the Authority, and as such they can access the Disclosure Service. The

Council may in the future act as an Umbrella Organisation to assist other organisations in obtaining criminal record information.

- 2.6 The Lead Signatory for the Council will be the Assistant Director, Finance and Human Resources, with other officers nominated as Counter Signatories. All are able to obtain Disclosures from the DBS.
- 2.7 As a registered body The Council will be able to obtain two levels of Disclosure from the DBS and where appropriate a Status Check:

Standard Disclosure

- Contains information about both spent and unspent convictions, as well as cautions, warnings and reprimands
- Relates to positions that are exempted under the Rehabilitation of Offenders Act 1974.
- Available for posts categorised as 'Other Workforce': any position that does not involve working/volunteering with Children or Adults e.g. Taxi licensing.

Enhanced Disclosure

- Contains the same information as the Standard Disclosure, but may also contain any non-conviction information from local police records that is considered relevant.
- Relates to particularly sensitive areas of work, for example those with unsupervised contact with children and other vulnerable groups

DBS Update Service

- For a small annual subscription (current cost £13) applicants can have their DBS certificate kept up-to-date and take it with them from role to role, within the same workforce, where the same type and level of check is required.
- DBS will search for criminal conviction and barring information and will update weekly.
- When recruiting if the successful applicant is a member of the Update Service, with their permission the Council can use their current DBS certificate to carry out a free, instant online Status Check to see if any new information has come to light since its issue. This can be printed and kept for no more than 6 months. Provided the criterion laid down by the DBS are all met the Council can at this stage request a copy of the DBS certificate

- 2.8 The current cost of each Disclosure is £26 for a standard check and £44 for an enhanced check (the fee is waived for volunteers), which may be increased from time to time, and where Disclosure is a requirement of the post, the Council will bear the cost.
- 2.9 Applications must be made with the express agreement of the individual concerned and signed by both the applicant and the registered body.

3. Scope of the Policy

- 3.1 This policy covers all relevant posts within The Council exempted under the Rehabilitation of Offenders Act 1974 as outlined in Appendix 1. This includes permanent staff; temporary, agency, casual, contract and voluntary workers. **Only the successful applicants will be subject to Disclosure, not all applicants invited for interview.**
- 3.2 The policy will also be applied to staff engaged in contracted positions and to contract/partnership staff where the contract/partnership agreement with the Council specifies the requirement for a DBS disclosure for all personnel providing the contracted service/partnership activity. For the purpose of this policy all these individuals are hereafter referred to as “applicants”.

The principles of this policy will also apply in respect of the additional criminal record checking role of the Council – checking applicants to become taxi drivers

4. Application of the Policy

4.1 General

- 4.1.1 North Warwickshire Borough Council will not discriminate on the grounds of previous criminal convictions that have no relevant bearing on the post. However, in order to protect vulnerable client groups from possible harm or abuse, North Warwickshire Borough Council will undertake specific measures to check the suitability of employees working with these groups.
- 4.1.2 As a public service charged with the responsibility for the welfare of a variety of groups within society, the Council needs to be particularly careful about the character and background of its employees and voluntary workers, whose work will bring them into contact with society in general and more specifically, children and other vulnerable groups.

4.2 Existing Employees

- 4.2.1 When an employee commits an offence resulting in a caution, reprimand, warning or conviction, the employee must notify their Line Manager of the offence. The requirement to do so is built into contracts of employment for all new employees and failure to do so may result in disciplinary action being taken. It may also constitute a criminal offence.
- 4.2.2 On occasions the Police notify the Council when an employee commits an offence. In such cases the matter will be referred to the Assistant Director to determine what action to take.
- 4.2.3 Careful consideration will be given before any action is taken, with particular reference to the relevance of the conviction to the post the employee undertakes.
- 4.2.4 Where it is considered that there is a significant risk, eg some violent offences would be relevant to posts involving unsupervised contact with the public, the Council may consider appropriate safeguards, moving the employee to a more suitable post or, in serious instances, disciplinary action which may lead to dismissal.
- 4.2.5 In cases where a person has been employed and it is subsequently discovered that they have failed to disclose an ‘unspent’ conviction, a full assessment of the situation is required to determine the appropriate action that should be taken. This will include

the risks involved, the relevance of the conviction to the post, the reasons for non disclosure and the probable breach to the contract of employment as a result of dishonesty.

- 4.2.6 If an employee has deliberately withheld cautions, reprimands, final warnings or conviction information, in order to gain employment, appropriate criminal and disciplinary action should be considered.
- 4.2.7 Evidence of previous convictions will not be used as an excuse to discipline or dismiss an employee for poor performance. The track record of the individual in their job role should be carefully assessed and, if it is satisfactory, this should be considered positively.
- 4.2.8 No national guidance exists in respect of rechecking employees. The Council, however, will recheck all employees in posts requiring a DBS check every three years, unless otherwise stipulated by future guidance/legislation. Casual employees will be checked annually. Arrangements for rechecking other applicants (eg agency staff, those employed by partner organisations) will be built into agreements with such organisations.
- 4.2.9 Where an employee subscribes to the DBS Update Service the Council, with the employee's permission, will carry out a Status Check at the appropriate time.

4.3 Recruitment

- 4.3.1 At the outset of the recruitment process, the appropriate Manager, in consultation with Human Resources (HR), will determine, based on the nature of the job and the risk assessment criteria for the job, whether it is appropriate to request criminal record information and if so what level of Disclosure is required.
- 4.3.2 For those positions where a DBS check is required, all job descriptions, person specifications, 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. A statement should therefore be included in adverts as follows:

“This post is exempted under the Rehabilitation of Offenders Act 1974 and, as such, appointment will be conditional upon receipt of a satisfactory response to a check of criminal records via the Disclosure and Barring Service, before the appointment is confirmed. This will include details of cautions, reprimands or final warnings, as well as convictions.”

The covering letter that is issued with the recruitment pack should contain the statements outlined in either Appendix 2 or 3, whichever is appropriate.

- 4.3.3 The recruitment pack should contain the policy statement. See Appendix 4.
- 4.3.4 When external recruitment agencies are used, recruiting officers must ensure that such statements are included with the job information sent to applicants if relevant to the post.
- 4.3.5 The process of requesting completion of a Declaration of Criminal Convictions and a Disclosure Application Form should be applied equally to internal and external applicants applying/being appointed to posts that have been assessed as requiring a criminal record check.

- 4.3.6 The Council will only seek criminal record information through the Disclosure process for those posts which involve access to children and vulnerable adults or are listed as Exceptions under the Rehabilitation of Offender, 1974 (Exceptions) (Amendment) Order 2001. A list of potential posts within the Council is outlined in Appendix 1, although this is not intended to be an exhaustive list.
- 4.3.7 When an applicant (even when a DBS check is not required for the post applied for) is shortlisted, and the applicant has declared an unspent conviction on the recruitment monitoring form, the HR Manager/HR Officer and the Line Manager will discuss the conviction with the applicant and risk assess against the job applied for prior to being invited to interview. The fact that a person has a criminal record is frequently irrelevant to the job they are applying for.
- 4.3.8 North Warwickshire Borough Council encourages applicants to be open and honest with regard to their criminal record information. Information provided about an individual's criminal record will be used only to assess the applicant's suitability for the job. The Council makes sure that an open and measured discussion takes place on the subject of any offences. A thorough risk assessment that is both proportionate and relevant to the position is carried out by the appropriate Recruiting Manager and the HR Manager/HR Officer. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
- 4.3.9 The Council undertakes to discuss any matter revealed in a DBS check with the person seeking the position before withdrawing a conditional offer of employment.
- 4.3.10 The Council makes every subject of a DBS check aware of the DBS Code of Practice and make a copy available on request.
- 4.3.11 At interview, recruiters must confirm that the post is exempted under the Rehabilitation of Offenders Act 1974 and that, if successful, the candidate will be required to disclose all criminal information, including details of any 'spent' convictions, cautions, reprimands or final warnings.
- 4.3.12 When an offer of employment is made subject to Disclosure, the person must not commence employment with the Authority until a satisfactory report has been received from the applicant or:
- The applicant has an existing Disclosure, the disclosure is at the appropriate level as required for the post in question, the applicant subscribes to the DBS Update Service and gives the Council permission to carry out a Status Check;
 - The applicant is an employee of a contractor/partner where the contract or agreement stipulates the requirement of staff to have a Disclosure, the Disclosure is at an appropriate level as required for the post in question and it is no more than 3 months from the issue date.

5. Relevance of Convictions

- 5.1 Whether a person with a criminal record is suitable for employment will depend on the nature of the job and the nature and relevance of any convictions to that job.
- 5.2 Determining the relevance of convictions is not an exact science. An assessment of an applicant's skills, experience and the circumstances of the conviction(s) should be weighed against the risk assessment criteria for the job. However, it should be noted

that employing people based on an application form and an interview is never risk free, irrespective of whether they have a criminal record.

- 5.3 Therefore if an applicant has a criminal record, this should be assessed in relation to the tasks he/she will be required to perform and the circumstances in which the work will be carried out.
- 5.4 The following should be considered when deciding on the relevance of an offence to a particular position (this list is not meant to be exhaustive)
- Does the post involve one to one contact with children or other vulnerable groups such as employees, customers and clients?
 - What level of supervision is the post subject to?
 - Does the post involve any direct responsibility for finance or items of value?
 - Does the post involve direct contact with the public?
 - Will the nature of the job present any opportunities for the post holder to re-offend in the place of work?
 - The seriousness of the offence and its relevance to the safety of other employees, customers, clients and property.
 - The length of time since the offence occurred.
 - Any relevant information offered by the applicant about the circumstances that led to the offence being committed, for example the influence of domestic or financial difficulties.
 - Whether the offence was a one off, or part of a history of offending
 - Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely.
- 5.5 In some cases, the relationship of the offence to the post will be clear enough for a decision to be made easily on the suitability of the applicant to the job.
- 5.6 The decision regarding a person's criminal record and their suitability for employment will rest with the Assistant Director and the Human Resource Manager.

6. Confidentiality of Information

- 6.1 All information relating to offences must remain confidential on a need to know basis. Applicants and employees need to feel confident that details about their convictions will not be disclosed to colleagues, unless there is a specific reason for doing so.
- 6.2 The only people who should have access to the Disclosure information are the applicant; the Human Resource Section, the officers responsible for any recruitment decision (usually the line manager) and the relevant Counter Signatory.
- 6.3 Disclosure information is only used for the specific purpose for which it was requested and for no other purpose, as that is the only purpose for which the applicant's full consent has been given.
- 6.4 In accordance with section 124 of the Police Act 1997, Disclosure information must only be passed to those who are authorised to receive it in the course of their duties. The Human Resource Section will maintain a record of all those to whom Disclosures or Disclosure information has been revealed and the Council recognises that it is a criminal offence to convey this information to anyone who is not entitled to receive it.

- 6.5 The Human Resource Section is responsible for ensuring the safe and confidential storage of the Disclosure information received.
- 6.6 The Human Resource Section will have due regard to the Data Protection Act 1998, when handling Disclosure information.
- 6.7 A Disclosure cannot be kept for more than six months. However, notwithstanding this, the Council 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 DBS certificate number of the Disclosure and the details of the recruitment decision taken. This will be retained on the employee's file with the above details added to it, but it will be treated as confidential information.
- 6.8 The actual Disclosure information must be destroyed by shredding; pulping or burning and no photocopies or other information can be kept. Again it is the responsibility of the Human Resource Section to ensure that Disclosure information is disposed of in an appropriate manner.
- 6.9 All Disclosure information must be kept securely in lockable filing cabinets, including any material awaiting destruction. Access to the stored information must be strictly controlled and limited to those who are entitled to see it as part of their duties.
- 6.10 Action may be taken against the Council should the DBS's Code of Practice not be adhered to.
- 6.11 If the Council opts in the future to act as an Umbrella organisation, it will be responsible for ensuring that organisations it acts on behalf of comply with the DBS's Code of Practice.

7. Monitoring and Review of Policy

- 7.1 The provisions of this policy will be subject to regular review and as required by changes in legislation and guidance. The policy will be monitored by the Human Resource Section.

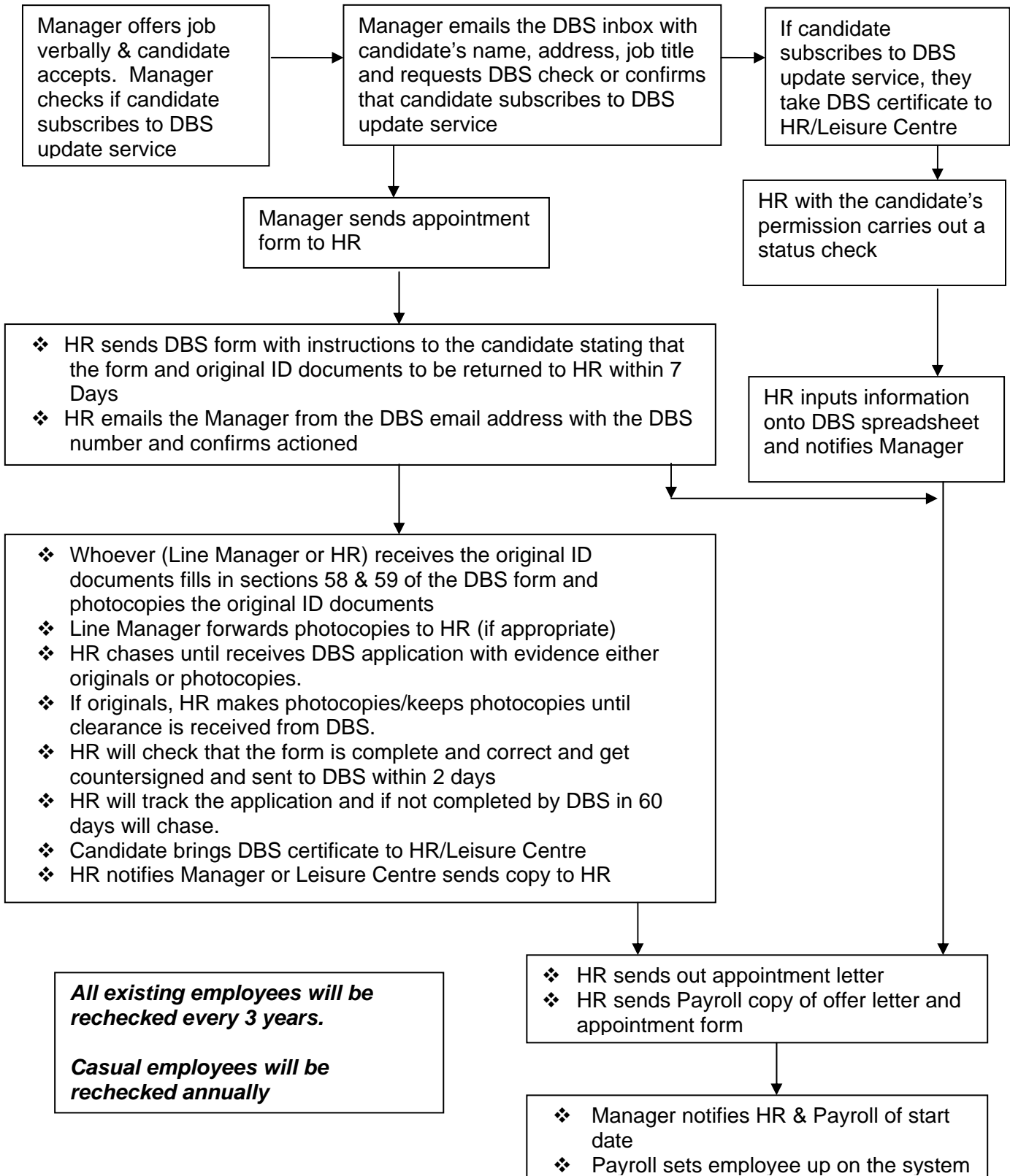
8. Communication and Training

- 8.1 The provisions of this policy will be communicated to all employees of the Council, Elected Members, agency staff engaged in such positions and to contract/partnership staff where the contract/partnership agreement with the Council specifies the requirement for a DBS disclosure for all personnel providing the contracted service/partnership activity.
- 8.2 Applicants for posts subject to a criminal record check will be made aware of this policy along with criminal record check requirements at the advertisement or application stage.
- 8.3 Appropriate training or briefing will be made available to those managers involved in recruiting to posts requiring a criminal record check, counter signatories and to those involved in completing Disclosure Application forms.
- 8.4 Any updates will also be communicated to relevant members of staff.

DBS Process in Recruitment

NB

At every stage Human Resources (HR) updates the spreadsheet



The Categories of Employees and Prospective Employees for North Warwickshire Borough Council who will be subject to Disclosure under the Rehabilitation of Offenders Act (Exemptions) (Amendment) Order 2001

Posts which involve access to any of the following classes of person in the course of their normal duties:

- * Elderly persons
- * People suffering from serious illness or mental disorder of any description
- * People addicted to alcohol or drugs
- * People who are blind, deaf or without speech
- * People who are substantially and permanently disabled by illness, injury or congenital deformity

N.B If an employee carrying out their normal duties potentially has an opportunity to abuse vulnerable people, he or she would be considered to have access.

Examples within the Authority:

- Sheltered Housing Wardens
- Community Support Officers
- Housing Officers

• **Jobs involving contact with children**

This category covers any work which is:

- **Work in a regulated position.** 'Regulated position' is a definition contained in the Criminal Justice and Court Service Act 2000 (CJCSA). The categories included are limited to normal duties. Therefore there should be some regularity in performing work that comes under one of these definitions as outlined below:

1) **Any staff whose normal duties involve carrying out work of any sort in certain types of establishment**

Examples of establishments covered in local authorities, include: schools, care homes.

This will cover **all** staff working at one of these establishments, whatever their duties and includes:

- teachers,
- admin. staff
- youth workers
- caretakers
- cleaners

Staff do not need to be based at the establishment to be covered by this definition, eg IT staff going into schools.

Examples within the Authority:

- **Community Development Officers**

2) **A position whose normal duties include caring for, training, supervising or being in sole charge of children**

This definition is important as it is these positions where an individual can ask for an enhanced disclosure form the DBS and will include a wide range of employees including:

- a) teachers
- b) learning mentors
- c) youth workers

Examples within the Authority:

**Swimming teachers
Leisure Coaches
Youth Workers
Playscheme Assistants**

3) **A position whose normal duties include supervising or managing an individual in his / her work in a regulated position**

The purpose of including this category is that such people may cover up any misconduct which has occurred. Therefore it covers those with the authority to dismiss an individual in a regulated position as well as immediate managers and supervisors.

N.B. Taxi drivers are also to be included as a regulated occupation.

Also there are certain professions which are exempt as far as entry into the profession is concerned.

Within local authorities these are:

- Solicitor
- Chartered or Certified Accountant

Therefore it is the relevant professional body which can ask questions about spent convictions.

This is not an exhaustive list and Departments have been approached to provide additional examples.

APPENDIX 2

Please note that if you are offered this position, the appointment process requires you to apply for an **Enhanced level** of Disclosure with the Disclosure and Barring Service (DBS).

In applying for a Disclosure we usually ask to see your passport and driving licence (where issued) together with one proof of address, such as a recent utility bill, a credit card statement or bank statement. If, in addition, you can provide your Birth Certificate, Marriage Certificate (where applicable) or a reference to your National Insurance Number ie from a P45 or P60, this will assist with the process. Additionally, you will be required to complete a Disclosure application, which will then be forwarded to the DBS.

The DBS will then check the Police National Computer records for all convictions, (including spent convictions) listed, plus details of any cautions or warnings issued. Additionally, the DBS will check information contained on a Governmental list of people on the barred list to work with children and/or adults, as well as information held by the Police.

After all checks have been carried out, the DBS will send a Disclosure to you, which will list any details obtained from those checks. You will need to bring this to the HR department at the Council before you can start work. Staff starting work at the Leisure Centres can take their certificate to the Centre Manager or the Assistant Manager who will photocopy it, sign and date the photocopy stating that they have seen the original documentation and forward to HR. In the event of the DBS check highlighting information held on any of the databases accessed, HR will discuss the details with you in order to make an informed decision as to whether or not this affects the offer of appointment. The final decision as to whether your appointment can proceed will be made by the relevant Assistant Director and the HR Manager/HR Officer.

If you already hold a DBS certificate and subscribe to the DBS Update Service you will be required to bring this to the HR department at the Council and, with your permission, they will carry out a Status Check. Provided that this is satisfactory you will then be able to arrange to start work. As with a new DBS check, in the event of the Status Check highlighting information held on any of the databases accessed, HR will discuss the details with you in order to make an informed decision as to whether or not this affects the offer of appointment. The final decision as to whether your appointment can proceed will be made by the relevant Assistant Director and the HR Manager/HR Officer.

APPENDIX 3

Please note that if you are offered this position, the appointment process requires you to apply for a **Standard level** of Disclosure with the Disclosure and Barring Service (DBS).

In applying for a Disclosure we usually ask to see your passport and driving licence (where issued) together with one proof of address, such as a recent utility bill, a credit card statement or bank statement. If, in addition, you can provide your Birth Certificate, Marriage Certificate (where applicable) or a reference to your National Insurance Number ie from a P45 or P60, this will assist with the process. Additionally, you will be required to complete a Disclosure application, which will then be forwarded to the DBS.

The DBS will then check the Police National Computer records for all convictions, (including spent convictions) listed, plus details of any cautions or warnings issued.

After all checks have been carried out, the DBS will send a Disclosure to you, which will list any details obtained from those checks. You will need to bring this to the HR department at the Council before you can start work. Staff starting work at the Leisure Centres can take their certificate to the Centre Manager or the Assistant Manager who will photocopy it, sign and date the photocopy stating that they have seen the original documentation and forward to HR. In the event of the DBS check highlighting information held on any of the databases accessed, HR will discuss the details with you in order to make an informed decision as to whether or not this affects the offer of appointment. The final decision as to whether your appointment can proceed will be made by the relevant Assistant Director and the HR Manager/HR Officer.

If you already hold a DBS certificate and subscribe to the DBS Update Service you will be required to bring this to the HR department at the Council and with your permission they will carry out a Status Check. Provided that this is satisfactory you will be able to arrange to start work. As with a new DBS check, in the event of the Status Check highlighting information held on any of the databases accessed, HR will discuss the details with you in order to make an informed decision as to whether or not this affects the offer of appointment. The final decision as to whether your appointment can proceed will be made by the relevant Assistant Director and the HR Manager/HR Officer.

POLICY STATEMENT ON THE EMPLOYMENT OF EX-OFFENDERS

INTRODUCTION

North Warwickshire Borough Council has an agreed policy on the recruitment of ex-offenders which seeks to avoid discrimination against them, whilst taking the necessary checks and precautions to safeguard the welfare of our clients and service users. A copy of the full policy is available upon request.

SCOPE OF THE POLICY

This policy covers all relevant posts within the Council exempted under the Rehabilitation of Offenders Act 1974. This includes permanent employees; temporary; agency; casual; contract and voluntary workers. Only the successful applicants will be subject to checks of criminal records via the Disclosure and Barring Service (DBS). However, all applicants will be required to declare whether they have any convictions on their application form.

APPLICATION OF THE POLICY

The Council undertakes to treat all applicants who have a criminal record fairly, and will not discriminate unfairly against job applicants on the grounds of a previous conviction or other information which is not relevant to the post applied for.

Criminal records will be taken into account for recruitment purposes only where the conviction is relevant. Therefore, unless the nature of the work demands it, candidates will not be asked to disclose convictions which are 'spent' under the Rehabilitation of Offenders act 1974. Having an 'unspent' conviction will not necessarily bar a candidate from employment. This will depend on the circumstances; relevance and background to the offence(s).

However, the Council has a duty to protect vulnerable client groups from potential harm or abuse, and to that end the Council will undertake specific measures to check the suitability of prospective employees who would work with these groups. Such measures include undertaking criminal record checks, known as Disclosures, which will be carried out by the Disclosure and Barring Service (DBS) for candidates selected to work in a certain range of posts involving contact with children and vulnerable groups of adults.

If a Disclosure reveals a criminal history, this will be discussed with the candidate concerned before the decision regarding appointment is made. Where there is perceived to be a reasonable risk of future misconduct, based on the relevance of past events, the selected candidate will **not** be appointed, and will be given written reasons for the decision. Where the criminal history is irrelevant and/or the risk is deemed to be minimal or manageable, the selected candidate will be appointed, subject to the approval of the Assistant Director or their delegated representative.

When an applicant (even when a DBS check is not required for the post applied for) is shortlisted, and the applicant has declared an unspent conviction on the recruitment monitoring form, the conviction will be discussed with the applicant and risk assessed against the job applied for prior to being invited to interview.

The Council undertakes to adhere to the Code of Practice issued by the Disclosure and Barring Service and all relevant legislation.

Equality Impact Assessment Summary Sheet

Please complete the following table summarised from the equality impact assessment form. This should be completed and attached to relevant Board reports.

Name of Policy Procedure/Service	Recruitment and Employment of Ex-Offenders Policy
Officer Responsible for assessment	Janis McCulloch

Does this policy /procedure /service have any differential impact on the following equality groups /people

- (a) Is there a positive impact on any of the equality target groups or contribute to promoting equal opportunities and improve relations or:
- (b) could there be a negative impact on any of the equality target groups i.e. disadvantage them in any way

Equality Group	Positive impact	Negative impact	Reasons/Comments
Racial	No	No	
Gender	No	No	
Disabled people	No	No	
Gay, Lesbian and Bisexual people	No	No	
Older/Younger people	No	No	
Religion and Beliefs	No	No	
People having dependents caring responsibilities	No	No	
People having an offending past	No	No	
Transgender people	No	No	

If you have answered **No** to any of the above please give your reasons below

This policy covers all relevant posts within The Council exempted under the Rehabilitation of Offenders Act 1974. This will include permanent staff; temporary, agency, casual, contract and voluntary workers.

Please indicate if you believe that this document

Should proceed to further Impact assessment **No**

Needs no further action

Risk Management Form

**NORTH WARWICKSHIRE
BOROUGH COUNCIL**

Division

Cost Centre or Service

Risk Ref	Risk: Title/Description	Consequence	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Gross Risk Rating	Responsible Officer	Existing Control Procedures	Likelihood(5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rating
	To not adopt the reviewed Recruitment and Employment of Ex-Offenders Policy	Not meeting the requirement of the legislation resulting in litigation which could result in large penalty fines as well as reputational damage to The Council. There is also the possibility of criminal proceeding against officers	4	5	20	Janis McCulloch	Reviewed policy implemented	1	5	5
Risk Ref	Options for additional / replacement control procedure						Cost Resources	Likelihood (5 = high, 1 = low)	Impact (5 = high, 1 = low)	Net Risk Rating

Completed By: Janis McCulloch

Date: August 2013

Agenda Item No 7

Special Sub Group

19 August 2013

**Report of the Assistant Director
(Finance & Human Resources)**

Pay Award 2013/14

1 Summary

- 1.1 This report advises that the pay award for NJC (Green Book) employees has been agreed for 2013/2014.

Recommendation to the Sub Group

That the report be noted.

2 Report

- 2.1 The Council was advised on the 15 July 2013 that the Employers Organisation and the Unions had reached an agreement on rates of pay applicable from 1 April 2013. The agreed pay increase of 1.0% relates to employees whose contracts come under the NJC (Green Book). The NJC covers all employees, with the exception of Chief Officers.
- 2.2 It has also been agreed that Spinal Column Point 4 (SCP4) will be deleted with effect from 1 October 2013. Therefore, employees on SCP4 will progress to SCP5 on 1 October and, if automatic increments apply, will progress to SCP6 with effect from 1 April 2014. The deletion of SCP4 will affect nine employees.

3 Report Implications

3.1 Finance and Value for Money Implications

- 3.1.1 Provision for a pay award of 2% was included in the budget for all staff, so there will be a saving of £102,540 against that provision, which will contribute towards the Council's savings target.

3.2 Human Resources Implications

- 3.2.1 As detailed in the report

3.3 Links to Council's Priorities

3.3.1 It meets the Council's priority relating to the effective use of resources.

The Contact Officer for this report is Janis McCulloch. (719236)

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date