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## Additional / To Follow Agenda Items

This is a supplement to the original agenda and includes reports that are additional to the original agenda or which were marked 'to follow'.

### Nottinghamshire and City of Nottingham Fire and Rescue Authority - Community Safety

**Date:** Friday, 13 October 2023

**Time:** 10.00 am

**Place:** Joint Fire / Police HQ, Sherwood Lodge, Arnold, Nottingham, NG5 8PP

**Governance Officer:** Catherine Ziane-Pryor, Governance Officer

**Direct Dial:** 0115 8764468

#### Agenda

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**NOTTINGHAMSHIRE**  
**Fire & Rescue Service**  
*Creating Safer Communities*

Nottinghamshire and City of Nottingham  
Fire and Rescue Authority  
Community Safety Committee

# **SAFEGUARDING, DISCLOSURE AND BARRING UPDATE**

Report of the Chief Fire Officer

**Date:** 13 October 2023

**Purpose of Report:**

To update Members on the implications of changes to the Rehabilitation of Offenders Act (Exceptions) and provide an overview of current Safeguarding practices in Nottinghamshire Fire and Rescue Service.

**Recommendations:**

It is recommended that Members:

- Note the contents of this report and the updated changes to legislation.
- Endorse the approach of the Chief Fire Officer
- Agree to receive a further update in 12 months' time once the new approach to checks has been embedded.

**CONTACT OFFICER**

**Name:** Damien West  
Assistant Chief Fire Officer

**Tel:** 0115 8388100

**Email:** [damien.west@notts-fire.gov.uk](mailto:damien.west@notts-fire.gov.uk)

**Media Enquiries** Corporate Communications Team

## 1. BACKGROUND

- 1.1 The Service currently undertakes pre-employment checks on new employees as part of the on-boarding process and, additionally, for employees undertaking roles for which enhanced checks are required i.e., those who regularly work with children or vulnerable people without supervision.
- 1.2 The Government has recently legislated to enable Fire and Rescue Authorities to be included in Schedule 1 Rehabilitation of Offenders Act 1974 (Exceptions). This enables Fire and Rescue Authorities to conduct more comprehensive criminal record checks on their employees by extending powers to undertake 'standard' DBS checks. These provide information on spent convictions, cautions, reprimands and final warnings in addition to unspent cautions and convictions, rather than the previous 'basic' checks.
- 1.3 Operational staff and members of the Prevention Team are in regular contact with some of the most vulnerable members of society. This can be through attending operational incidents or the delivery of prevention functions such as Safe and Well Visits and prevention education activities.

## 2. REPORT

### VETTING OF PERSONNEL

- 2.1 At present, the Service currently carries out a 'basic' check on all new employees into the Service. This only includes details of any unspent convictions.
- 2.2 Fire and Rescue Services are now able to perform a minimum of 'standard' checks for all staff, volunteers, and representatives. This will include both spent and unspent convictions.
- 2.3 Certain roles within the Service, where individuals may work alone with vulnerable people, are also eligible for an 'enhanced' or 'enhanced with barred list' check. This remains unchanged and will depend on the nature of the individual's role and access to vulnerable persons.
- 2.4 It is important to emphasise that having a criminal conviction does not automatically make an applicant or existing employee unsuitable for employment. The DBS check allows employers to access the criminal record history of those seeking to work for an organisation, or people currently working for an organisation, to decide whether the applicant is a suitable person to work for the organisation, in that particular role.
- 2.5 The National Fire Chiefs' Council (NFCC) has provided guidance for Fire and Rescue Services in National Operational Guidance ([Joint Guidance on DBS eligibility checks for FRA roles | NFCC CPO \(ukfrs.com\)](#)). In this guidance,

there is an 'Overview of Eligibility' section, which includes a breakdown of some of the common roles within a Fire and Rescue Authority, and the level of check which the NFCC recommend. The Service will adopt this recommended approach in relation to checks for the workforce, both for new starters and current employees.

- 2.6 The Service has established policy and procedure in relation to dealing with matters arising from checks that are carried out. In addition to checks carried out under this legislation, personnel working at the Service's joint headquarters, and those undertaking specialist command roles, are also subject to enhanced vetting arrangements.
- 2.7 It is proposed that a further update will be presented to Members in 12 months' time once the new approach has been embedded.

## **SAFEGUARDING COMMUNITIES**

- 2.8 Under the Care Act 2014, the Service has a statutory requirement to ensure appropriate safeguarding of vulnerable people in communities.
- 2.9 In the period 1 August 2022 to 31 July 2023, the Service referred 27 individuals to the City or County Multi Agency Safeguarding Hub. Of these individuals at risk deemed at risk, 19 were adults and eight were children.
- 2.10 The Service has developed its workforce to understand and recognise when individuals may require 'safeguarding'. Over 700 staff have completed an online e-learning package. In addition, 134 members of staff, including middle managers, have completed a Level Three advanced training course.
- 2.11 The Service also has a nominated Safeguarding Strategic Lead, and Delivery Lead, and is a member of both City and County Safeguarding Boards for adults and children.
- 2.12 This work also supports the collaboration with the 'Safer Streets' campaign and supporting City partners in the reduction of violence against women and girls. This has seen coordinated work in providing 'safe space' training and provision, as well as targeting the night-time economy to make Nottingham a safer place.



*Image showing London Road fire appliance with the 'Safer Streets' wrapping.*

### **3. FINANCIAL IMPLICATIONS**

The financial and resource implications of the changes in legislation are currently being considered by the Service's Strategic Leadership Team and will be met from existing budgets.

### **4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS**

- 4.1 'Standard' checking of DBS for all new appointments has been implemented since the regulations changed in July 2023.
- 4.2 The Service continues to ensure that appropriate safeguarding training is completed by the workforce on an annual basis.

### **5. EQUALITIES IMPLICATIONS**

An initial equality impact assessment (attached at Appendix A) has been undertaken against the changes in legislation. It should be noted that there is potential for an adverse impact linked to a higher level of representation of those from an ethnic minority within the criminal justice system. Any impacts will be monitored, and each case considered on its own merits, to mitigate against any potential negative impact.

### **6. CRIME AND DISORDER IMPLICATIONS**

There are no crime and disorder implications arising from this report.

### **7. LEGAL IMPLICATIONS**

- 7.1 This report outlines changes in primary and secondary legislation. These are:

- The Rehabilitation of Offenders Act (ROA) 1974; the main piece of legislation regulating the disclosure of criminal records.
  - The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (the Exceptions Order) lists roles under which employers can require disclosure of spent convictions.
- 7.2 The Exceptions Order was amended by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 from 29 May 2013 (the Exceptions Order 2013).
- 7.3 Schedule 1 of the ROA (Exceptions) Order was amended to allow Fire and Rescue Services to undertake Standard Disclosures from 6 July 2023.
- 7.4 The Care Act 2014 places a requirement upon all local authorities to ensure the safeguarding of adults within its area of engagement.

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1 The change to the Rehabilitation of Offenders Act (Exceptions) enables Fire Authorities to undertake Standard Disclosure and Barring checks for all employees. The Service has always been able to undertake enhanced checks for those undertaking regulated activities. The NFCC recommend the use of Standard checks for all FRS roles, to be renewed on a three-yearly basis.
- 8.2 The Corporate Risk Register highlights the risk of Service Reputation. The approach outlined in this report helps mitigate this risk through ensuring that all reasonable steps have been taken, in line with current legislation and guidance, to ensure that the Service safeguards vulnerable people. Failure to adopt the recommended approach for enhanced checks on personnel may increase this risk due to non-compliance with current guidance.

## **9. COLLABORATION IMPLICATIONS**

There are no collaborative implications arising from this report.

## **10. RECOMMENDATIONS**

It is recommended that Members:

- 10.1 Note the contents of this report and the updated changes to legislation.
- 10.2 Endorse the approach of the Chief Fire Officer.
- 10.3 Agree to receive a further update in 12 months' time once the new approach to checks has been embedded.

**11. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)**

None.

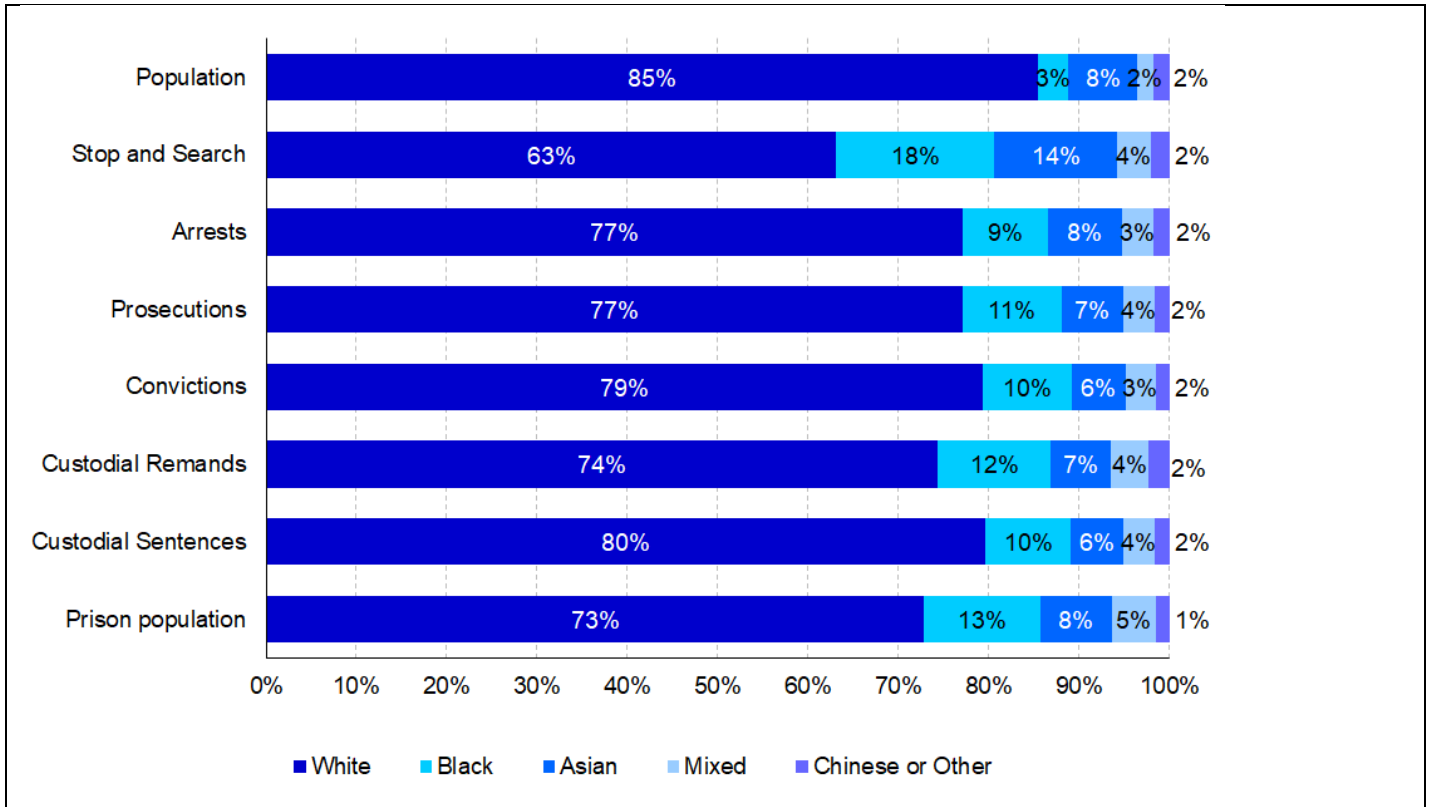
Craig Parkin  
**CHIEF FIRE OFFICER**



## EQUALITY IMPACT ASSESSMENT

The Public Sector Equality Duty (PSED) requires all public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their functions. This means that NFRS must consider how our workforce and/or the public is affected when we carry out our work. This form will help you do that by undertaking an equality impact assessment of your proposed policy.

<b>Are people affected by the policy?</b>		<b>Yes</b>	<b>Yes</b>	<b>No</b>	
<b>Name of Policy</b>					
Disclosure and Barring Policy		<b>Date of Analysis</b>		21/08/23	
		<b>Review date</b>			
<b>1. What are the aims of the policy?</b>					
To undertake criminal record checks on new and existing employees to ensure that they are not barred from working in specified roles in line with Part 5 of the Protection of Freedoms Act 2012.					
<b>2. List the groups of people potentially affected by this proposal.</b>					
Employees New starters General public – safeguarding duty					
<b>3. List any involvement, engagement and consultation you have undertaken on this proposal</b>					
A policy already exists. The change reflects new powers for FRS under the Rehabilitation of Offenders Act from 6 <sup>th</sup> July 2023 to allow Standard checks to be undertaken for those employed by an FRS. The amended policy will be discussed with SLT and the representative bodies.					
<b>4. List any equality data available relating to the use or implementation of this proposal</b>					



[Ethnicity and the Criminal Justice System, 2020 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/reviews/ethnicity-and-the-criminal-justice-system-2020) Data taken from the Ethnicity and the Criminal Justice system 2020 review (Ministry of Justice) indicates that those from ethnic groups appear to be over-represented at many stages throughout the criminal justice system. This may mean that there may be an over representation of Positive Disclosures for certain non-white ethnic groups.

Protected Characteristic	Taking into account the information you have gathered above, consider how the following groups of people could be affected by the policy both inside the Service (as employees or applicants) and outside (as service users or communities).	Tick the relevant box below if the impact is positive, negative, neutral or not known			
		Positive	Negative	Neutral	Unknown
<b>Age</b>	Is the policy likely to impact the same on people of all age groups? The policy may be designed to have a positive impact on older service users for example.			x	
<b>Disability</b>	How will the policy affect people with disabilities? Consider all different forms of disability including mental health, long-term health conditions, dementia, learning difficulties, mobility and physical disabilities. The policy may be designed to have a positive impact on deaf people for example.			x	
<b>Gender Reassignment</b>	Consider how people who are on or who have completed a transgender journey may be affected by the policy. Will a trans person find it as easy as a non-trans person to access a service for example?			x	
<b>Married and Civil Partnership</b>	Could the policy affect people who have entered into a legally recognised partnership differently to those people who are single (including people who are living together, separated, divorced)?			x	
<b>Pregnancy and Maternity</b>	Could the policy affect new and expectant mothers, including women who are breastfeeding?			x	
<b>Race</b>	The data demonstrated above and within <a href="#">Ethnicity and the criminal justice system</a> research, communicates people from ethnic minority communities are overrepresented within the criminal justice system.				x
<b>Religion or Belief</b>	Will the policy have a different impact on people because of their religion or belief or because they have no religion or protected belief?			x	
<b>Sex</b>	Consider any different impact that the policy is expected to have on men and women. Remember that women tend to have greater caring commitments than men and to work reduced hours. Would this affect the take up of the policy?			x	

Protected Characteristic	Taking into account the information you have gathered above, consider how the following groups of people could be affected by the policy both inside the Service (as employees or applicants) and outside (as service users or communities).	Tick the relevant box below if the impact is positive, negative, neutral or not known			
		Positive	Negative	Neutral	Unknown
<b>Sexual Orientation</b>	Will there be a different impact on people because of their sexual orientation? Consider the impact on lesbian, gay, bisexual and heterosexual members of the public and employees/applicants.			x	
<b>Rurality</b>	Could the policy have a different impact on people who live in rural areas rather than in towns? Remember, public transport, access to the internet and communications generally can be more difficult to access in rural areas, and there is less community support for people who live in isolated properties.			x	
<b>Socio Economic Background</b>	Research by University of Birmingham demonstrated poorer socio-economic groups are <a href="#">over-represented in the criminal justice system</a> .				x

**This Equality Impact Analysis was completed by: (Name and Department):** Tracy Crump, POD department

Analysis Ratings	
	As a result of performing this analysis, it is evident that there will be a negative impact on one or more groups of people. It is recommended that you take advice from the EDI Unit when considering justification.
	As a result of performing this analysis, it is evident a risk of discrimination exists and this risk may be removed or reduced by implementing the actions detailed within the action plan.
	As a result of performing this analysis, no adverse effects on people from different groups are identified, no further action is required.

Action Plan Owner: Tracy Crump	Commencement date: Oct 2023	Sign off date:
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Action Planning

As a result of performing this analysis, what actions are proposed to remove, reduce any risks of adverse outcomes identified on people (employees, applicant's, customers, members of the public etc)

Identified Risk	Recommended Actions	Responsible Lead	Completion Date	Review Date
That a higher proportion of potential applicants from minority ethnic groups and poorer socio economic groups may return Positive Disclosure for criminal records than White applicants (based on 2020 Ministry of Justice data)	Monitoring is undertaken on the basis of ethnic origin to identify whether there is a disproportionate impact. There are controls in place to review each case with an applicant to allow them to set out any mitigation for the disclosed action. This would be undertaken by a Safeguarding and HR Officer to determine whether the offence meets the threshold of risk assessment criteria (safeguarding) or the provisions set out within the Service's Disclosure and Barring Policy.	<b>Head of POD</b>	<b>Ongoing</b>	<b>Annual</b>
That a higher proportion of existing employees from minority ethnic groups may return a Positive Disclosure for criminal records than White employees (based on 2020 Ministry of Justice data)	Monitoring is undertaken on the basis of ethnic origin to identify whether there is a disproportionate impact. There are controls in place to review each case with an employee to allow them to set out any mitigation for the disclosed action. This would be undertaken by a Safeguarding and HR Officer to determine whether the offence	<b>Head of POD</b>	<b>Ongoing</b>	<b>Annual</b>

	meets the threshold of risk assessment criteria (safeguarding) or the provisions set out within the Service's Disclosure and Barring Policy.			

## Glossary

<b>Protected Characteristic</b>	<p>The Equality Act 2010 lists nine separate characteristics that are held by everyone – their <b>age</b>; whether or not they have a <b>disability</b>; their <b>race</b>, ethnicity, nationality, national origin or colour; their <b>sex</b>, including when they have changed their birth sex or are on a journey of <b>gender reassignment</b>; if they are <b>married or in a civil partnership</b>; if they are <b>pregnant or on maternity leave</b>; if they have a <b>religion or belief</b> that defines their life; or if their <b>sexual orientation</b> is gay, lesbian, bisexual or heterosexual. These are known as protected characteristics and the Equality Act protects people from discrimination for one or more of these reasons.</p> <p>In addition, NFRS have included rurality in the list of characteristics. Although this is not a protected characteristic under the Equality Act we know that people suffer disadvantages because of where they live and we aim to address those disadvantages through the equality impact assessment process.</p>
<b>Equality Impact Assessment</b>	<p>The public sector equality duty (PSED) is a requirement in the Equality Act that all public sector bodies have “due regard” to equality when carrying out their functions. An equality impact assessment (EIA) enables NFRS to show it has had “due regard” to equality when it implements a policy practice or arrangement that impacts on people who have particular protected characteristics.</p>
<b>Disability</b>	<p>Disability is defined in the Equality Act as a physical or mental impairment that has a long term (has lasted or is likely to last for 12 months) substantial adverse impact on a person’s ability to carry out normal day to day activities.</p>
<b>Discrimination</b>	<p>There are several types of discrimination (for example direct, indirect, harassment, discrimination failure to make reasonable adjustments), but the one that is most relevant when undertaking an EIA is indirect discrimination.</p> <p>Indirect discrimination occurs when an organisation imposes a provision, criterion or practice (which could be a policy) that puts people with a protected characteristic at a particular disadvantage when compared to people without that characteristic. For example, a policy that required everyone to text a number to get a Safe and Well Check, could put older people as a group at a particular disadvantage because they are less likely to use a smart phone. This is known as “<b>disproportionate impact</b>”.</p> <p>In some instances the disproportionate impact may be small or irrelevant, in other cases it could be significant, to the extent that it excludes some people from the scope of the policy.</p> <p>If you can reduce the disproportionate impact, you should do so. For example, it could be possible to ring for a Safe and Well Check, or to accept referrals from care workers to make sure that older people can access the service.</p> <p>In the final analysis, disproportionate impact can be justified if it can be shown to be a “proportionate means of achieving a legitimate aim”. To do this you need to balance the extent of the disproportionate impact against the aims of the policy (you will have identified the aims in section 1 above). You will need to consider whether the means to achieve the policy’s aims are appropriate and necessary. In these circumstances you should seek help from the EDI Unit before finalising the proposal.</p>

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