

DBS and Safe Handling of Disclosure Information Policy

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What is in this policy?

This policy gives an overview of the various levels of DBS clearance and the associated process to ensure all persons working for University Hospitals Bristol and Weston NHS Foundation Trust (the Trust) are trustworthy and reliable and not subject to any offences which are a risk to service users.

The policy is designed for the information of all staff, however, primarily for the use of managers engaged in the hiring of new staff to the organisation.

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- **Stakeholder Group** can include any group that has been consulted over the content or requirement for this policy.
- **Steering Group** can include any meeting of professionals who has been involved in agreeing specific content relating to this policy.
- **Other Groups** include any meetings consulted over this policy.
- **Policy Assurance Group** must agree this document before it is sent to the **Approval Authority** for final sign off before upload to the DMS.

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Do I need to read this Policy?



1. Introduction

This policy is designed to supplement the Trust's Recruitment and Selection Policy & Procedure.

2. Purpose

It is designed to assist in ensuring that all persons working within University Hospitals Bristol NHS Foundation Trust (UH Bristol) are trustworthy and reliable and are not subject to any offences, which are a risk to service users. This policy takes account of current legislation relating to employment, rehabilitation of offenders, safeguarding children and adults, Department of Health & Social Care and Department for Education guidelines.

3. Scope

This policy applies to the appointment of all employees, paid and unpaid, including volunteers, bank staff, staff on honorary contracts and others not covered by the term employee, including Specialist Non-Clinical Agency Workers, Sole Traders and Personal Service Companies.

4. Definitions

4.1 *The Disclosure & Barring Service (DBS)*

- (a) The primary role of the Disclosure & Barring Service (DBS) is to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups including children.
- (b) The DBS was established under the Protection of Freedoms Act 2012 and helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.
- (c) The barring side of the DBS provides expert caseworkers who process referrals about individuals or who have harmed or pose a risk of harm to children and/or vulnerable groups. They make decisions about who should be placed on the children's barred list and/or adults barred list and prevented by law from working with children or vulnerable groups.
- (d) The checking service allows employers to access the criminal record history of people working, or seeking to work in certain positions, especially those that involve working with children or adults in specific situations.

4.2 *Bind over*

A bind-over is an order about future conduct designed to reduce crime and increase public safety. The individual concerned is required to keep the peace for a fixed period of time as specified by the court.

4.3 Caution

A caution is a formal warning about future conduct given by a senior police officer, usually in a police station, after a person has admitted an offence. It is used as an alternative to a charge and possible prosecution, generally used for juvenile or first-time offences.

There are two types of caution: Simple caution - previously known as a formal caution - is used to deal quickly and simply with those who commit less serious crimes. It aims to divert offenders away from appearing in court and to reduce the likelihood of them offending again. A conditional caution - introduced by the Criminal Justice Act 2003, differs from a simple caution in that the offender must comply with certain conditions to receive the caution and to avoid prosecution for the offence they have committed. Like simple cautions, conditional cautions aim to keep lower level offenders out of court. The conditions are usually in the form of rehabilitation or reparation where the offender is requested to repair/or make good the damage caused. The offender may be requested to pay financial compensation.

4.4 Conditional Discharge

Conditional discharge is where no further action is taken against an offender unless they commit a further offence within a given period (no more than 3 years)

4.5 Court Conviction

Arises from offences tried at Court.

4.6 Criminal Record

A record of convictions held on the Police National Computer (PNC) for individuals convicted of crimes (includes information on cautions, reprimands, final warnings and bind-overs).

4.7 Data Protection Act or any subsequent regulation of Act of Parliament

The Data Protection Act 2018 regulates the use of information about an individual and requires that any person, or organisation, who is to use information about an individual, uses it in accordance with the data protection principles. The Act also introduces safeguards in relation to sensitive personal data which may include information on ethnic or racial origin; political opinions; religious beliefs; physical or mental health; and criminal records.

4.8 Disclosure & Barring Service (DBS)

The DBS provides access to information about criminal convictions and other police records to help employers make an informed decision when recruiting staff across England and Wales.

4.9 Disclosure Scotland

Disclosure Scotland is part of the Scottish Criminal Record Office and provides access to criminal conviction data in Scotland. They can provide a basic disclosure service to employers within England and Wales. A basic disclosure is an application for details about 'unspent' convictions

only. All applications for standard and enhanced disclosures for England and Wales must still be obtained from the DBS in Liverpool.

4.10 Exceptions Order

The Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974 sets out those occupations and positions exempt from the provisions of the ROA. These are generally positions of trust; where there is a valid need to see a person's full criminal history in order to assess their suitability for a position. This information is intended as general guidance only. It must not be regarded as a definitive interpretation of the Act. Anyone requesting further guidance should seek legal advice.

4.11 Exempted Question

An exempted question is a valid request for a person to reveal their full criminal history (including spent convictions) and is made possible by virtue of the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974.

4.12 Overseas Police Check

An overseas police check is a document issued in accordance with the relevant country's judicial system. Some police authorities overseas will only provide a certificate of good conduct or standing. Where this is the case, employers may accept this as a valid police check. For full details please refer to 6.11.

4.13 Police National Computer (PNC)

The central police database against which all criminal record checks will be made.

4.14 Rehabilitation of Offenders Act (ROA) 1974

The Rehabilitation of Offenders Act (ROA) 1974 enables some criminal convictions to become 'spent', or ignored, after a 'rehabilitation period' (see below).

4.15 Rehabilitation Period

A rehabilitation period is a set length of time from the date of conviction. After this period, with certain exceptions, an ex-offender is not normally obliged to mention the conviction when applying for a job or when involved in criminal or civil proceedings (see further details under 'spent' conviction).

4.16 Reprimand

A reprimand is given to young offenders (aged 17 and under) who have committed their first offence.

4.17 Spent conviction

The Rehabilitation of Offenders Act (ROA) 1974 sets out to make life easier for many people who have been convicted of a criminal offence and who have since lived on the right side of the law. A person convicted of all but the most serious criminal offences and who receives a sentence less than 2.5 years in prison, benefits from the Act if they are not convicted again during a specified period. This is called the rehabilitation period (as described above). In general terms, the more severe a penalty is, the longer the rehabilitation period. Once a rehabilitation period has expired and no further offending has taken place, a conviction is considered to be 'spent'. In most circumstances an employer cannot refuse to employ someone, or dismiss them, on the basis of a spent conviction. Generally, spent convictions do not have to be declared, unless the individual is applying for a position of trust. In such circumstances, an employer is entitled to ask a candidate to reveal details of all convictions, whether spent or not. This is, in part, to ensure that children and other vulnerable groups are adequately protected from those in positions of authority over them. These positions of trust, or 'excepted' professions, are set out in the Rehabilitation of Offenders Act (Exceptions) Order.

4.18 Suspended sentence

A suspended sentence is when a person sentenced to prison is not actually sent to prison - provided they keep out of trouble for the period of the suspension.

4.19 Volunteer

Volunteers should undergo the same pre-employment checks as for a paid staff. The definition of a volunteer throughout these standards refers to: "A person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than/or in addition to close relatives." An example of a volunteer within the Trust would be a Befriender.

4.20 Youth cautions (formerly reprimands or final warnings issued to those aged under 18)

A youth caution is a formal verbal warning given by a police officer to a young person who admits they are guilty of a minor offence. They will normally take place at a Police station with the parent or legal guardian present. The individual will most likely be given a leaflet or additional information about the implications of receiving a final warning or formal reprimand. If an individual is given a final warning they will be referred to a Youth Offending Team who will most likely visit the individual to assess if they require a program of rehabilitation or education. If the individual offends again within a two year period they will be required to attend court.

5. Duties, Roles and Responsibilities

5.1 Trust Board of Directors

- (a) Ensure that all staff working for the Trust are trustworthy and reliable and are not subject to any offences which are a risk to service users.

5.2 Executive Directors

- (a) Ensure that all staff working for the Trust are trustworthy and reliable and are not subject to any offences which are a risk to service users.

5.3 Senior Leadership Team

- (a) Ensure that all staff working for the Trust are trustworthy and reliable and are not subject to any offences which are a risk to service users.

5.4 All Staff

- (a) Ensure that they are familiar with the content of this policy.

6. Policy Statement and Provisions

Part V of the Police Act 1997 makes criminal record checks available for positions that are identified as exempt under the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (as amended). Not all NHS staff will require a DBS check, but such checks are mandatory for all staff that have access to persons in receipt of health services in the course of their normal duties. The trigger for a check and the level of check is based on a risk assessment against the roles and duties of the position being offered and the type of contact the individual will have with vulnerable groups.

Staff should not commence in post until completion of a DBS check at the appropriate level,, subject to certain exemptions:

- Should the post require an enhanced check without a check against the barred lists, a standard check or a basic check, the individual going into that post can commence their duties in the absence of their disclosure clearance being received as long as they work under strict supervision and by agreement with the relevant HR Business Partner or Divisional Director. Please see Appendix A- Recruitment Supervision guidelines.
- Medical and dental staff who have been recruited from overseas or are on an educationally-approved training rotation are allowed to commence duties subject to documented Medical Director approval and as long as they are in receipt of a valid overseas police check, clear model declaration and a full DBS has been requested.
- Registered nursing staff who have been recruited from overseas are allowed to commence duties subject to documented Head of Nursing approval and as long as they are in receipt of a valid overseas police check, clear model declaration and a full DBS has been requested.

A declaration of unspent criminal convictions, cautions, reprimands and warnings will be requested from all applicants on the Trust's Model Declaration Form at interview stage. This will also include convictions that are otherwise spent and applicants are not entitled to withhold information about convictions.

It is important to point out that possession of a criminal conviction does not automatically make an applicant unsuitable for employment in the NHS, however, the DBS holds the power to bar people who have committed indictable offences from working or engaging in regulated activity with children and/or vulnerable adults.

All employees are required to report any police allegations, convictions, cautions, reprimands or warnings that occur during the course of their employment, whether at home or abroad to their line manager as soon as reasonably practicable. Failure to do so will be treated as a disciplinary offence and may result in dismissal. Line Managers are responsible for discussing any reported incidents with the appropriate HR Business Partner to identify if any action is required.

Recruiting managers will be responsible for questioning and discussing with applicants any criminal convictions, cautions, reprimands and warnings at interview and advising them of the DBS process as applicable to the role (please refer to section 5 and section 8 for more information). The recruiting manager is responsible for recording any information given on the interview documentation.

Failure by an employee to provide accurate and truthful information at the time of applying for the position will be considered as a disciplinary matter, which could result in dismissal or withdrawal of an offer of employment.

NHS employers guidance confirms that there is no legal requirement to carry out retrospective (periodic) DBS checks on employees. A new DBS check would be undertaken where a concern is brought to the Trust's attention by either a member of the public, the police authorities, their line manager or where the individual themselves has alerted the Trust to an issue under 6.5 above.

The Trust reserves the right to carry out discretionary spot checks on individuals at any time.

The Trust reserves the right to carry out retrospective checks on individuals at any time. This will include Executive Directors and Non-Executive Directors in line with the recommendations of the Kark Review. It will also include members of the Trust's Education team who have responsibility for the provision of educational supervision of people aged 18 and under in line with the Department for Education requirements.

The requirement for an overseas police check can vary depending on where an applicant is being recruited from. Overseas police checks must be in accordance with the relevant country's judicial system. Some police authorities overseas will only provide a certificate of good conduct or standing. Where this is the case, the Trust may accept this as a valid police check. This should not be confused with a certificate of good standing issued by an overseas regulator, which is not equivalent to a police check. However, this may still be useful to help inform the overall assessment of suitability.

Any requirement for an overseas police check must be made clear to applicants as early on in the recruitment process as possible with additional time factored to receive this information. Wherever possible, the Resourcing Team will ask applicants to obtain a police check before they leave their residing country to avoid any unnecessary delays to appointing them. Further guidance about how individuals can apply for an overseas police check, including the cost of a check and anticipated processing times can be found on the [Home Office website](#). Any overseas police

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certificates should be verified in the exact same way as all other official documentary evidence to ensure they are legitimate and relate to the person presenting themselves. If the Resourcing Team are unsure of the authenticity of the documents, they will contact the relevant embassy in the UK for advice.

7. Process to Determine Level of Disclosure

The recruiting manager will determine whether a DBS check is required for the post. This will be reviewed and checked by the Resourcing Team Lead on TRAC at the 'pre-advertising' stage (when a vacancy is 'granted' on our TRAC system).

The Disclosure and Barring Service (DBS) offers four types of criminal record check:

- (a) Standard DBS check contain details of an individual's convictions, cautions, reprimands or warnings recorded on police central records and includes both 'spent' and 'unspent' convictions. These are shown on a criminal records check.
- (b) Enhanced DBS check contains the same details as a standard check, together with any information held locally by police forces that it is reasonably considered might be relevant to the post applied for.
- (c) Enhanced DBS & barred list check (child) includes information from the DBS's children's barred list and is only available for those individuals engaged in regulated activity with children and a small number of posts as listed in the Police Act Regulations, for example prospective adoptive parents.
- (d) Enhanced DBS & barred list check (adult) includes information from the DBS's adults barred list and is only available for those individuals engaged in regulated activity with adults and a small number of posts as listed in the Police Act Regulations.

The new definition of regulated activity relating to children (i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children; comprises only: (ii) Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. Not work by supervised volunteers; Work under (i) or (ii) is regulated activity only if done regularly. (iii) Relevant personal care, for example washing or dressing; or health care by or supervised by a professional; (iv) Registered child minding; and foster-carers.

The new definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead, the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. This means that the focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities.

There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

There are six categories of people who will fall within the new definition of regulated activity (and so will anyone who provides day to day management or supervision of those people).

A broad outline of these categories is set out below.

- (e) Providing health care – Any health care professional providing health care to an adult, or anyone who provides health care to an adult under the direction or supervision of a health care professional. Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for further details about what is meant by health care and health care professionals.
- (f) Providing personal care – Anyone who: provides physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of an adult's age, illness or disability; prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without that prompting or supervision; or trains, instructs or offers advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability.
- (g) Providing social work – The provision by a social care worker of social work which is required in connection with any health care or social services to an adult who is a client or potential client.
- (h) Assistance with cash, bills and/or shopping – The provision of assistance to an adult because of their age, illness or disability, if that includes managing the person's cash, paying their bills or shopping on their behalf.
- (i) Assistance in the conduct of a person's own affairs – Anyone who provides various forms of assistance in the conduct of an adult's own affairs, for example by virtue of an enduring power of attorney. Please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, for the further categories which are covered here.
- (j) Conveying – A person who transports an adult because of their age, illness or disability either to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving health care, personal care or social care. This will not include family and friends or taxi drivers.

The Trust will ask for an overseas police certificate or equivalent for all EEA nationals applying for positions in the UK. This applies to any EEA country or countries the individual has resided in for six months or more (whether continuously or in total) in the last five years, while aged 18 or over.

The Trust will undertake a relevant DBS check on EEA and non-EEA nationals, in addition to the overseas police check to assure themselves that:

- The person is not barred from working with children and/or adults, as may be relevant to the role
- They do not hold a criminal record in the UK.

In some cases, the DBS may have information sharing arrangements with the residing country and therefore this may help to validate information provided in their overseas police certificate or certificate of good standing or provide new information which must be considered. The DBS check will be obtained as soon as is practical i.e. when the individual can be reasonably expected to meet the requirements outlined in the DBS identity checking guidelines in order for the DBS to process the disclosure application.

The Trust will obtain an overseas police certificate from any UK applicant where they have declared that they have spent a significant period of time overseas. A significant period of time should be considered as any period of six months or more (whether continuously or in total) within the last five years.

8. Process providing Opportunity to disclose

Information obtained through the recruitment and selection stage is designed to prevent unsuitable people from gaining access to vulnerable groups, while at the same time respecting human rights and privacy issues and complying with the requirements of the Data Protection Act 2018. Candidates are requested to disclose any criminal convictions, warnings and reprimands at various stages of the recruitment & selection process.

On the application form, the monitoring section of the application form will ask candidates:

- (a) Do you have any UNSPENT convictions as outlined in the Rehabilitation of Offenders Act 1974? This includes any unspent convictions that may have been issued in any other country, where it would be an equivalent offence in England and Wales. It also includes all unspent convictions or Summary Hearings that have been issued under military law while serving in the Armed Forces in the UK or any other country, where it would be an equivalent offence in England and Wales?
- (b) Do you have any UNSPENT cautions, reprimands or final warnings as outlined in the Rehabilitation of Offenders Act 1974? This includes any unspent cautions, reprimands or final warnings that may have been issued in any other country, where it would be an equivalent offence in England and Wales. It also includes all unspent cautions that have been issued under military law while serving in the Armed Forces in the UK or any other country, where it would be an equivalent offence in England and Wales?
- (c) Do you have any convictions that are not protected i.e. eligible for filtering as outlined in the rehabilitation of offenders act 1974 exceptions order 1975 as amended the exceptions order. It also includes all convictions or summary hearings that have been issued under military law while serving in the armed forces either in the UK or any other country where the equivalent offence in England and Wales is not protected. You are not required to disclose any information in relation to the above if all convictions are protected i.e. eligible for filtering as outlined in the exceptions order?
- (d) Do you have any cautions reprimands or final warnings that are not protected i.e. eligible for filtering as outlined in the rehabilitation of offenders act 1974 exceptions order 1975 as amended the exceptions order? It also includes all

cautions reprimands or final warnings that have been issued under military law while serving in the armed forces either in the UK or any other country where the equivalent offence in England and Wales is not protected. You are not required to disclose any information in relation to the above if all convictions are protected i.e. eligible for filtering as outlined in the exceptions order?

Please note that at this stage of the recruitment process, the application is only accessed by the recruitment administrator and is not disclosed to the recruiting manager.

At Interview the recruiting manager will give all candidates the opportunity to declare any criminal convictions, cautions, reprimands. Where the post being interviewed for requires a DBS check this will include all spent, as well as unspent convictions, cautions and reprimands. Information disclosed will be recorded by the recruiting manager on the interview template. Candidates will be informed that failure to disclose could result in a conditional offer being withdrawn. Candidates will also be informed that any disclosure will be held in confidence and discussed only with the HR team as appropriate (see appendix B for more information). The possession of a criminal conviction does not automatically make an applicant unsuitable for employment in the NHS. A note of the discussion must be made on the relevant interview form for cross reference.

On the self-declaration form: Self-declaration forms must be handled, stored and destroyed in the same way as DBS check information and should not be kept on file any longer than necessary.

Where a vacancy meets the criteria for a check, the advert will clearly state that any offer of employment will be subject to a DBS check being carried out. A disclosure will only be applied for once a decision to offer the post has been taken and a conditional offer made.

Prospective employees will be advised that as the position being applied for is exempt from the Rehabilitation of Offenders Act 1974 they are required to provide a self-declaration providing details of any criminal records and information about both spent (old) and unspent (current) convictions as part of the application process. This will be obtained by issue of Model Declaration Form A and any information given will be verified by obtaining the DBS disclosure.

Where the position does not meet the criteria for a DBS check, but may still be regarded as a 'position of trust', prospective employees will be required to complete a self-declaration providing information about unspent (current) convictions only as part of the application process. Consideration will also be given as to whether a basic disclosure should be obtained.

9. Procedure for DBS Applications

Once a post has been identified as requiring a DBS check and the appropriate level has been assessed as outlined above, the Resourcing team will identify if the prospective employee requires a new DBS check. A self-declaration of criminal convictions form and a DBS application link through our TRAC system will be sent along with the provisional offer of employment to complete and return. The DBS application link includes information explaining how to complete it.

The individual must return supporting documentation in person to ensure that the documents are checked with the individual present to verify their identity.

The Resourcing team member will check documentation against a list of DBS requirements. A list of approved forms of ID is available from the Resourcing team. Scanned copies of the documents are retained on the employee's electronic file.

The application form is re-checked by a counter-signatory for approval and confirmation of which level of check required – standard or enhanced – and where enhanced which list(s) to be checked. This is completed through our TRAC system.

The procedure followed must ensure confidentiality and compliance with the Data Protection Act 2018 or any subsequent regulation or Act of Parliament.

10. Disclosure reports – Use, Storage & Destruction

With effect from 17th June 2013, the DBS stopped issuing two DBS certificates. Therefore a DBS certificate will only be sent to the applicant, even if it contains any criminal record information. The applicant will then be requested to contact the Resourcing team to bring in the original certificate for checking if there is an adverse on it. (Please see 10.3 for more details on how this is managed safely).

Where a disclosure indicates no criminal history on our TRAC recruitment system, this will be recorded on ESR together with the date received and the date of the disclosure report. The recruiting manager will be informed that the applicant/employee has been cleared to commence in post (subject to all other pre-employment checks).

Where there is an adverse DBS disclosure, a copy of the DBS certificate and Self-Declaration of Criminal Conviction form will be held until a recruitment decision has been made. The certificate will be secured stored by the Recruitment Coordinator. The applicant will also sign a form to declare that they give consent for Resourcing to hold a copy of their DBS certificate and use the information disclosed in order to make a final recruitment decision based on their adverse disclosure.

A record of the following will be kept on the ESR system:

- The issue date of the DBS certificate
- The level of check requested, including any checks against one or both of the barred lists
- The unique reference number of the certificate.
- The DBS check outcome, e.g. post to be offered, offer withdrawn etc.

11. Positive Disclosures

The DBS certificate will reveal if the individual has a criminal record, including details of convictions, cautions, reprimands or final warnings. The DBS certificate will only provide the basic facts such as the name and date of offence(s) and, if applicable, details of any sentence(s). It will not put them into context.

Information obtained through DBS checks can help managers make an informed decision on whether or not to appoint a prospective employee. The decision rests with the Trust as to whether to employ a person whose DBS check reveals a conviction or other relevant information. This is where the Trusts 'Appendix A' form (see page 21) would be used to determine whether or not the applicant should be employed. A final decision is made by the safeguarding team and the information provided should be carefully considered in the light of all the relevant circumstances and judged on a case-by-case basis.

If a disclosure indicates a conviction, caution or other record, the disclosure will be recorded and stored as above. The counter-signatory will make checks to ascertain whether the issues reported had been declared on either the application form, at interview or on the self-declaration form. If information comes to light which the candidate did not declare then the information together with the reason for non-disclosure should be explored with the candidate. Applicants have four opportunities to declare whether or not they have previous convictions, cautions or reprimands before a conditional offer has been made. (Please refer to section 8 for more information).

Opportunities to disclose information include:

- Application form and supporting documentation
- During interview
- When a conditional offer of employment is made
- When completing the online DBS form

The procedure for dealing with positive disclosure is detailed in Appendix 2 (Process for managing Adverse Criminal Record Disclosures).

12. Use of a previous DBS Certificate

Portability refers to the re-use of a DBS check obtained for a position in one organisation and later used for another position in another organisation. On the 17th June 2013 the DBS introduced the DBS update service. This is a voluntary applicant-led system where they can subscribe themselves when their new certificate arrives and pay an annual subscription fee directly to the DBS. If an applicant is registered with the update service an online update check can be made by the Trust which will negate the requirement for a new check.

The applicant still has to provide the Trust with the original certificate for copying. (There is no official expiry date for a criminal record check issued by the Disclosure and Barring Service (DBS). Any information revealed on a DBS certificate will be accurate at the time the certificate was issued.)

If the applicant has not registered with the update service and it has been identified that a post requires a DBS check, a new disclosure must be applied for by the Trust. A disclosure must be received before the candidate is able to commence employment in a regulated activity.

In some cases where the pre-employment checks can be acquired through a Bristol, North Somerset and South Gloucestershire (BNSSG) pre-employment passport, the confirmation of a DBS can be checked through this process. The BNSSG passport fundamentally acts as a 'waiver' for

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pre-employment checks into a new position within the Trust. The passport allows us to receive confirmation that the pre-employment checks at the applicant's current Trust were processed and confirmed successfully.

Doctors on educationally-approved training rotations should be regarded as being in continuous employment for the full term of their training programme. Trainee doctors who are not subscribed to the Update Service must have a DBS check at least once every three-years. The Trust will need to seek written confirmation from the previous employer that a DBS check has been obtained within the preceding three-year period and it is at the correct level for the role they will be undertaking.

Where a positive disclosure is made, the Trust will require the receipt of a new DBS check before the candidate is able to commence employment in a regulated activity.

In all cases all other pre-employment checks including the completion of a self-declaration of criminal convictions form must also be received before the candidate is able to commence employment in a regulated activity.

A new DBS check is not always required where an existing member of staff moves jobs within the Trust and their roles and responsibilities and level of contact with that vulnerable group has not significantly changed. If a DBS check has been made by the Trust and the level of the check and vulnerable group has not changed, then a new DBS check will not be required. If there has been a break of service for more than three months between leaving the old position and taking up the new position a new DBS check will be required. In all cases a self-declaration form A must still be completed.

In very exceptional circumstances, the Trust may make a risk-based decision to appoint applicants before the outcome of a DBS check is received, but this must only be where there is an urgent need to appoint because of an identified risk to patient safety or welfare, or where the individual is required to undertake induction training. In any such cases, an appropriate DBS check must have been applied for and appropriate safeguards must be in place to manage that individual, such as restricted access to children or vulnerable adults or supervision, until the disclosure has been obtained. Approval must be sought from the relevant Divisional Director and HR Business Partner.

13. Temporary workers supplied by an agency

All temporary staff supplied by an agency are required to have DBS checks at least once a year. The Trust obtains written assurances from the agency upon placement that an appropriate check at the correct level has been carried out within the last 12 months. More frequent checks may be carried out where any such assurances cannot be provided, or where there is a concern about an individual

14. Dismissals

The Trust has a legal duty to refer individuals to the DBS subject to both of the following conditions being met:

- The Trust withdraws permission for a person to engage in regulated activity with children and/or vulnerable adults. Or the Trust moves the person to another area of work that isn't regulated activity.
- This includes situations when you would have taken the above action, but the person was re-deployed, resigned, retired, or left. For example, a Registered Nurse resigns when an allegation of harm to a patient is first made.

The Trust believes that the individual has carried out 1 of the following:

- Engaged in relevant conduct in relation to children and/or adults. An action or inaction has harmed a child or vulnerable adult or put them at risk or harm or;
- Satisfied the harm test in relation to children and/or vulnerable adults. E.g. there has been no relevant conduct but a risk of harm to a child or vulnerable still exists or
- Been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence

The Disciplining Manager will liaise with the HR Business Partner in making the referral for dismissal.

15. Reporting

All new applicants who have declared that they have a conviction on their model declaration or where a new DBS states they have an adverse DBS will be tracked on a central 'Adverse spreadsheet' which is held within the Resourcing Department. This spreadsheet will be used to monitor and document appointment decisions.

16. References

DBS application form: counter signatories guide

<https://www.gov.uk/government/publications/dbs-application-forms-countersignatories-guide>

DBS sample policy on the recruitment of ex-offenders

<https://www.gov.uk/government/publications/dbs-sample-policy-on-the-recruitment-of-ex-offenders>

Handling of DBS certificate information <https://www.gov.uk/government/publications/handling-of-dbs-certificate-information>

ID checking guidelines for DBS check applications

<https://www.gov.uk/government/publications/dbs-identity-checking-guidelines/id-checking-guidelines-for-dbs-check-applications>

DBS eligibility guidance <https://www.gov.uk/government/collections/dbs-eligibility-guidance>

DBS checks: guidance for employers <http://www.gov.uk/guidance/dbs-check-requests-guidance-for-employers#changing-your-registration-details>

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17. Associated Internal Documentation

[Recruitment Policy](#)

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18. Appendix A – Recruitment Supervision Guidelines

DEFINITION OF 'STRICT SUPERVISION' IN THE ABSENCE OF DISCLOSURE CLEARANCE

As part of the suite of pre-employment checks required under NHS recruitment procedures, it is a mandatory safeguarding requirement for anyone who has access to patients as part of their normal duties, to have a criminal record check carried out through the Disclosure and Barring Service (DBS). (Formally known as the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA)).

It is not possible for anyone who requires an enhanced criminal record check against the barred lists, to take up their post in the absence of their full clearance being received and satisfactorily accepted by the Trust with the exception of medical & dental and registered nursing staff recruited from overseas or on an educationally-approved training rotations which are subject to different controls detailed in the DBS and Safe Handling of Disclosure Information Policy. This applies to anyone working in both the adult and children's areas of the organisation.

However, should the post require an enhanced check without a check against the barred lists, a standard check or a basic check, the individual going into that post can commence their duties in the absence of their disclosure clearance being received as long as they work under strict supervision.

In the case of third party contractors, supervision guidelines must also be adhered to for the duration of the work being undertaken.

Given the intensity of resource required to meet the stipulation of 'strict supervision', there are some guidelines below to support Managers in ensuring an appropriate level of supervision is given:

- It is the responsibility of the Resourcing team on appointment to advise the appropriate Line Manager when an individual is taking up post without disclosure clearance. The relevant Manager must then speak with the new appointee to ensure they are fully aware of the requirement for 'supervision'.
- No member of staff will be allowed to attend to children (under 16) unless another health professional who has disclosure clearance is present throughout the course of the examination or consultation (this includes emergencies).
- Staff without disclosure clearance should not conduct intimate examinations without a chaperone in attendance all the time.
- Members of staff without clearance must be told that when examining or attending other patients they should tell another health professional. If one-to-one chaperoning is possible then this should happen, otherwise a commitment and arrangement must be agreed with colleagues to ensure the individual carrying out the consultation/examination is frequently looked in on.
- Contractors must report to the Ward/Department Manager so that they are aware the Contractor is under their (and the team's) supervision. The Contractor should be issued with a Contractor Supervision Statement when reporting to the contracting

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department and a copy must then be given to the Ward/Department Manager where the work will be carried out so they understand the requirement for supervision.

- Where non-clinical staff and contractors who are not responsible for the direct delivery of patient care, but have access to patients as part of their normal duties are working without disclosure clearance, it is the responsibility of the whole ward/departmental team to ensure that the individual is not left alone for long periods of time. The individual is not required to have a constant one-to-one supervision throughout the course of their duties, but the other staff present in the department or ward must be aware of those individuals who are not disclosure cleared and share the responsibility to oversee them. This 'awareness' and responsibility is something that must be handed over at the appropriate time, from shift to shift.
- Staff without disclosure clearance upon appointment must receive a copy of this statement and will be notified as soon as clearance is received.

Upon receipt of clearance from the DBS, Resourcing will notify the relevant Line Manager immediately.

Version 1 2005

Version 2 (updated to include contractor supervision) July 2006

Version 3 June 2009

Version 4 Sept 2012

Version 5 December 2012 in line with the Medical Director and Chief Nurse

Version 6 March 2020 following review with Medical Director and Chief Nurse

19. Appendix B- Process for Managing Adverse Criminal Record Disclosures

(This process covers new staff to the Trust, internal staff movements and volunteers)

Adverse Disclosure i.e. conviction, caution, warning received in Recruitment or Medical HR or from Recruiting Manager if disclosed at interview

Resourcing refers the adverse disclosure to the recruiting manager and HR Business Partner by email, with a copy of this process, within 24 hours of receipt, using the template in Appendix A. Specific details of the actual disclosure must not be included in the email.

Recruiting Manager discusses the adverse disclosure with the candidate, if no discussion was previously held at interview.

Recruiting Manager discusses the adverse disclosure with the individuals listed below, to seek approval to proceed with appointment/remain in employment.

The case should not be escalated to Safeguarding until HR BP approval given:

Divisional HR Business Partner
Trust Safeguarding Lead (or Safeguarding Operational Lead)
Divisional Director
Professional Lead as appropriate to role

Recruiting Manager records the decision making on the Adverse DBS form (see adverse disclosure form) and returns the completed form and confirmation of the outcome of the decision to Resourcing, within three working days of the initial notification.

If the outcome is to appoint resourcing confirm the final offer

If the outcome is not to appoint/retain in employment:

Resourcing confirm the final offer.
Recruiting Manager informs the candidate/employee and Resourcing withdraw the offer. If the individual is employed in the Trust, Employee Services must support the manager with the termination of employment.

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Notes (to be read in conjunction with the above process)

An individual who requires an Enhanced Disclosure against the two barred lists cannot take up their appointment and commence in their new role before the disclosure is received from the Disclosure and Barring Service (DBS).

A copy of this process should be sent by Resourcing to all Recruiting Managers with a notification of adverse disclosure.

The Recruiting Manager must liaise directly with the stakeholders list above, providing as much information as possible regarding all the other pre-employment checks undertaken, to support the decision making.

In the absence of any of the stakeholders above, their appropriate deputies must be contacted. In the case of the HR Business Partner, the deputy is the Deputy HR Business Partner. For appointments to the Temporary Staffing Bureau, the Divisional Director is the Head of Resourcing.

Where the key stakeholders cannot agree a decision to approve an appointment of an individual with an adverse disclosure, or where the decision is particularly challenging, it is advised that a meeting between the stakeholders (or representatives or) is held to discuss the issues and to reach agreement.

Where delays are incurred in reaching an appointment decision for any reason, the ultimate decision must sit with the Chief Nurse who is the Trust's Executive Lead for Safeguarding.

The Resourcing team will only accept the decision to appoint or not from the Recruiting Manager, using the Adverse Disclosure Form in Appendix A (Adverse disclosure form). All the stakeholders must be copied into the email, which must be received within 3 working days of the original notification of an adverse disclosure.

Where a candidate personally declares a criminal conviction/warning/caution at interview or on the Model Declaration, the same process as above must be followed. Under no circumstances can the Recruiting Manager make a decision in isolation of the key stakeholders. The full disclosure must be obtained to ensure the issues highlighted by the applicant are consistent with the disclosure document.

Authors

Deborah Tunnell, Head of Service Centre

Lisa Balmforth, Human Resources Business Partner

Date of writing 12 July 2016

Revised 13 March 2020

Review date 13 March 2023

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Appendix A- Adverse Disclosure Form

Date:..... Role Applied For.....

Recruitment Co-ordinator..... Recruiting Manager

Model Declaration (for RC)

Information on Model Declaration:

Date of Model Declaration:

Disclosure and Barring Service document (for RC)

Information on Disclosure:

Date of Disclosure:

Risk Assessment (for RM) (please circle as appropriate)

- (a) Does the position involve contact with children and/or vulnerable groups? Yes/No
- (b) What level of supervision will the individual receive during the normal course of duties at work?
.....
- (c) Does the position involve direct contact with the public? Yes/No
- (d) Does the position applied for involve direct responsibility for finance or items of value? Yes/No
- (e) Will the nature of the position present opportunities for the individual to re-offend in the workplace? Yes/No

Outcome/decision (please circle as appropriate)

Divisional Director/Associate Director of HR (or nominated Deputy)

Name:..... Signature:..... Date:.....

Appoint/Reject

Recruiting Manager

Name:..... Signature:..... Date:.....

Appoint/Reject

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Safeguarding Lead

Name:..... Signature:..... Date:.....

Appoint/Reject

Final outcome agreed

Appoint: Yes/No

Reject: Yes/No

Date of final outcome:.....

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20. Appendix C – Monitoring Table for this Policy

The following table sets out the monitoring provisions associated with this policy. Please ensure any possible means of monitoring this policy to ensure all parts are fulfilled are included in this table.

Objective	Evidence	Method	Frequency	Responsible	Committee
To ensure that policy remains fit for purpose	Monthly file recruitment file audit is undertaken with 7 randomly selected files. Part of this audit looks at compliance against the DBS standards.	File Audit	Quarterly	Head of Resourcing	Safeguarding Recruitment Group

21. Appendix D – Dissemination, Implementation and Training Plan

The following table sets out the dissemination, implementation and training provisions associated with this Policy.

Plan Elements	Plan Details
The Dissemination Lead is:	Head of Resourcing
Is this document: A – replacing the same titled, expired policy, B – replacing an alternative policy, C – a new policy:	A
If answer above is B: Alternative documentation this policy will replace (if applicable):	[DITP - Existing documents to be replaced by]
This document is to be disseminated to:	All staff
Method of dissemination:	HRWeb and Newsbeat
Is Training required:	No
The Training Lead is:	[DITP - Training Lead Job Title]

Additional Comments
[DITP - Additional Comments]

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22. Appendix C – Equality Impact Assessment (EIA) Screening Tool

Further information and guidance about Equality Impact Assessments is available here:

<http://nww.avon.nhs.uk/dms/download.aspx?did=17833>

Query	Response
What is the main purpose of the document?	To provide clear guidance on use of DBS checks and related information.
Who is the target audience of the document? Who is it likely to impact on? (Please tick all that apply.)	Staff <input checked="" type="checkbox"/> Patients <input checked="" type="checkbox"/> Visitors <input checked="" type="checkbox"/> Carers <input checked="" type="checkbox"/> Others <input checked="" type="checkbox"/>

Could the document have a significant negative impact on equality in relation to each of these characteristics?	YES	NO	Please explain why, and what evidence supports this assessment in relation to your response.
Age (including younger and older people)		X	No impact.
Disability (including physical and sensory impairments, learning disabilities, mental health)		X	No impact.
Gender reassignment		X	No impact.
Pregnancy and maternity		X	No impact.
Race (includes ethnicity as well as gypsy travelers)		X	No impact.
Religion and belief (includes non-belief)		X	No impact.
Sex (male and female)		X	No impact.
Sexual Orientation (lesbian, gay, bisexual, other)		X	No impact.
Groups at risk of stigma or social exclusion (e.g. offenders, homeless people)		X	No impact.
Human Rights (particularly rights to privacy, dignity, liberty and non-degrading treatment)		X	No impact.

Could the document have a significant positive impact on inclusion by reducing inequalities?	YES	NO	If yes, please explain why, and what evidence supports this assessment.
Will it promote equal opportunities for people from all groups?	X		This policy promotes a fair and equitable process.
Will it help to get rid of discrimination?	X		This policy promotes a fair and equitable

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			process.
Will it help to get rid of harassment?	X		This policy promotes a fair and equitable process.
Will it promote good relations between people from all groups?	X		This policy promotes a fair and equitable process.
Will it promote and protect human rights?	X		This policy promotes a fair and equitable process.

On the basis of the information/evidence so far, do you believe that the document will have a positive or negative impact on equality? (Please rate by circling the level of impact, below.)

Positive impact				Negative Impact		
Significant	Some	Very Little	NONE	Very Little	Some	Significant

Will the document create any problems or barriers to any community or group? YES / **NO**

Will any group be excluded because of this document? YES / **NO**

Will the document result in discrimination against any group? YES / **NO**

If the answer to any of these questions is YES, you must complete a full Equality Impact Assessment.

Is a full equality impact assessment required? YES / **NO**

Date assessment completed: 15/05/2020

Person completing the assessment: Peter Russell

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