DISCLOSURE AND BARRING SERVICE (DBS) GUIDANCE

This information relates to DBS (formerly the Criminal Records Bureau) checks for staff/new employees only. For information or guidance relating to student DBS checks, please contact the Academic Section.

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1. Background

What is the Disclosure and Barring Service?
The Disclosure and Barring Service (DBS) was established in 2012 and carries out the functions previously undertaken by the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA). The DBS help to prevent unsuitable people from working with vulnerable groups, including children by supporting organisations to make safer recruitment decisions.

The DBS are responsible for:
- processing requests for, and issuing, DBS checks for England, Wales, the Channel Islands and the Isle of Man
- making considered decisions regarding whether an individual should be barred from engaging in regulated activity with children, adults or both, in England, Wales and Northern Ireland
- maintaining the children’s and adults’ barred lists

What is a disclosure certificate?
A disclosure certificate is an impartial and confidential document that details an individual’s criminal history, including cautions, convictions, warnings and other relevant police information. Where jobs include ‘regulated activity’ and a barred list check has been requested, the certificate will also confirm whether or not the individual is barred from working with vulnerable groups including children.

When might a DBS check be required?
Access to the DBS checking service is only available to employers who are entitled by law to ask an individual to reveal their full criminal history, including spent convictions - this excludes protected cautions and convictions that will be filtered from a criminal record check - also known as asking ‘an exempted question’. Further information on filtering is available on the DBS website. An exempted question applies when the individual will be working in specific occupations, for certain licenses and specified positions. These are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. The minimum age at which someone can be asked to apply for a criminal record check is 16 years old. An employer must not apply for a criminal records disclosure unless the job or role is eligible for one.

The Protections of Freedoms Act 2012 describes occupations that are known as the exceptions to the Rehabilitation of Offenders Act 1974. These are roles for which vetting at recruitment stage may include a check of criminal record activity.

The Safeguarding Vulnerable Groups Act 2006 defines certain activities as ‘regulated’ (jobs where the work relates specifically to vulnerable groups including children). Recruitment into these roles must include a full enhanced disclosure check including a check of lists held by the DBS of individuals barred from this type of work.

What is regulated activity?
- Regulated activity relating to children comprises:
Unsupervised activities with children, specifically teaching, training or instructing; or caring for or supervising children in 'specified places' e.g. schools, children’s homes. The activities must be undertaken regularly (once a week/4 times in 30 days or overnight) by the same person;
- providing advice or guidance on well-being;
- driving a vehicle being used to convey children.¹

- **Regulated activity relating to adults**
  Adults are no longer labelled as vulnerable because of their personal characteristics, or the setting in which the activity takes place – the definition identifies the activities which, if required, lead them to be considered vulnerable:
  - providing professional healthcare;
  - providing social work by a social care worker;
  - assistance with managing money/bills;
  - assistance in the conduct of a person’s own affairs;
  - conveying between a place of residence and a place where health or social care is received.²

### What is a Basic Disclosure?
- A Basic Disclosure contains only convictions considered ‘unspent’ under the Rehabilitation of Offenders Act 1974. Anyone can apply for a basic disclosure in their own name.
- Individuals working in England or Wales can apply for a Basic Disclosure directly from the DBS. Individuals working in Scotland can apply through Disclosure Scotland.

### What is a Standard Disclosure?
Standard Disclosures contain spent and unspent convictions, cautions, reprimands and final warnings. ([https://www.gov.uk/dbs-check-applicant-criminal-record](https://www.gov.uk/dbs-check-applicant-criminal-record)).


### What is an Enhanced Disclosure?
Enhanced Disclosures contain all convictions, cautions, warnings or reprimands, both spent and unspent, and any other non conviction information considered being relevant by the police or other Government bodies. For posts deemed regulated activity, they also include a check of 'barred lists' i.e. those individuals barred from working with vulnerable groups including children.

In circumstances where an individual is in sole charge of children, HR may check the Children’s Barred List (formerly List 99). This allows eligible educational establishments to check against a database to see if a possible match for an individual is included in the children's barred list.

### Who is responsible for managing the Disclosure application process?
The University uses the services of an external provider (Atlantic Data) to undertake the DBS checks and act as the Lead Counter Signatory with overall responsibility. However, nominated HR staff have day-to-day responsibility for staff DBS applications, and document checking. The Resourcing Manager and Assistant Director of Human Resources (HR) manage the process including confidentiality and security. Student DBS applications are managed by the Academic Section who have their own nominated safeguarding lead contacts.

### Definition of a child
A child is defined as someone who is under 18.

2. **Posts which require a DBS Disclosure check**

There are certain posts at the University which will require satisfactory vetting and barring clearance before any appointment is confirmed. Some examples of these posts are:

- **Sports Centre staff** supervising or coaching children or participating in children’s activities (e.g. ¹ See HM Government document available at [https://www.gov.uk/government/publications/keeping-children-safe-in-education--2](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2) for more information
CHUMS staff or Children’s Playworkers
- Nursery staff
- Academic or Research staff carrying out research in clinical settings or schools
- Education Outreach staff who regularly visit schools and are involved with children’s activities.
- International Summer school teachers where working specifically with U18s
- East 15 Youth Theatre workshop leaders where working specifically with U18s or regularly visiting schools

Please note: as this is not an exhaustive list there may be other posts not mentioned above that exist, or may arise, within the University that following assessment may require a DBS Disclosure.

The manager of the post should determine from the outset of the post being developed or recruited to whether the post requires a DBS check. Thought should also be given to this if the requirements of a post changes over time to include regulated activity with children/vulnerable adults.

The DBS have an online tool that can also be used to find out if you can check an employee’s criminal record. The following questions can also be used to determine whether a DBS Disclosure Check is required.

- Location – Where the activity is taking place?
- Activity – What does the employee’s role entail? What activities is the employee undertaking?
- Frequency – How often will the employee attend the placement? E.g. Will it be 3 times a week, over a 6 week period. How many times will the employee interact with the child/adult workforce in a 30 day period?
- Category – Which group of people will the employee be working with – children, vulnerable adults (e.g. elderly, ill or disabled) or both?
- Opportunity – Will the employee have the opportunity for face-to-face contact with the vulnerable adults and/or children?
- Supervision – What level of supervision will the employee have? Will the employee be supervised by another member of staff who has a DBS check?
- Freedom of movement/use of facilities – Will the employee have the opportunity to roam freely around the placement setting and/or have use of facilities, such as toilets, without supervision?

2.1 Other Positions of Trust

It is recognised that there are roles within the university which fall outside the definition of regulated activity but are deemed to be ‘positions of trust’. A University vetting procedure is in place to ensure transparent and rigorous recruitment practices.

Examples include:
- Student Support Staff involved with counselling and advice
- Patrol Staff
- Accommodation Essex Housekeeping staff
- Resident’s Support Network staff
- ISER and the UK Data Archive staff working on specific Government contracts
- Some Finance posts

It is good practice to undertake an assessment when deciding whether or not a post requires a DBS or other vetting check, particularly if there is some uncertainty. You can refer to the positions of trust flow chart in Appendix A, or the eligibility tool and questions at section 2 to make an initial assessment.

In most cases it will be obvious, but in others a number of questions may need to be asked of the role and associated activities. Please contact the Resourcing Manager if you need advice.

3. The Recruitment Process

Where a DBS Disclosure check is to form part of the recruitment process this must be identified from
the outset by the Hiring Manager. This requirement will then be made clear in recruitment literature (the job advert, job description and person specification).

Where a post is eligible for a Disclosure and Barring Service check and is exempt from the Rehabilitation of Offenders Act 1974, applicants are required to declare any cautions, convictions, reprimands and final warnings that are not protected (i.e. that are not filtered out) as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013).

Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment. Any information declared will be treated in the strictest of confidence and only disclosed to managers where appropriate.

Usually a job applicant has no legal obligation to reveal spent convictions. If an applicant declares a conviction that has become spent, the employer must treat the applicant as if the conviction has not happened. A refusal to employ a rehabilitated person on the grounds of a spent conviction is unlawful under the Rehabilitation of Offenders Act (ROA) 1974.

For posts that require a Disclosure, successful candidates will receive guidance on the application process in their formal offer of employment. The candidate is asked to bring original ID documents from an approved list into HR. Once verified, HR will start the online applications process. Employment will be offered on a conditional basis, subject to a satisfactory Disclosure.

When all relevant checks have been completed the DBS will send a hard copy of the Disclosure Certificate to the individual and they will need to bring this into HR. If the Certificate is satisfactory and any information provided does not give cause for concern, confirmation of the appointment will be sent from HR to the Hiring Manager and to the individual concerned. If the Disclosure provides information relating to a conviction or other activities relevant to the post this will be discussed in confidence with both the individual and their manager (see 6 below).

The DBS imposes a charge for processing Disclosure applications. In most cases this will be covered by the University.

While it is acknowledged that DBS Disclosures play a vital role in assessing an individual’s suitability for regulated work, it is important to note that other pre-employment checks should also play a part in this process, such as references (including one from the individual’s previous employer), and exploring any gaps in the individual’s employment history at interview stage.

For positions of trust, we only ask the successful candidate(s) to disclose convictions which are not yet spent under the Rehabilitation of Offenders Act 1974, at offer stage.

**Commencement in post without a DBS check**

Individuals appointed to posts that require satisfactory DBS clearance will not normally be able to commence in post until their Disclosure has been returned and has been deemed to be satisfactory. Depending on the particular requirements of a post and the nature of the involvement with children and/or vulnerable groups, it may be possible for the individual to start work prior to receipt of the Disclosure providing they are closely supervised. In such cases the Hiring Manager, in consultation with HR, will need to complete a risk assessment to ensure that appropriate safeguarding mechanisms are in place. If this is not possible, the individual’s start date may need to be postponed.

**Previous/existing CRB or DBS Disclosures**

The University will not accept previous or existing Disclosures. We will undertake a new DBS Disclosure check which will be specifically relevant to the University post in question. See also DBS update service at point 6 below.

**4. DBS checks for members of staff that have lived overseas**

The DBS cannot check criminal records held overseas. If an individual is not a UK resident, or has lived outside of the UK for a period of 6 months or more in the last 5 years, they will be required to apply for an additional criminal record check. The type of check and how to apply for it varies by country, and the Home Office has issued the following guidance on [criminal records checks for overseas applicants](#).
5. **DBS checks for existing members of staff**

It is important to note that while Disclosures are primarily used in the recruitment and selection process, there may be occasions where a change in duties requires a Disclosure check to be undertaken for an existing member of staff. If an existing member of staff thinks they require a DBS Disclosure, their line manager should refer to the criteria in section 2 of this document and contact HR.

5.1 **Re-Checking existing members of staff**

In the majority of cases the University does not require staff to be re-checked on a regular basis. However individuals subject to DBS Disclosure are required to notify HR of any cautions/convictions/warnings received during their employment with the University. In accordance with requirements imposed on us by certain regulatory bodies, checks may be carried out annually for certain post holders, for example when working in hospitals or clinical settings.

6. **The DBS update service**

The DBS update service allows applicants to keep their DBS certificates up to date and allows employers to check a DBS certificate. Registration to the service costs £13 per year and can be applied for on the following web page [https://secure.crbonline.gov.uk/crsc/apply?execution=e1s1](https://secure.crbonline.gov.uk/crsc/apply?execution=e1s1).

If an individual has already applied for a DBS check, they have up to 30 days after the certificate has been issued to register for the update service.

The update service allows the University to check if anything has changed on an individual’s certificate. If the level of certificate is appropriate then a new DBS check would not be required, and the results are available immediately.

With the permission of the individual the University will be able to carry out a ‘status check’ on an existing Certificate through this service as long as the original Certificate matches the DBS check needed for the current post. For example it will need to be for the same workforce where the same type and level of criminal record check is required.

The outcome of a valid Status check will be one of the following:

- **This Certificate did not reveal any information and remains current as no further information has been identified since its issue.** This means that the individual’s Certificate contains no criminality or barring information and no new information is available.

- **This Certificate remains current as no further information has been identified since its issue.** This means that the individual’s Certificate did contain criminality or barring information and no new information is available.

- **This Certificate is no longer current. Please apply for a new DBS check to get the most up to date information.** This means that the individual’s Certificate should not be relied upon as new information is now available and you should request a new DBS check.

7. **Recruitment of Ex-Offenders**

As an organisation using the Disclosure & Barring Service to assess applicants’ suitability for positions of trust, the University aims to comply fully with the DBS Code of Practice and undertake to treat all applicants for positions fairly. We undertake not to discriminate unfairly against anyone who is the subject of a Disclosure on the basis of conviction or other information revealed.

We are committed to the fair treatment of our staff, potential staff or users of our services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical / mental disability, or offending background.
We recognise the contribution that ex-offenders can make as employees and volunteers and welcome applications from them. A person’s criminal record will not, in itself, debar that person from being appointed to this post. Any information given will be treated in the strictest confidence. Suitable applicants will not be refused posts because of offences which are not relevant to, and do not place them at or make them a risk in, the role for which they are applying.

8. **Assessing information contained within a Disclosure**

8.1 **For new staff**

If a Disclosure contains information relating to a conviction, caution, warning or reprimand, it will be forwarded to the Resourcing Manager, who will consider:

- Whether the conviction is relevant to the position applied for.
- The seriousness of any offence revealed.
- The age of the applicant at the time of the offence(s).
- The length of time since the offence(s) occurred.
- Whether the applicant has a pattern of offending behaviour.
- The circumstances surrounding the offence(s), and the explanation(s) offered by the person concerned.
- Whether the applicant's circumstances have changed since the offending behaviour.

We undertake to discuss any matter revealed in a Disclosure with the person seeking the position, and will also involve the line manager before any decision is made to withdraw a conditional offer of employment. Any decision to withdraw the offer will be taken by the Resourcing Manager, and the relevant Head of Department/Section.

8.2 **Current Staff in a new or changed role**

The process will be the same as above. Where a member of staff's role responsibilities change but they are not required to re-apply for their job, they are encouraged to declare to Human Resources any unspent or spent convictions in advance of a Disclosure check in order that the relevance can be discussed with them.

Any decision to withdraw the offer of the work will be taken by the Resourcing Manager, the relevant Head of Department and the Assistant Director of HR (Employee Relations and Resourcing) in consultation with the member of staff concerned.

8.3 **Appeals**

Should a current or prospective member of staff wish to appeal a decision not to employ them on the basis of information contained within a DBS criminal record check, they must put this in writing to the Resourcing Manager. Their concerns will be heard by a panel chaired by the Assistant Director of HR, and comprising the Head of Department and the Head of Equality, Diversity and Inclusion. The panel will also seek to interview the applicant or member of staff, or to obtain a written statement so that they are able to represent their view.

9. **Handling, storing and disposing of Disclosure certificates**

As an organisation using the Disclosure and Barring Service to help assess the suitability of applicants for positions involving regulated activity, the University of Essex complies with their Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure Certificates.
The University copies of Disclosures are stored securely in HR (not on individual personal files) for a period of six months to allow for the consideration and resolution of any dispute with the DBS, after which they are destroyed in a secure environment. A master spreadsheet is held in HR recording only the name, type of Disclosure, date of issue, position for which the Disclosure was requested and the unique Disclosure reference number for each individual.

10. Confidentiality

Information provided on any Disclosure Certificate is both sensitive and confidential. It is therefore essential that anyone who is party to that information should handle it appropriately. The University adheres to the DBS Code of Practice and also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use storage, retention and disposal of Disclosure information, which is contained in this document. The information obtained throughout the process is managed in conjunction with the privacy policy for recruitment and the retention of records procedures.

Under data protection law the University is permitted to gather and hold information about criminal convictions where it is necessary for the purposes of employment law.

Human Resources 2009
Revised 2012
Revised March 2019