

DBS Check and Appeal Policy

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DBS001	Merging DBS Check and CRB Appeal Policy	Merging two policies	28 September 2020	Marcia Cummings

DBS CHECK POLICY

INTRODUCTION AND SCOPE

The College is committed to taking all reasonable steps to keep any children and vulnerable adults with whom its staff or volunteers may come into contact safe.

This document sets out the College's policy on the use of DBS checks (or local equivalent) and recruitment of staff or volunteers with criminal records or those who are barred from working with vulnerable groups. It also outlines the procedure for obtaining a check and assessing any information disclosed on it and the appeal process.

This policy applies to all staff (employees and workers) and will be made available to applicants at the outset of the recruitment process where a check may be required as part of the application process.

This policy and procedure should be read in conjunction with the College's other policies and procedures, particularly the Recruitment and Selection Policy, Safeguarding Policy and Procedures and Retention Policy.

OUR PHILOSOPHY

The College is positive about working with people with a criminal record, where appropriate. Having a criminal record will not necessarily bar you from working with the College and we recognise that part that work can play in a person's rehabilitation.

DBS CHECKS

The College uses DBS checks (or national equivalent) to check the criminal records of current and potential staff and volunteers to ascertain whether or not they are suitable to work with vulnerable adults and children, or work in positions of trust. The DBS check will search the applicants' criminal record history for the College to make a sound recruitment decision based on the information found.

Staff of the College (including volunteers) are not automatically subject to a check. The College employs a framework to determine whether it is lawful, proportionate, and relevant to undertake a criminal record check of a particular level for a particular role. The level of the relevant check will depend on the nature of the activity being carried out by the staff member/volunteer and, in some cases, the site where the relevant activity is performed.

For those positions where a check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS check will be submitted if an individual is offered the position.

The work of the College Centre for Quality Improvement (CCQI) involves regular visits to sites outside College premises, e.g. hospital wards, HM Prisons, Community Health Centres, etc. Because of the activities which CCQI staff/volunteers variously

undertake, and the locations where they undertake them, some CCQI roles will always require a check, and we always make this requirement clear when advertising these roles.

In respect of activities/roles in different jurisdictions:

- For activities/roles in England and Wales, checks are carried out by the Disclosure and Barring Service (DBS)
- For activities/roles in Scotland, checks are carried out by Disclosure Scotland
- For activities/roles in Northern Ireland, checks are carried out by Access NI

If a staff member/volunteer requires a check to perform their role, this must be satisfactorily completed before they start work in that capacity.

The College complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. It also complies fully with its obligations under the General Data Protection Regulation (GDPR), Data Protection Act 2018 and other relevant legislation regarding the safe handling, retention, and disposal of certificate information.

RECRUITMENT OF PEOPLE WITH A CRIMINAL RECORD

As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks, the College undertakes to treat all applicants for positions fairly.

The College undertakes not to discriminate unfairly against and is positive about working with people with a criminal record, where it is lawful, safe, and appropriate to do so. Therefore, having a criminal record will not necessarily bar you from working with us. This will depend on the offence and the relevance of the offence in relation to the position applied for. The factors considered will include the responsibilities of the position, the vulnerability of those you will have contact with in your role, the nature of the offence(s), the number and pattern of the offences (if there is more than one), how long ago the offence(s) occurred and the age of the offender when the offence(s) occurred. These factors will be carefully risk assessed in reaching a decision as to whether and in what capacity it would be appropriate for you to undertake the work of the College, and any arrangements that can or should be put into place to allow your participation while keeping others safe.

We can only ask an individual to provide details of convictions and cautions that the College is legally entitled to know about i.e. where a DBS certificate (or national equivalent) at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended apply). We can only ask an individual about convictions and cautions that are not protected.

The College is committed to the fair treatment of its staff, potential staff, or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability, or offending background. The College actively promotes equality of opportunity for all with the right mix of talent, skills, experience, and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications, and experience.

The College ensures that all those in the College who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.

The College also ensures that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

At interview, or in a separate discussion, the College will ensure that an open and measured discussion takes place about any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer or disciplinary action (depending upon when the information subsequently comes to light).

PROCEDURE

There are four types of DBS check:

- Basic check – This shows unspent convictions and conditional cautions
- Standard check - This will reveal any spent and unspent convictions, cautions, reprimands and final warnings (certain spent offences may be filtered from criminal record checks – see the [DBS filtering guidance](#) for further information)
- Enhanced check - This shows the same information as the standard disclosure but also includes additional information held by local police that is considered relevant to the role being applied for
- Enhanced with check or the barred list for children and/or adults - This contains the same information as the enhanced disclosure, plus whether the applicant is on the adults' barred list and/or children's barred list.

The HR department is responsible for obtaining criminal record checks for relevant staff, prospective staff and volunteers. This forms part of the recruitment process for such roles.

If a job applicant, member of staff or volunteer has an existing DBS disclosure certificate at the appropriate level which is still valid and has been registered with the DBS Update Service, they can provide it to HR for a status check online. Note: The Employer Update Service is only available for standard and enhanced checks.

If the DBS certificate has not been registered with the Update Service, the staff member will be required to complete a DBS online form through the College.

HR will send any prospective or current employees who require a check an online link to complete the application form.

After the identification documents have been checked by HR, the online application form is submitted to the checking service.

If there are any discrepancies between the information submitted and the information the DBS/Disclosure Scotland/Access NI has on file, the checking service will contact HR, and HR will refer the relevant queries to the applicant or staff member.

If there are no queries with the online application, the completed certificate is sent to the applicant or staff member by post. The process will be complete when the staff member receives the certificate by post and brings it to HR. HR will make a photocopy of the certificate and return the original copy to the staff member. HR will also update the information on the certificate on the HR System.

The College pays for the check.

DISCLOSURE ON A DBS CHECK CERTIFICATE

Where information has been disclosed on a criminal record check certificate, the applicant, staff member or volunteer should notify their HR representative and, where relevant, line manager immediately.

A College Safeguarding Oversight Panel has been set up to review cases where serious offences are disclosed in criminal record checks, to decide whether – given its Safeguarding responsibilities – the College can offer to employ/continue to work with the individuals concerned. This panel comprises of the Board of Trustees' Safeguarding Lead, the College staff Safeguarding Lead and the College staff Deputy Safeguarding Lead.

The Safeguarding Oversight Panel will discuss the content of the certificates, where one or more serious offences are disclosed, and decide whether the College can employ/continue to work with the people concerned.

The decisions of the panel could result in the College withdrawing conditional offers previously made or stopping individuals from working within the College. Where necessary, it may be appropriate for further information to be gathered before a decision can be taken by the panel.

The College will discuss the content of the certificate with the applicant/staff member/volunteer before making a decision. It may also be necessary to seek further information from other individuals with the consent of the applicant/staff member to assist with the decision making.

STORAGE AND ACCESS

Certificate information will be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

HANDLING AND USAGE

In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom certificates, or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

RETENTION AND DISPOSAL

Once a recruitment (or other relevant) decision has been made, we do not keep certificate information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints.

If, in very exceptional circumstances, it is considered necessary to keep certificate information for longer than six months, we will give full consideration to the Data Protection and Human Rights of the individual before doing so.

Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.

Once the retention period has elapsed, we will ensure that any criminal record check certificate information is destroyed by secure means, for example by shredding. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack).

We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, we may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken.

However, we will keep information relevant to any risk assessment in relation to disclosed information for as long as we reasonably require it, and it will be held in accordance with the requirements of this policy and applicable law.

RENEWAL

DBS checks (or national equivalent) on existing staff members/volunteers will be requested every three years. However, any staff member whose role is eligible for a check must inform the College of any change in their criminal record that might affect their role in the College.

The College will not apply for a criminal record check for staff where a check is not required in connection with their role in the College.

APPEAL

Where the Safeguarding Oversight Panel has decided to withdraw a conditional offer previously made/stop an individual from working with the College, the individual has the right to appeal against the decision.

The appeal will be heard by the Chief Executive and the President.

The Chair of the Appeal hearing will be the Chief Executive and the panel will be obliged to consider all representations relating to the decision.

When lodging an appeal, the individual should:

- a. provide written notice of appeal within ten working days of being informed of the Safeguarding Oversight Panel's decision; (appeal hearings will normally take place within 28 working days of receipt of the individual's written notice of appeal).
- b. state the grounds of appeal: whether he/she is appealing against the decision, or against the way the process was conducted.

Upon completion of the appeal, the Chair conducting the hearing will normally convey his/her decision to the individual in writing within ten working days.

The Appeal Panel's decision will be final.

STATUS

This policy does not form part of employees' contract of employment and may be amended from time to time as the College consider appropriate.