# Disclosure and Barring Service Policy and Procedure

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<tr>
<td>Author &amp; Title:</td>
<td>Melanie Ross Resourcing Manager</td>
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<td>Responsible Director:</td>
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<td>Claire Buchanan – Director of HR</td>
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<td>Sue Davis – Line Manager to Melanie Ross</td>
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1. Policy Summary

The purpose of this policy is to set out the requirements of the Royal United Hospital Bath NHS Trust (hereafter referred to as ‘the Trust’) on checks of criminal records obtained through the Disclosure and Barring Service (DBS).

The objectives of this Policy are to:

- The Trust will ensure that it adheres to the DBS Code of Practice, which requires organisations to use the Disclosure information fairly, not to discriminate against candidates on the basis of unrelated criminal offences, to ensure data security, to comply with the recommendations for the retention of records and to comply with reasonable requests from the DBS to undertake assurance checks. Copies of the Code of Practice are available from the DBS website.
- Ensure the Trust complies with its obligations under the Data Protection Act and other relevant legislation in respect of the safe handling, use, storage, retention and disposal of disclosure information.
- Ensure that recruitment to all vacancies is undertaken in line with the mandatory NHS Employers NHS Employment Check Standard for Criminal Record and Barring Checks.
- Protect patient safety by ensuring compliance with Care Quality Commission regulation requirements and NHSLA standards.

This policy should be read in conjunction with the NHS Employment Check Standards, the Criminal Record and Barring Checks (NHS Employers, Revised July 2013).

2. Policy Statements

The Trust is committed to ensuring that appropriate pre and post-employment checks have been undertaken on its employees. As a responsible organisation we use DBS checks to help us assess the suitability of applications for our posts. We comply fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and disclosure information. We also comply fully with the obligations under the Data Protection Act 1988 and other legislation pertaining to the handling, use, storage, retention and disposal of disclosure information. This policy provides guidance on the effective use of the DBS disclosure checking service.
3. Definition of Terms Used

The Disclosure and Barring Service (DBS) is an executive agency of the Home Office and provides access to information about criminal convictions and other police records to help employers make an informed decision when recruiting staff. The DBS provides controlled access to criminal records and related information through its disclosure service, enabling employers to make safer recruitment decisions by identifying candidates who may be unsuitable to work with Vulnerable Groups. On 1st December 2012 the Criminal Records Bureau (CRB) merged with the Independent Safeguarding Authority (ISA) to become the Disclosure and Barring Service. The services and processes remain the same.

The DBS provides criminal record and barring functions to help the Trust make safe recruitment decisions. The criminal record checking service allows the Trust to access the criminal record history of people working or volunteering, or seeking to work or volunteer in certain positions, especially those that involve working with vulnerable groups.

Registered Body – an organisation registered with the Disclosure and Barring Service (DBS) to process and submit DBS applications.

Lead Counter-signatory – a senior figure within the Trust’s employment who has overall responsibility for the use of DBS Checks at the Trust and is able to authorise the appointment of counter-signatories. This person will be registered with and approved by the DBS, and be the named contact for the DBS with responsibility for ensuring compliance with the DBS Code of Practice (guidelines).

Counter-signatory – a person within the Trust’s employment who is registered with the DBS to countersign applications.

ID Checker – A person within the Trust who verifies identification documents face to face with candidates.

Spent convictions - convictions defined by the Rehabilitation of Offenders Act 1974 as being ‘spent’ after specified periods of time. ‘Spent’ convictions do not need to be brought to the attention of the Trust unless the work or the post is covered by the Rehabilitation of Offenders Act 1974. However, under the Rehabilitation of Offenders 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 certain ‘spent’ convictions and cautions will become ‘protected’ when specific conditions are met and therefore will not be disclosed.

Unspent convictions – if a person has been convicted of an offence for which a sentence of more than 2.5 years was imposed (regardless of how much time was actually spent in prison) the conviction can never be spent.

Disclosure Certificate – a certificate that provides criminal record information, depending upon the type and level of disclosure requested.

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**Update Service** – is the online service where issued Disclosure Certificates can be registered and kept up to date. Registered applicants can then take issued certificates from role to role where the same level and type of check is required.

**Status Check** - the term ‘Status Check’ is the record accessed by registered organisations on the Update Service in relation to the Disclosure Certificate. This allows registered organisations to be able to see whether there has been any change to the DBS information since the last Disclosure Certificate was issued.

**DBS Checks** – is the disclosure carried out through the on-line Update Service ‘Status Check’ or the submission of a DBS application.

**Regulated Activity** – this is a term used in the regulation of care services under the Health and Social Care Act, and to activities a person who is listed on the DBS barred lists is prohibited from doing under the Safeguarding Vulnerable Groups Act. For the purposes of this policy the focus will be upon the latter. Where an individual is engaging, either in paid work or as a volunteer, in a regulated activity employers must request an enhanced DBS check with a check against the appropriate barred lists. It is an offence for the Trust to ‘knowingly’ appoint or continue to allow an individual who is barred from working with children and/or adults to engage in a regulated activity with that group.

### 4. Duties and Responsibilities

#### 4.1. Resourcing Manager

As Lead Counter-Signatory for the Trust, the Resourcing Manager is responsible for:

- Overseeing the introduction, operation and monitoring of the policy.
- Ensuring the provision of guidance and support for Manager’s on the operation of the policy.
- Ensuring the provision of accurate and regular statistical information as requested.
- Acting as the principle point of contact for the DBS.
- Ensuring that the Trust practices and counter signatories comply with the requirements and guidance as outline within the DBS Code of Practice.

#### 4.2. HR Operational Teams

The HR operational teams are responsible for:

- Providing advice and guidance to managers in the implementation of the policy.
- Monitoring the implementation of the policy within a 3 year rolling programme.
- Assisting managers in dealing with non-disclosure of criminal convictions.
- Monitoring and ensuring that identified positions that would be eligible for a DBS check meets the criteria.
- Processing checks for existing staff who are required to be rechecked.

**4.3. Recruitment Team**

The Recruitment team is responsible for:

- Ensuring that all job adverts include a reference to DBS checks if required for the post, and an indication of the level of check required.
- Ensuring that all information packs, electronic or paper based, include information on the DBS process, the secure handling and storage of DBS information, DBS Recruitment of Ex-Offenders Policy Statement and DBS Code of Practice. (Please refer to Appendix 1).
- Ensuring that applicants are aware that they will not be able to commence employment with the Trust until their DBS disclosure has been verified.
- Advising the Recruiting Manager where information regarding convictions, cautions, reprimands etc are detailed at the application stage.
- Ensuring that DBS Checks received indicating a conviction are brought to the attention of the HR Operational Team and relevant Recruiting Manager.
- Ensuring that the appropriate checks have been carried out for periods of non-UK residence.
- Ensuring that DBS Checks are recorded on the Electronic Staff Record System (ESR).
- Ensuring that the relevant DBS Self-declaration form is completed when applications are not received via NHS Jobs.
- Checking the status of the DBS application for substantive staff and honoraries and arranging for the original DBS disclosure check certificate to be verified in the department.

**4.4. Workforce Information Team**

The Workforce Information team are responsible for:

- Providing a bi monthly report to record compliance of the policy.

**4.5. Interview Panel**

Interview Panels should:

- Ensure that candidates are not unfairly discriminated against during the recruitment and selection process on the basis of criminal convictions held.
- Ensure that confidentiality is maintained regarding any convictions disclosed by candidates at any stage of the recruitment process.

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4.6. Counter-Signatories
Counter-signatories are responsible for:

☐ Ensuring that the correct level of Disclosure is requested.
☐ Ensuring that appropriate checks have been carried out for periods of non-UK residence.
☐ Checking and Counter signing disclosure applications in a timely manner.
☐ Controlling the use, access and security of Disclosure certificates.
☐ DBS disclosures indicating a conviction are brought to the attention of an appropriate member of the Human Resources Operational team and the relevant Recruiting Manager.
☐ Providing advice and guidance to managers in the implementation of the Policy.

4.7. ID Checker
The ID checker is responsible for:

☐ Satisfying themselves of the identity of the person applying for a DBS check.
☐ Satisfying themselves that the evidence presented is genuine and in line with DBS requirements.

4.8. Recruiting Manager / Line Manager
Recruiting Manager/Line Manager is responsible for:

☐ Identifying positions that would be eligible for a DBS check.
☐ Seeking advice from the Human Resources department if required.
☐ Discussing sensitively and appropriately with the candidate at interview stage, information disclosed at the application stage regarding convictions, cautions, reprimands etc.
☐ Ensuring that applicants are aware that they will not be able to commence employment with the Trust until their DBS disclosure has been verified.

4.9. DBS Applicants
DBS applicants are responsible for:

☐ Providing necessary evidence of identity checks having received a Conditional Offer letter.
☐ Declaring any ‘spent’ or ‘unspent’ convictions on the DBS Self-declaration.
☐ Disclosing all necessary information to enable a DBS Check to be made in a timely manner.
Providing the original Disclosure Certificate, if requested, in a timely manner in order to be verified and recorded by the Trust.  
Disclosing all information that could be relevant to the DBS throughout the duration of their work for the Trust.  
Maintaining subscription with the Update service, if applicable.  
Responding to Trust requests for a new DBS Check in a timely manner.  
In the event that a DBS certificate is lost or misplaced before the Trust has requested to verify the Disclosure Certificate and a new check is requested the applicant will be responsible for paying the cost of the new check. The cost of the check will be deducted from the salary.

5. Registered Body

5.1 The Trust is registered with the DBS, and is therefore entitled to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974 Exceptions Order 1975.

5.2 The Trust’s role as a registered body is to:

☐ Check and validate the information provided by the applicant on the application form;  
☐ Establish the true identity of the applicant, through the examination of a range of documents using guidance provided by the DBS;  
☐ Ensure the application form is fully completed;  
☐ Countersign applications to confirm that the organisation has an entitlement to access criminal record information; and to,  
☐ Comply with the DBS’s Code of Practice.

6. DBS Code of Practice

6.1 As a registered body, the Trust is required to comply with the DBS Code of Practice. It subsequently must use Disclosure Information fairly, and ensure that it is handled and stored appropriately.

6.2 The Code of Practice states that Disclosure information should only be used in the context of a policy on the recruitment of ex-offenders, designed to protect applicants from unfair discrimination on the basis of non-relevant past convictions. This policy constitutes such a policy.

6.3 The Code of Practice states that the storage, handling and disposal of Disclosure information is important and the Trust has therefore developed a system relating to this. (Please refer to Appendix 2).
7. The Rehabilitation of Offenders Act 1974 (as amended)

7.1 The Rehabilitation of Offenders Act (ROA) 1974 enables some criminal convictions to become ‘spent’ or ignored, after a ‘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. Once this period of rehabilitation has passed, the conviction is regarded as ‘spent’. In normal circumstances the convicted person does not have to reveal any ‘spent’ convictions to a prospective employer when applying for a job.

7.2 However, in order to protect vulnerable groups, some professions and roles are exempt from this approach under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. In the case of these professions and roles, employers are entitled to know about all previous criminal record information, whether spent or unspent (including reprimands, final warnings and cautions) and to take this information into account when assessing an individual’s suitability for the post. Where it is deemed relevant to the position being applied for, local police forces can use their common law powers to authorise the disclosure of other information held on their records.

7.3 Exempted roles or professions fall into the following 5 broad categories:
   1) Professions
   2) Those employed to uphold the law
   3) Certain regulated occupations
   4) Those who work with children, provide care services to vulnerable adults or who provide health services
   5) Those whose work means they could pose a risk to national security

It is illegal to carry out a DBS check, either Standard or Enhanced, on any post that is not exempt under the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (as amended), and to do so could render the Trust liable for legal action.

Please refer to Appendix 6 for further information on exempted professions and examples of the level of DBS checks for a range of roles in the Trust.

It is mandatory for all appointments covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 to have DBS Checks carried out. The Trust considers that all posts which have access to patients in the course of their normal duties are exempt from the Rehabilitation of Offenders Act 1974. Therefore, all such posts should include information on ‘spent’ and ‘unspent’ convictions in line with DBS Codes of Practice.
8. Types of DBS Checks and Eligibility

The eligibility to undertake a DBS check will be determined at the recruitment stage based on the requirements of the post as outlined within the job description and mandated guidance available from the DBS and NHS Employers Employment Standards.

Where a position is eligible for a check the Trust must make it clear to the applicant that any offer of employment will be subject to a satisfactory DBS check. The DBS check must only be carried out once a conditional offer of employment has been made.

The applicant must also be informed that any offer of employment may be withdrawn if they knowingly withhold information, or provide false or misleading information. Existing staff may be subject to disciplinary action and possible dismissal if they knowingly fail to disclose relevant information in relation to their DBS check or barred list status.

However a possession of a criminal conviction does not automatically make an applicant unsuitable for employment in the Trust.

8.1. Basic disclosure check

This check is the lowest level of disclosure and only contains details of unspent (current convictions). The Trust will undertake Basic disclosures on all posts that are not exempt under the Rehabilitation of Offenders Act 1974 (Exceptions) 1975 Order. The checks will be undertaken by Disclosure Scotland.

8.2. Standard DBS check

A standard check contains details of both unspent (current) and spent (old) convictions, cautions, reprimands and final warnings, held in England and Wales on the Police National Computer (PNC). Most of the relevant convictions in Scotland and Northern Ireland may also be included.

8.3. Eligibility for standard checks

8.3.1 The Trust can carry out a standard check on a candidate whose work is listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 i.e. where the type of work enables the person to have 'access to persons in receipt of such services in the course of their normal duties.' Access only relates to where individuals have direct, physical contact with patients as part of their day to day activities; it does not include positions where there is no contact with patients or where access to patients is 'incidental'. This level of check

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does not show whether a candidate is barred from working with children and adults.

8.3.2 Positions that purely involve having access to records are not covered under the terms of the Exceptions Order and therefore are not eligible for a DBS check.

8.3.3 The Trust is able to request standard DBS checks for some professions within the health and social care sectors not considered as Regulated Activity. Examples of these are:

- Chartered Accountant /Certified Accountant
- Pharmacists & Registered Pharmacy Technicians
- Any Health Professions which require registration to undertake the role
- Legal executive
- Financial services positions which have to be registered with the Financial Services Authority
- Directors and managers which have final authority to issue payments

8.3.4 A full comprehensive Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 List can be found on the DBS website.

8.4. Enhanced DBS check

8.4.1 An enhanced check contains the same as a standard check but may also include any non-conviction information held by local police, where they consider it to be relevant to the post. This information is referred to as ‘Approved Information’ on the Disclosure Certificate.

8.4.2 To be eligible for an enhanced level DBS check, the position must be included in both the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and the Police Act 1997 (Criminal Records) Regulations 2002 as amended by the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013. This includes work or volunteering with vulnerable groups.

8.4.3 There are two levels of an enhanced DBS check. An enhanced DBS check without barred list information and an enhanced DBS check with barred information. The enhanced DBS check with barring information is only available for those individuals who are employed in regulated activity.
8.5. **Eligibility for an Enhanced DBS check without barred list information**

8.5.1 The Trust can apply for an enhanced check without barred list information for positions described as work with adults in the Statutory Instrument – The Police Act 1997 (Criminal Records) (Amendment) Regulations 2013 which came into force on 29 May 2013.

8.5.2 Individuals must be involved in providing one of the following activities at least once a week on an on-going basis, more than four days in any 30 day period, or at any time between the hours of 2am and 6am:
- Care or supervision
- Treatment or therapy
- Teaching, training instruction, assistance, advice or guidance on emotional, physical or educational well-being – wholly or mainly for children or adults in receipt of a health care service
- The management of people engaging in any of the above activities on a day to day basis.

8.5.3 It should be noted that where individuals are providing any of the above activities in an ‘unsupervised’ capacity for children, this would be deemed regulated activity and therefore is eligible for a barred list check.

8.6. **Eligibility for an Enhanced DBS with a barred list check**

8.6.1 The Trust has a legislative requirement to request barring checks to be conducted for individuals in positions defined as ‘regulated activity’ under the Protection of Freedom’s Act 2012 which amended the Safeguarding Vulnerable Groups Act 2006.

8.6.2 Individuals seeking work in a regulated activity (see definition below) must also be checked against the Children’s and/or Adults Barred lists. Only with an Enhanced DBS can a check be made against the children’s and/or adults’ barred list.

8.7. **Regulated activity**

8.7.1 Regulated activity is where an individual is engaging either in paid work or as a volunteer, undertaking any one of the following activities as part of their role:
- Healthcare
- Personal care
- Social work
- Assistance with cash, bills or shopping
- Assistance with the conduct of their own affairs
- Conveying services
8.7.2 Where an individual is engaging, either in paid work or as a volunteer, in a regulated activity the Trust must request an Enhanced DBS check against the appropriate barred list. If the individual is undertaking activities with both adults and children both barred lists should be checked.

<table>
<thead>
<tr>
<th>Adults</th>
<th>Children</th>
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<td>Any activity involving working or volunteering with adults that is of a specific nature.</td>
<td>An activity involving working or volunteering with children that is of a specific nature.</td>
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<tr>
<td>An adult refers to any individual who is aged 18 years or over.</td>
<td>A child refers to any individual who is aged less than 18 years.</td>
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| There are 6 categories of Regulated Activity:  
1 *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.  
2 *Providing personal care*  
Anyone who provides physical assistance; prompts and supervises; and/or trains, instructs or offers advice to adults because of their age, illness or disability relating to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails. (This excludes any physical assistance for hair care).  
3 *Providing social work*  
Activities include assessing or reviewing the need for health or social care services, and providing on-going support to clients.  
4 *Assistance with cash, bills and/or shopping* for an adult because of their age, illness or disability.  
5 *Assistance in the conduct of a person’s own affairs*  
E.g. power of attorney | Regulated Activity refers to unsupervised activities and specified places:  
1 *Unsupervised activities*: teaching, training, instruction, caring for or supervising children, or providing advice/guidance on well-being, or driving a vehicle only for children.  
2 *Work for a limited range of establishments (‘specified place’) with the opportunity for contact with children, e.g. schools, children’s homes, childcare premises.  
This does not include work by supervised volunteers.  
**NOTE:** Children’s hospitals are no longer categorised as a ‘specified’ place. As such employees not engaged in Regulated Activity are not eligible for an Enhanced Level Check.  
3 *Providing personal care*  
e.g. washing or dressing or health care by or supervised by a professional.  
4 *Registered child minding and foster-caring* |
6 Conveying
Drivers who transport an adult because of their age, illness or disability to or from places where they are able to receive health care, personal care or social care. E.g. patient transport service driver, ambulance technicians, hospital porters for patients.

8.7.3 In addition to the activities listed above, regulated activity also includes where an individual is providing ‘unsupervised’ teaching, training, instruction, caring for or supervision of children, where these activities are undertaken frequently. Frequently is determined as once a month or more, three or more days in any 30 day period or overnight between the hours of 2am and 6am. Activities undertaken in a supervised capacity i.e. reasonable day to day supervision under the direction of a healthcare worker, is not regulated activity.

8.7.4 Please refer to Appendix 5 for the NHS employment checks criminal record and barring checks decision tree for assistance in determining whether a role is eligible for a DBS check and what type and level.

8.8. Examples of posts not considered eligible for DBS checks

☐ Positions that purely involve having access to records are NOT covered under the Exceptions Order and therefore are not eligible for a standard or enhanced DBS check.

☐ Posts where any access to patients would be merely incidental i.e. where they would be required to pass through patient areas to get to their normal place of work for instance or do not have access to patients in the course of their normal duties, are not in ‘Regulated Activity’ and would not be eligible for Standard or Enhanced level DBS check. For example this would include administration or management staff who work in separate building or have minimal access to patients; maintenance staff who are not required to work on ward areas; laundry staff and catering staff who do not deliver food to patients.

☐ A hairdresser or beauty therapist based on a hospital site to cut patients hair or provides manicures for anyone who would like one would NOT be engaging in regulated activity

☐ DBS checks must not be requested for individuals aged under 16, no matter if they are engaged in regulated activity.
Students aged 16 -18 who are on work experience placements engaging in an activity with vulnerable groups will not be required to have a DBS check on the basis that the roles they are undertaking will involve them observing or carrying out minor duties under full supervision.

It is illegal to carry out a DBS check on any post that is not eligible for a check and to do so could make the Trust liable for legal action.

The DBS regularly monitors its registered bodies to ensure they are not carrying out ineligible checks. Persistent misuse of the DBS checking system can lead to decisions being taken by the DBS to de-register an organisation from carrying out checks.

Please see Appendix 6 for further examples of roles which are eligible and at what level for DBS checks.

9. The DBS Update Service

9.1 The Update Service is designed to enable those who are eligible for DBS Checks to move posts more quickly where they are applying for positions which involve working or volunteering with the same vulnerable group and where the activities do not change the level of check. The certificate can be taken from role to role providing it is within the same workforce and where the same type and level of check is required.

9.2 The Trust strongly recommends that those subject to a new DBS disclosure check register and join the DBS Update Service. Registrations can be made at the same time as the DBS check application is made or within 19 calendar days of the DBS Disclosure check certificate being received. Registration with the service and completion of the DBS update service authorisation form (please see Appendix 7), allows the Trust to be run a status check to see whether there has been any change to the DBS information since the last Disclosure Certificate was issued. This may eliminate the need for a fresh check.

9.3 The online check does not provide detailed information but indicates where new information exists and therefore prompts a trigger for a new check.

9.4 At the same time that the update service became available, the DBS started using a new relevancy test when considering the release of non-conviction information about an individual. It is now based on the type of workforce and no longer the actual job role. This change means that DBS certificates can be taken from role to role within the same workforce i.e. when moving between jobs that involve working with children, adults, both children and adults or others. To accommodate this change the registered body must include on the DBS application form the type of workforce that the role will be working in.
These are:

Child Workforce
Adult Workforce
Child and Adult Workforce
Other Workforce

9.5 Where the Disclosure Certificate is not within the same workforce and level of check then a new DBS check must be undertaken.

9.6 The Update Service will give instant results to whether there are any changes to the Disclosure Certificate or if there is no change.

9.7 There are four results that the Update Service Status Check can provide. These are:

- **The DBS Certificate did not reveal any information and remains current as no further information has been identified since its issue.**
  This means that the Disclosure Certificate when issued was blank and no new information has been found. The Status Check is satisfactory and is valid for a maximum period of 3 years.

- **The DBS Certificate remains current as no further information has been identified since its issue.**
  This means that the original Disclosure Certificate revealed information about the person and no new information has been found. The Status Check is satisfactory if the disclosed information was already known and/or does not affect the role being carried out.

- **The DBS Certificate is no longer current. Please apply for a new DBS Check to get the most up-to-date information.**
  This means that there is new information which has come to light since the Disclosure Certificate was issued and a new DBS check will need to be carried out via an application. In cases where this relates to a new employee, a new DBS check will need to be applied for and a conditional offer of employment can only be made, until receipt of a satisfactory new DBS check.

  In cases where this relates to an existing employee a DBS Early Confirmation Check should be applied for immediately. This should be referred to the HR Operations Team and Line Manager to arrange a formal meeting with the employee to assess the new information, obtain the mitigating circumstances and ensure a new DBS Check is applied for.

  The Divisional Manager or equivalent Senior Manager/Professional Lead will consider whether sanctions should be applied e.g. being supervised, redeployment into a non-patient contact post or suspension, until receipt of the outcome of the DBS Early Confirmation Check and/or new DBS check.
The circumstances for the change in disclosure and the reason for non-declaration by the employee will be investigated. The investigation may lead to disciplinary action including dismissal under the Trusts Disciplinary procedure.

- The details entered do not match those held on our system. Please check and try again.
This means that the details entered are incorrect, the Disclosure certificate has been removed from the Update Service or the individual has not subscribed to the Update Service.

10. Implementation

10.1. Recruitment

- Advertisements will clearly state if a post is eligible for a DBS check. All offers of employment requiring a DBS check will be conditional on receipt of a satisfactory disclosure at the appropriate level for the post.

- Applicants will also be advised that any offer of employment may be withdrawn if they knowingly withhold information or provide false or misleading information.

- The decision in respect of the eligibility and level of disclosure will be the responsibility of the Recruiting Manager, with the guidance of the Recruitment Team, and will be subject to the following principles:
  - Only the applicant successful at interview will be required to complete the DBS application documentation.
  - Applicants will be advised of the level of disclosure required and will have access to a copy of the guidelines.
  - At the application stage, when any convictions, cautions, warnings, reprimands or additional information has been disclosed, the Recruitment Officer will inform the Recruiting Manager prior to interview. The Recruiting Manager and interview panel will be responsible for discussing this where appropriate at the interview with the candidate.

- Any individual who requires a DBS check to undertake their role with the Trust will be liable to pay the full cost of the DBS check. The employee will complete a ‘deduction from salary’ form and the amount will then be taken automatically over a period of either one or four months in equal payments from their monthly salary. If the employee leaves the Trust during this repayment period the outstanding amount will be deducted from their final salary.
10.2. DBS self-declaration

The DBS self-declaration is mandatory within the NHS and relies on the honesty of applicants to provide complete and accurate information regarding:

- Criminal convictions (spent or unspent dependant on post)
- Counter-fraud investigations
- Dismissal by reason of misconduct
- Fitness to practice proceedings

10.2.1 The DBS Self-declaration questions form part of the application process on NHS Jobs. Posts on NHS jobs need to clearly indicate the eligibility of the position being applied for so that the appropriate questions are selected and completed.

10.2.2 For positions not advertised on NHS Jobs or where hard copy application forms are completed the relevant DBS self-declaration must be included along with the application form. (Please refer to Appendix 8 and 9 for the relevant self-declaration form).

10.2.3 The DBS Self-declaration information must be handled, stored and destroyed in the same way as DBS check information and should be destroyed in line with the DBS Code of Practice. Once a decision has been made to appoint or not, it should be kept for no longer than 6 months from appointment or 6 months from when the applicant has been unsuccessful.

10.3. Commencing employment without DBS clearance

10.3.1 Individuals should not be allowed to commence employment without a DBS disclosure to ensure that the Trust meets its obligations to ensure safer recruitment practices and to protect its patients, clients and staff.

There may, however, be very exceptional circumstances where there may be a delay which is severely affecting service delivery, where the Trust may approve that an individual may commence work before the DBS disclosure check is received. On these rare occasions a risk assessment form must be completed using the relevant DBS risk assessment form (Please refer to Appendix 10) and as a minimum the following must apply:

- A Trust DBS check is being processed.
- A clear DBS Self-declaration has been submitted.
- Satisfactory references have been received (at least one of these must be the most recent employer).
- The individual will be not working in Maternity Services, Paediatrics, NICU, ED or Older Person’s unit
- Safeguards are put in place until the outcome of the DBS check has been received.
10.3.2 The DBS risk assessment form must be completed by the Recruiting Manager and authorised by Divisional Manager or equivalent Senior Manager/Professional Lead.

10.3.3 From the 17 June 2013 the disclosure certificate is issued to the applicant only. The Trust receives details of the disclosure check via an online DBS application system. However, the Trust may request that an applicant provides their original DBS certificate prior to starting employment with the Trust. In cases where a positive disclosure is indicated via the online system, the applicant will need to provide the original DBS disclosure certificate. The Recruitment Team will create a record on ESR of the DBS disclosure details as follows:
- The name of the individual and issue date of the certificate.
- The level of check requested, including checks against one or both of the barred lists.
- The position for which the certificate was requested.
- The certificate reference number.

10.3.4 If the individual loses the DBS disclosure certificate before the Recruitment Team request to see the certificate the Trust reserves the right to charge the individual for the full cost of a new DBS check.

10.4. **Assessing the relevance of criminal records**

10.4.1 The suitability for employment of a person with a criminal record will vary depending on the nature of the job and the details and circumstances of the conviction. An assessment of an individual’s skills, experience and conviction circumstances should be weighed against the risk assessment for the job. To facilitate this process, an individual’s criminal record should be assessed in relation to the tasks they will be required to perform and the circumstances in which the work is to be carried out.

10.4.2 Where the DBS has made a barring decision against one or both of the DBS Barred Lists, it will be illegal for the Trust to allow the individual to engage in ‘regulated activity’ with the vulnerable group the barred decision is applied to.

10.4.3 Where a disclosure certificate reveals the existence of a criminal record, the Recruitment Team will check to ensure that this information has been declared by the applicant prior to appointment on the DBS self-declaration (either as part of the NHS Jobs application form or the self-declaration form) and/or at interview. Should a criminal record not be declared this will be discussed at the formal meeting detailed in point 10.5.5.

10.4.4 The individual will be given the opportunity to discuss the information at a formal meeting with the Recruiting Manager and a member of the HR Operations team in order to obtain the mitigating circumstances. The Divisional Manager or relevant Director will make the final decision on whether to process with recruitment.
10.4.5 The panel will then consider the following when deciding on the relevance of offences to particular posts and the risk:

- The seriousness of the offence and its relevance to the safety of groups such as patients, service users and visitors.
- Whether the post involves any direct responsibility for finance or items of value.
- Whether the post involves direct contact with the public/patients/service users.
- The length of time since the offence.
- Whether the offence was isolated or part of a history of offending.
- Any relevant information offered by the applicant regarding the circumstances which lead to the offence being committed e.g. influence of domestic or financial difficulties.
- Whether the offence involved a child and/or vulnerable adult.
- Whether the applicant’s circumstances have changed since the offence was committed making reoffending less likely.
- Whether the behaviour could pose a risk to patients/service users.
- Whether the post involves one-to-one contact with children and/or vulnerable adults.
- What level of supervision the post holder will receive.
- Whether the applicant fully disclosed the offence on their self-declaration form and the degree of remorse, or otherwise and their motivation to change.
- Whether the offence came to light retrospectively.
- Establish whether any regulatory body (NMC/GMC/HPC etc) took any action following the conviction.

Please refer to Appendix 12 for the risk assessment form.

10.4.6 The answers to such questions should help determine the relevance of convictions to specific posts. For example, some violent offences would be relevant to positions involving unsupervised contact with the public and patients.

10.4.7 The circumstances for the criminal record and the reason for non-declaration by the applicant will be investigated. The investigation may lead to disciplinary action under the Trust’s Disciplinary procedure or withdrawal of an employment offer, if it is considered that the applicant deliberately withheld information about their criminal record.
10.5. Existing employees / changing jobs

10.5.1 All staff who work in Maternity Services, Paediatrics, NICU and Emergency department will be required to undertake a new check every 3 years. Reminders will be sent to staff from the HR Operations team.

10.5.2 A new DBS check is not always required where an existing member of staff moves jobs within the same organisation and their roles and responsibilities and level of contact with that vulnerable group has not significantly changed. If the new check relates to Maternity Services, Paediatrics, NICU, Emergency Department and Older Persons Unit, the employee will not be able to take up the post until the DBS Disclosure Check is received. The trigger for a new check is where:
- The employee has never had a DBS check before and is moving to a position that now requires them to have a check (the level of check is dependent on the roles and responsibilities of the job).
- The employee has previously had a standard or enhanced check and is moving into a regulated activity, which now requires them to have an enhanced check with barring list.
- The new position requires them to work with a different vulnerable group and they are required to have a check against one or both barred lists.
- There has been a break of service for more than three months between leaving the old position and taking up the new position.

10.5.3 The Trust reserves the right to ask existing employees in relevant positions for a disclosure check to undertake a fresh DBS check if their actions or activities give cause for concern. The grounds for this could be allegations of inappropriate behaviour made by a child or vulnerable adult, or a colleague, parent, carer or member of the public. In such circumstances a full investigation will be carried out in accordance with the relevant Trust policies.

10.5.4 If during the course of employment an employee is arrested, charged, cautioned or convicted of any criminal offence, they must notify the circumstances to their line manager as soon as practically possible and before the start of the next shift. This includes any pending court appearance, bind-overs, absolute and conditional discharges. A failure to disclose such information to the Trust may result in disciplinary action, including dismissal, being taken by the Trust. The Line Manager must discuss such disclosure of information with the HR Operations Team.

10.5.5 Employees are also required to declare if they are the subject of a Police investigation, in the UK or abroad, which may lead to one of the above sanctions. The reason for this disclosure is for the Trust to protect its reputation and safeguard the interests of its patients, and to provide appropriate support to the individual employee. Failure to disclose such information may result in disciplinary action being taken by the Trust.

10.5.6 Any employee refusing to comply with a DBS Disclosure request or does not respond to Trust notification letters within a reasonable time, will be advised
that their deliberate and unreasonable refusal to carry out this fundamental legal requirement and/or to comply with this contractual obligation will lead to the employee being subject to disciplinary action, including dismissal, in line with the Trust’s Disciplinary Policy and Procedure.

10.5.7 The Trust will assure employees that any information about convictions that are not relevant to their current post will have no impact on their continued employment with the Trust.

10.5.8 If during the course of employment, concerns or information comes to light regarding an employee who poses a risk of harm to vulnerable groups and where they have been dismissed, or removed from working in a ‘Regulated Activity’ with children or adults the Trust has a legal duty to refer information to the DBS. For further guidance please see the duty to refer flow chart in Appendix 13.

**10.6. Portability of DBS checks**

Portability refers to the re-use of a DBS check (disclosure), obtained for a position in one organisation and later used for another position in another organisation.

10.6.1 The Trust will accept DBS checks from other organisations or where the applicant has subscribed to the DBS Update Service and the DBS disclosure certificate indicates that the check is at the correct level for the role and workforce. Where the DBS check has been performed by another organisation and the candidate is not registered with the Update Service, the Trust must seek written assurances from the host/previous employer that appropriate clearances have been obtained, but any additional checks must be proportionate to risk. For example, where assurances cannot be obtained or where there is a specific concern about the individual's practice or criminal behaviour.

10.6.2 Information on a disclosure certificate has no term of validity and it only provides information about the individual available at the time of issue. Therefore, the Trust will only accept DBS checks issued in the last 3 years.

**10.7. Volunteers**

10.7.1 The DBS service will issue a disclosure free of charge if the person satisfies the following criteria:

‘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 in or in addition to close relatives’.
10.7.2 Not all volunteers will need a standard or enhanced DBS check, but the triggers for a DBS check are the same regardless of whether the individual is a paid employee or unpaid volunteer. Should a volunteer engage in paid employment with the Trust, a fresh DBS disclosure must be completed, regardless of level.

10.7.3 Volunteers should not be allowed to commence their role without a DBS disclosure to ensure that the Trust meets its obligations to ensure safer recruitment practices and to protect its patients, clients and staff.

10.8. **Doctors in training**

10.8.1 Doctors on educationally-approved rotational training will be regarded as being in continuous employment during the term of training and therefore required to have a DBS check, as a minimum, once every three years, rather than each time they change rotation or unless concerns are raised. The Trust must seek written assurances from the host/previous employer that appropriate clearances have been obtained, but any additional checks must be proportionate to risk. For example, where assurances cannot be obtained or where there is a specific concern about the individual’s practice or criminal behaviour.

10.8.2 Where the doctor will be working with children the Trust will need evidence that the DBS check was at the correct level and that a check has been made against the Children’s Barred List. In these circumstances the Trust will not require a further check until the 3 year period has elapsed or unless concerns are raised.

10.8.3 Where the post involves working with vulnerable adults the Trust will need evidence that the check was at the correct level and that a check had been made against the Vulnerable Adult's Barred List. In these circumstances the Trust will not require a further check until the 3 year period has elapsed or unless concerns are raised.

10.8.4 In all cases the Trust will seek written assurances from the host/previous employer that appropriate satisfactory clearances have been obtained within the last 3 years.

10.8.5 However, if the above criteria cannot be met, it is strongly recommended that the individual is not permitted to start work in any form of ‘Regulated Activity’ until the outcome of the DBS check is known. In exceptional circumstances, where the health, safety and welfare of staff and/or patients may be affected, then a risk based assessment should be made using the relevant DBS Risk Assessment form (Appendix 10) and as a minimum the following must apply:

- A Trust DBS check is being processed.
- A clear DBS Self-declaration has been submitted.
☐ Satisfactory references have been received (ate least one of these must be the most recent employer).
☐ The individual will be not working in the Maternity, Paediatrics, NICU, ED or Older Person’s unit
☐ Safeguards are put in place until the outcome of the DBS check has been received.

10.8.6 The DBS Risk Assessment form must be completed by the Speciality Manager and Medical Recruitment team and authorised by the Head of Division/Divisional Manager.

10.8.7 The Trust may undertake DBS checks more frequently than 3 years, but any additional checks must be proportionate to risk, e.g. where assurances cannot be obtained from the host/previous employers, or the new post changes the level/type of check required under the terms of the Safeguarding Vulnerable Groups Act or if cause for concern has been raised.

10.9. Healthcare students

10.9.1 DBS checks apply to all students who, as part of their professional qualification, are required to carry out a clinical placement and where they will undertake regulated activity.

10.9.2 The relevant Health Education Institute (HEI) organisation or Training Body is responsible for requesting a DBS disclosure as part of the admission/application procedure. The Educational Lead is responsible for satisfying the Trust that the DBS was undertaken within the appropriate level and type.

10.9.3 Where this assurance cannot be provided, the Trust will request a new check.

10.9.4 Where there is a delay in obtaining a DBS check, students may take up their placement providing appropriate safeguards are in place to supervise that individual until appropriate clearances have been given.

10.9.5 The Trust may refuse commencement of a placement if assurances from the Higher Education Institute/Training Body or a new DBS check cannot be fully satisfied.

10.10. Staff not directly employed by the Trust (agency/locum staff)

10.10.1 Agencies used by the Trust should be ‘Crown Commercial Services (CCS) approved. The contract stipulates that all staff provided under the contract are subject to appropriate employment checks in accordance with NHS Employment Check Standards prior to them being supplied to the Trust. The Trust takes assurances from the CCS Contract that the appropriate employment checks are in place before an agency/locum starts work.
10.10.2 In exceptional circumstances where a CCS agency cannot fulfil the assignment and a non-CCS agency is used, the Staffing Solutions Team must assure themselves that the appropriate checks have been undertaken and that they are satisfied that the individual booked to work in a post which requires a DBS disclosure check has a satisfactory check including a relevant barred lists check (where applicable) for the work they will be doing before work with the Trust can commence.

10.10.3 If the agency worker is requested out of office hours, it is the Recruiting Manager’s responsibility to verify with the agency that the appropriate employment checks are in place and that they are satisfied that the individual booked to work in a post which requires a DBS disclosure check has a satisfactory check including a relevant barred lists check (where applicable) for the work they will be doing before work with the Trust can commence.

10.11. Private contractors / maintenance workers etc

10.11.1 In many cases, the work or services of the contractor, trade or maintenance worker, will either not be eligible for a check (because they do not have access to patients) or will not legally be required to have a DBS check. For example, many clinical specialists who train staff to use equipment, engineers, electricians, plumbers, window cleaners, gardeners etc would not have access to patients and therefore would not be eligible.

10.11.2 It should be noted that it is illegal to insist that a DBS check on all contracted staff is a condition of a tender, unless the services provided meet the eligibility for a check.

10.11.3 The requirement for a DBS check in all cases is dependent on the duties and responsibilities they will be undertaking and meets the eligibility criteria.

10.12. Staff recruited from overseas

10.12.1 When recruiting employees or engaging students from abroad a ‘Certificate of good standing/conduct’ must be obtained before the employee leaves the country they are currently residing.

10.12.2 The Disclosure and Barring Service can only access criminal records held on the Police National Computer (PNC) in England, Wales and Scotland (there is also some conviction data held on the PNC from Northern Ireland).

10.12.3 Where the position meets the criteria for a disclosure check, even if the applicant claims they have never lived in the UK before, the Trust will request a disclosure check in addition to the individual’s overseas police check.
10.12.4 It is advised that where an applicant who lives overseas or has disclosed that they have ‘spent’ a continuous period of 6 months or more outside the UK supply a certificate of conduct or overseas criminal check.

10.12.5 All overseas police checks will be in accordance with that country’s justice system and with UK requirements.

10.13. Honorary contracts

10.13.1 Staff who hold a substantive post within an organisation adhering to the NHS Employment Checks required to work for the Trust do not necessarily need a fresh DBS check. The Trust must seek written assurances from the individual’s host/substantive employer that appropriate employment checks have been carried out and any DBS checks are at the appropriate level and type.

10.13.2 The Trust may request a fresh DBS check if assurances by the host organisation cannot be obtained.

10.13.3 The Trust may refuse commencement of a placement if assurances from the host organisation or a new DBS check cannot be fully satisfied.

10.14. Work experience

10.14.1 Students who are on work experience placements and are engaging in an activity with vulnerable groups will not be required to have a DBS check. This is on the basis that the roles they are undertaking will involve them observing or carrying out minor duties under the full supervision of someone who is in Regulated Activity and that a risk assessment has been undertaken.

10.14.2 A minimum age limit for criminal record checks has been set in the Protection of Freedoms Act 2012. This means that the Trust must not apply for a criminal record check for individuals under the age of 16.

10.15. Duty to refer to DBS

10.15.1 Under the Safeguarding Vulnerable Groups Act, employers have a legal duty to refer information to the DBS if an employee or volunteer has harmed, or poses a risk of harm to vulnerable groups and where they have dismissed them, or removed them from working in a regulated activity with children or adults. This duty equally applies where an individual has resigned before a formal decision to dismiss or remove them from regulated activity has been made. Further details on referral duties have been outlined in Appendix 13.
11. Monitoring Compliance

Monitoring with this policy will be annual audit completed by the Workforce Information Team.

12. Review

This policy will be subject to a planned review every three years as part of the Trust’s Policy Review Process. It is recognised however that there may be updates required in the interim arising from amendments or release of new regulations, Codes of Practice or statutory provisions or guidance from the Department of Health or professional bodies. These updates will be made as soon as practicable to reflect and inform the Trust’s revised policy and practise.

13. Training

Managers are responsible for ensuring all their staff receive the type of initial and refresher training that is commensurate with their role(s).

Staff must refer to the Mandatory Training Profiles, available on the intranet, to identify what training in relation to [insert subject here] is relevant for their role and the required frequency of update. Further information is available on the statutory and mandatory training web pages about each subject and the available training opportunities.

The Mandatory Training Policy identifies how training non-attendance will be followed up and managed and is available on the intranet. Training statistics for mandatory training subjects are collated by the Learning & Development team, and are reported to the Strategic Workforce Committee. Staff must keep a record of all training in their portfolio.

All staff and managers can access their mandatory training compliance records via the Trust’s mandatory reporting tool (STAR) available on the intranet.
Appendix 1: Policy Statement on the Recruitment of Ex-Offenders

As an organisation using the Disclosure and Barring Service (DBS) checking service to assess applicants’ suitability for positions of trust, the Royal United Hospital Bath NHS Trust (RUH) complies fully with the Code of Practice and undertakes to treat all applicants for positions fairly. The RUH undertakes not to discriminate unfairly against any subject of a DBS check on the basis of a 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 actively promote equality of opportunity for all with the right mix of talent, skills 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.

- A criminal record will not necessarily bar someone from working for the Trust.

- A DBS check and the level of the check (Enhanced with a check against the barred lists, Enhanced without a check against the barred lists, Standard or Basic) is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned.

- Where a DBS check is to form part of the recruitment process, we encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process, except for certain spent convictions and cautions which are ‘protected’, so not subject to disclosure to employers and that cannot be taken into account. Further information on the filtering of old and minor cautions and convictions is available on request.

- Our policy statement on the recruitment of ex-offenders, is made available to all DBS applicants at the outset of the recruitment process.

- We will only ask an individual to provide details of convictions and cautions that we are legally entitled to know about. Where a DBS certificate 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), we can only ask an individual about convictions and cautions that are not protected.
We ensure that all those in the Royal United Hospital Bath NHS Trust who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure 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, we ensure that an open and measured discussion takes place on the subject of 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 of employment.

We make every subject of a DBS check aware of the existence of the Code of Practice and make a copy available on request.

We undertake to discuss any matter revealed in a DBS check with the person seeking the position before withdrawing a conditional offer of employment.

All information received as part of this process will be treated as highly confidential and in line with our policy regarding the security, storage and retention of applicants and staff criminal records information, and as required by the DBS Code of Practice.
Appendix 2: Handling and Retention of Disclosure Information

It is a requirement of the DBS Code of Practice that all Registered Bodies must observe the Code of Practice for registered persons and other recipients of disclosure information (April 2009). It is a requirement of the DBS Code of Practice that all Registered Bodies have a written policy on the secure handling of Disclosure information. The Trust is also required to:

- Treat all applicants fairly and without discrimination.
- Ensure that all applicants for eligible positions are notified in advance that criminal record information will be obtained.
- Have a written policy on the recruitment of ex-offenders that can be given to all applicants where criminal record information will be requested.
- Have a written security policy covering the correct handling and safe storage of criminal record information.
- Ensure that criminal record information is only supplied for the purposes of a recruitment (or other relevant) decision.
- Discuss the content of the disclosure certificate with the applicant before withdrawing any offer of employment.
- Ensure that we comply with DBS guidance on the portability of criminal record checks and their contents.

Storage and access
Disclosure information is kept securely, in a lockable, non-portable storage container 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, disclosure information must only be used for the specific purpose it was requested for and with the applicant’s full consent. It is a criminal offence to share disclosure information with any individual who is not entitled to receive it. However, if the applicant freely gives their consent to the sharing of this information, then an offence has not been committed.

Retention
Once a recruitment (or other relevant) decision has been made, the Trust does not keep the disclosure 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 disclosure information for longer than six months, the Trust will make a request to the DBS Data Protection Manager to ensure that this does not contravene with the data protection and human rights of the individual. Throughout this time the usual conditions regarding the safe storage and strictly controlled access with prevail.

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<tr>
<th>Document name: Disclosure and Barring Service Policy and Procedure</th>
<th>Ref.: 176</th>
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<tr>
<td>Issue date: 23 October 2014</td>
<td>Status: Final</td>
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<tr>
<td>Author: Melanie Ross, Resourcing Manager</td>
<td>Page 32 of 66</td>
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</tbody>
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The Trust will retain a record of the following on ESR:

- The name of the individual and issue date of the disclosure certificate
- The level of check requested, including any checks against one or both of the barred lists
- The position for which the certificate was requested
- The unique reference number of the certificate; and if subscribed to the Update Service, the individual’s unique reference number
- The recruitment decision made

**Disposal**

Once the retention period has elapsed, we will ensure that any disclosure information is immediately destroyed by secure means i.e. shredding or pulping. While awaiting destruction, disclosure information will not be kept in an insecure receptacle (e.g. waste bin or confidential waste sack). The Trust will not keep any photocopy of or other image of the disclosure.

The Trust treats the unauthorised access or the disclosure of sensitive data as a conduct issue. It could also constitute a criminal offence under the Data Protection Act and Section 124 of the Police Act.
Appendix 3: Regulated Activity – Adults

This Factsheet provides a summary of the main provisions of regulated activity relating to adults. It is intended as a general aid. It is not legal advice or guidance and does not cover all aspects of regulated activity relating to adults or cover all exceptions.

Any frequency (even a one-off occurrence) of one of the following activities is regulated activity relating to adults.

Healthcare of an adult
- Health care provided to an adult by a health care professional or a person acting under the direction or supervision of a healthcare professional.
- A health care professional who is a person regulated by a professional healthcare regulator (i.e. a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002).
- Health care includes: all forms of health care provided for adults and includes physical, mental and palliative health care; diagnostic tests and investigative procedures; procedures similar to surgical or medical care, but not provided in connection with a medical condition; psychotherapy and counselling related to health care the adult is receiving; and first aid provided by a person for an organisation established for that purpose. (e.g. St John Ambulance).
- Excepted are: life coaching; first aid in a workplace; staff working in community pharmacies and opticians who are not health care professionals; and staff working in GP surgeries or dental practices who do not provide health care.

Personal care of an adult
- Physical assistance with eating or drinking, toileting, washing or bathing, dressing, oral care or care of the skin, hair or nails provided for reasons of age, illness or disability. Excludes physical assistance provided to an adult in relation to the care of their hair when that assistance relates only to the cutting of the adult’s hair.
- Prompting together with supervision when an adult for reason of age, illness or disability is otherwise unable to decide for themselves in relation to any of the above personal care activities.
- Training, instruction, advice or guidance given to an adult for reasons of age, illness or disability in relation to any of the above personal care activities.

Providing Social Work
The activities of regulated social workers in relation to adults who are clients or potential clients. Activities include assessing or reviewing the need for health or social care services and providing ongoing support to clients.

Assistance with general household matters
Anyone who provides day to day assistance to an adult in running the adult’s household because of the adult’s age, illness or disability, where that assistance includes at least one of the following:
- Managing the person’s cash;
- Paying the person’s bills; or
- Shopping on their behalf.
Assistance in the conduct of a person’s own affairs
- Anyone who provides assistance in the conduct of an adult’s own affairs by virtue of: Lasting power of attorney under the Mental Capacity Act 2005
- Enduring power of attorney under the Mental Capacity Act 2005
- Being appointed as the adult’s deputy under the Mental Capacity Act 2005
- Being an Independent Mental Health Advocate
- Being an Independent Mental Capacity Advocate
- Providing independent advocacy services under the National Health Service Act 2006 or National Health Service (Wales) Act 2006
- Receiving payments on behalf of that person under the Social Security Administration Act 1992

Conveying
- Any driver and any assistant who transports an adult (including any carer) because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care or relevant social work, for the purpose of enabling the adult to receive that health care, personal care or social work;
- Or hospital porters; Patient Transport Service drivers or assistants; Ambulance Technicians or Emergency Care Assistants;
- Except licensed taxi drivers or licensed private hire drivers.

Day to day management of regulated activity
Day to day management or supervision on a regular basis, of a person who is providing a regulated activity relating to adults is also regulated activity.

Other key exceptions to regulated activity relating to adults

Family and Personal Relationships
- Excepted from regulated activity relating to adults is any activity conducted in the course of a family relationship, or a personal relationship between friends for no commercial consideration.
- Family relationships include close family (e.g. parents, siblings, grandparents) and relationships between two people who live in the same household and treat each other as family.
- Personal, non-commercial relationships are arrangements where either no money changes hands, or any money that does change hands is not part of a commercial relationship (for example, gifting a friend money for petrol after they have driven you to the hospital), and the arrangement is made between friends or family friends.

Peer Groups
Excepted from regulated activity relating to adults is a person who is part of a peer group and is assisting or under the direction of a person who is engaging in regulated activity, for example a person at AA meetings.

Definition of an Adult
An adult is a person aged 18 years or over.
Appendix 4: DBS Factsheet – Summary of Regulated Activity Relating to Children

This Factsheet provides a summary of the main provisions of regulated activity relating to children. It is intended as a general aid. It is not legal advice or guidance and does not cover all aspects of regulated activity relating to children or cover all exceptions.

Activity of a specified nature

☐ Teaching, training, instruction, care for or supervision of children (except if the person undertaking the activities is under regular supervision) if carried out by the same person frequently 2 or overnight 3.

☐ Advice or guidance (except legal advice) provided wholly or mainly for children which relates to their physical, emotional or educational well-being if carried out by the same person frequently or overnight 3.

Activity within specified establishment

☐ Any activity that is for or on behalf of the establishment with the opportunity for contact with children if carried out frequently 2:

☐ Excluded is work by volunteers under regular supervision or occasional or temporary contract work that is not an activity of a specified nature listed above.

☐ Specified establishments are schools, pupil referral units, academies, nursery schools, Further Education (FE) establishments mostly for children, institutions for the detention of children, children’s homes, children’s centres (in England), children’s hospitals (in Northern Ireland) and childcare premises including nurseries.

Healthcare of a child (any frequency)

☐ Healthcare provided to a child by a health care professional or by a person acting under the direction or supervision of a healthcare professional.

☐ A health care professional who is a person regulated by a professional healthcare regulator (i.e. a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002).

☐ Health care includes: all forms of health care provided for children and includes physical, mental and palliative health care; diagnostic tests and investigative procedures and procedures similar to surgical or medical care, but not provided in connection with a medical condition.

Personal Care of a child (any frequency)

☐ Physical help with eating or drinking for reasons of illness or disability.

☐ Physical help with toileting (including menstruation), washing, bathing or dressing for reasons of age, illness or disability.

☐ Prompting together with supervision when a child is otherwise unable to decide for themselves in relation to any of the above personal care activities.

☐ Training or advice given to a child in relation to any of the above personal care activities.
Moderating an online forum for children
Moderating a public electronic interactive communication service likely to be used wholly or mainly by children and carried out by the same person frequently. Except activity by a person who does not have access to the content of the matter or with users of the service.

Driving a vehicle used for conveying children
Driving a vehicle being used only for conveying children and their carers or supervisors under a contract or similar arrangement when carried out by the same person frequently.

Early years or later years child-minding (any frequency)
Early or later years child-minding where there is a requirement to register or for voluntary registration under the Childcare Act 2006 and where the activity takes place on domestic premises for reward.

Fostering a child (any frequency)

Day to day management of regulated activity (any frequency)
Day to day management on a regular basis of a person who is providing a regulated activity in relation to children. This includes the supervisor of a person who would be in regulated activity if not under regular supervision.

Other key exceptions to regulated activity relating to children

Family and Personal Relationships
Excepted from regulated activity relating to children is any activity conducted in the course of a family relationship, or a personal relationship between friends for commercial consideration.
Family relationships involve close family (e.g. parents, siblings, grandparents) and relationships between two people who live in the same household and treat each other as family.

Personal, non-commercial relationships are arrangements where either no money changes hands, or any money that does change hands is not part of a commercial relationship (for example, gifting a friend money for petrol after they have driven you to the hospital), and the arrangement is made between friends or family friends.

Peer Groups
Excepted from regulated activity relating to children is a person who is part of a peer group and is assisting or under the direction of a person who is engaging in regulated activity, for example a student helping a teacher.

Supervising a Child in Employment
Excepted from regulated activity relating to children is a person who supervises a child in the course of the child’s employment including work experience. However, it is regulated activity if the child is under 16 and it is carried out by an unsupervised (1) person for whom arrangements exist principally for that purpose.
Definition of a Child
A child is a person aged under 18 years of age.

Statutory Supervision Guidance
To be supervised in accordance with HM Government statutory guidance, the supervision must be regular and day-to-day, by a person engaging in regulated activity and reasonable in all the circumstances for the protection of children. Further information is provided in the HM Government statutory supervision guidance available from the DBS website.

Any frequency means that doing the activity once or more is regulated activity.
1 Supervision as defined in statutory guidance on supervision.
2 Frequently means once a week or more or four or more times in any 30 day period.
3 Overnight means once or more between 2am and 6am with the opportunity for face to face contact with children
Appendix 5: Flowchart

[Flowchart Image]

Document name: Disclosure and Barring Service Policy and Procedure
Issue date: 23 October 2014
Author: Melanie Ross Resourcing Manager
Page: 39 of 66
Ref. 176
Status: Final
Appendix 6: Examples

Types of roles within the Trust requiring a Criminal Records check and the level of check applicable

This list is not exhaustive and is provided as a guide. When in doubt Recruiting Managers should view the job description and person specifications for a post in order to make a final decision on the suitability and level of a check along with advice from the Recruitment Team.

<table>
<thead>
<tr>
<th>Enhanced Criminal Record check with a check against the two barred lists held by the Disclosure &amp; Barring Service</th>
<th>Enhanced Criminal Record check without a check against the barred lists</th>
<th>Standard Disclosure</th>
<th>Basic Disclosure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required for positions which fall under the new definition of regulated activity i.e. any activity involving working or volunteering with adults or children that is of a specific nature. See below.</td>
<td>Required for positions which do not fall under the new definition of regulated activity where they are still eligible for an enhanced check, but without a check against the barred lists. See below.</td>
<td>Will be for all other positions covered by the Exceptions Order 1975 to the Rehabilitation of Offenders Act 1974. See below.</td>
<td>Defined as in a position of Trust. The Trust considers all employees as working in a position of trust and therefore will request a basic disclosure check if the role does not fall into the 3 other categories.</td>
</tr>
</tbody>
</table>

Examples of posts in ‘regulated activity’ requiring an Enhanced disclosure check AND automatic check against the two barred lists:

- Medical staff – including training grades / locums
- Nurse / Midwife (permanent / bank)
- Healthcare / Midwifery Assistant (permanent / bank)
- Allied Healthcare Professionals (permanent / bank)
- Porters with direct patient activity in adult’s and children’s areas
- Drivers transporting patients
- Radiographers
- Bank staff - Clinical in regulated activity
- Counsellors
- Nurse Managers (in supervision of those working in regulated activity)
- Department Managers (in supervision of those working in regulated activity)
- Medical Director
- Director of Nursing
- Volunteers – delivering food to wards
- Department Managers in Paediatric/Maternity areas not in supervision of those in regulated activity
- Security Officers
- Patient Advice & Liaison Service
- Chaplains
- Volunteers – engaged as a shopper for patients

Examples of posts in ‘regulated activity’ requiring an Enhanced check but no check against the two barred lists:

- Ward clerks / Receptionists/ Outpatient Coordinators / Medical Secretaries/Administration in clinical areas (Permanent and Bank).
- Interpreters & translators (not Paediatric/Maternity areas)
- Catering staff delivering food to wards
- Environmental Porters
- Maintenance & estate staff (not in Paediatric/Maternity areas)
- Healthcare Scientists (role dependent i.e. Lab based. Not in Paediatric/Maternity areas)
- Board level Directors (with no direct line management for posts requiring enhanced check)
- Governors where they do not meet the frequency test for going into the children’s hospital
- Maintenance & Estate staff in clinical

Examples of posts requiring a Standard Disclosure check only:

- Receptionist/Medical Secretaries/ Administration & Clerical staff in non-clinical areas (Permanent)
- Estates and Facilities staff without direct patient/service user contact
- Human Resources and Learning & Development staff
- Medical records staff
and providing assistance to patients who cannot feed themselves unaided.

- Pharmacy Assistant – ward dispensary duties
- Allied Health Professionals such as Physiotherapist, Occupational Therapist, Speech and Language Therapist etc
- Porters transferring patients

<table>
<thead>
<tr>
<th>areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Healthcare scientists</td>
</tr>
<tr>
<td>Cleaners</td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Document name: Disclosure and Barring Service Policy and Procedure</th>
<th>Ref.: 176</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue date: 23 October 2014</td>
<td>Status: Final</td>
</tr>
<tr>
<td>Author: Melanie Ross, Resourcing Manager</td>
<td>Page 40 of 66</td>
</tr>
</tbody>
</table>
Appendix 7: DBS Update Service Authorisation Form

<table>
<thead>
<tr>
<th>Full Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Birth</td>
</tr>
<tr>
<td>DBS Certificate Number</td>
</tr>
<tr>
<td>DBS Certificate Date</td>
</tr>
</tbody>
</table>

By signing this authorisation form, I confirm that I have joined the DBS Update Service and give my consent to the Royal United Hospital Bath NHS Trust to periodically access my record on the DBS update service.

- I understand that failure to maintain my subscription to the Update Service may result in me being charged in order for a new DBS check to be carried out.
- I understand that I must confirm in writing should I no longer wish the Trust to access my record on the Update Service.
- I understand that upon leaving the Trust my consent and authorisation for the Trust to access my record will be revoked.

<table>
<thead>
<tr>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature</td>
</tr>
<tr>
<td>Date</td>
</tr>
</tbody>
</table>
APPENDIX 8: DBS SELF-DECLARATION FORM A – FOR POSITIONS EXEMPT FROM REHABILITATION ACT 1974

SELF DECLARATION (FORM A)

APPLICANT NOTES IN CONFIDENCE

The position you have applied for has been identified as being an 'eligible position' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 [the Exceptions Order] and, in certain circumstances, the Police Act 1997. As such, it meets the eligibility criteria for a standard or an enhanced disclosure to be requested through the Disclosure and Barring Service (DBS).

Both standard and enhanced DBS disclosure certificates contain information about any convictions, cautions (including reprimands and final warnings) which are not 'protected' as defined by the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975 (as amended) - see highlighted note in the section below. Enhanced disclosures may also include other relevant police information where this is deemed relevant to the position you are applying for.

Please be aware that the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 (S.I. 2013/1198) made amendment to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 to provide that certain spent convictions and cautions will become protected when specific conditions are met. Protected convictions and cautions will not be disclosed in a DBS check, and employers cannot ask for information about protected convictions or cautions, or take these into account when considering you for appointment.

Before you complete this form please read guidance and criteria for the filtering of these convictions and cautions which can be found on the Disclosure and Barring Service website at: www.gov.uk/government/disclosure-and-barring-service

Before you can be considered for appointment with the Royal United Hospital Bath NHS Trust (RUH) we need to be satisfied about your character and suitability.

Where the position has, in addition, been identified as a regulated activity under the Safeguarding Vulnerable Groups Act (2006) (as amended by the Protection of Freedom's Act 2012) an enhanced DBS disclosure will include information which is held on the Children's and/or Adults barred list(s), as applicable to the position.

The RUH aims to promote equality of opportunity and is committed to treating all applicants for positions fairly and on merit regardless of ethnicity, disability, age, gender or gender re-assignment, religion or belief, sexual orientation, pregnancy or maternity, marriage or civil partnership. We undertake not to discriminate unfairly against applicants on the basis of criminal conviction or other such information declared.
Prior to making a final decision concerning your application, we shall discuss with you any information declared by you that we believe may have a bearing on your suitability for the position. If we do not raise this information with you, this is because we do not believe that it should be taken into account. In that event you still remain free, should you wish, to discuss the matter with the recruiting manager. As part of assessing your application, we will only take into account criminal records and other information declared which is relevant to the position being applied for.

The information that you provide in this declaration form will be processed in accordance with the Data Protection Act 1998. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Please ensure that you read the ‘Guidance Notes for Applicants’ that accompanied your application form carefully before completing this declaration form. They provide you with further and more detailed information about how your application will be processed, the persons to whom it will be disclosed and the checks that will be done to verify the information provided.

Please answer all of the following questions in this form. If you answer ‘yes’ to any of the questions, please provide full details in the space indicated. Please also use the space below to provide any other information that may have a bearing on your suitability for the position for which you are applying. You may continue on a separate sheet if necessary, and you may attach supplementary comments should you wish to do so.

Answering ‘yes’ to any of the questions below will not necessarily bar you from an appointment within the NHS. This will depend on the relevance of the information you provide in respect of the nature of the position for which you are applying and the particular circumstances.

1. Are you currently bound over, or do you have any convictions or cautions (including warnings and reprimands) which are not deemed 'protected' under the amendment to the Exceptions Order 1975*, issued by a Court or Court-Martial in the United Kingdom or in any other country?

   NO □  
   YES □

   If YES, please include details of the order binding you over and/or the nature of the offence, the penalty, sentence or order of the Court, and the date and place of the Court hearing.

   *Please note that you do not need to tell us about convictions, cautions, warnings or reprimands which are deemed 'protected' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 - see applicant notes above.

   You also are not required to tell us about parking offences.
2. Have you been charged with any offence in the United Kingdom or in any other country that has not yet been disposed of?

   NO ☐
   YES ☐

If YES, please include details of the nature of the offence with which you are charged, date on which you were charged, and details of any on-going proceedings by a prosecuting body.

You are reminded that, if you are appointed, you have a continued responsibility to inform us immediately where you are charged with any new offence, criminal conviction or fitness to practise proceedings in the United Kingdom or in any other country that might arise in the future.

You do not need to tell us if you are charged with a parking offence.

3. Are you aware of any current investigation being undertaken by the NHS Counter Fraud and Security Management Services (NHS CFSMS) following allegations made against you?

   NO ☐
   YES ☐

If YES, please include details of the nature of the allegations made against you, and if known to you, any action to be taken against you by NHS Counter Fraud and Security Management Services (NHS CFSMS).

4. Have you been investigated by the Police, NHS CFSMS or any other Investigatory Body resulting in a current or past conviction or dismissal from your employment or volunteering position?

   NO ☐
   YES ☐

If YES, please include details of the nature of the allegations made against you, and if known to you, any action to be taken against you by the Investigatory Body.

Investigatory bodies include: Local Authorities, Customs and Excise, Immigration, Passport Agency, Inland Revenue, Department of Trade and Industry, Department of Work and Pensions, Security Agencies, Financial Service Authority. This list is not exhaustive and you must declare any investigation conducted by an Investigatory Body.
5. Have you ever been dismissed by reason of misconduct from any employment, volunteering, office or other position previously held by you?

   NO □
   YES □

If YES, please include details of the employment, office or position held, the date that you were dismissed and the nature of allegations of misconduct made against you.

6. Have you ever been disqualified from the practise of a profession, or required to practise subject to specified limitations following fitness to practise proceedings, by a regulatory or licensing body in the United Kingdom or in any other country?

   NO □
   YES □

If YES, please include details of the nature of the disqualification, limitation or restriction, the date, and the name and address of the licensing or regulatory body concerned.

7. Are you currently or have you ever been the subject of any investigation or fitness to practise proceedings by any licensing or regulatory body in the United Kingdom or in any other country?

   NO □
   YES □

If YES, please include details of the reason given for the investigation and/or proceedings undertaken, the date, details of any limitation or restriction to which you are currently subject, and the name and address of the licensing or regulatory body concerned.

8. Are you subject to any other prohibition, limitation, or restriction that means we are unable to consider you for the position for which you are applying?

   NO □
   YES □

If YES, please include details.
9. Are there any other matters that may be relevant to the position being applied for which might cause your reliability or suitability for employment to be called into question?

   NO □
   YES □

If YES, please include details.

Please note that you are not required to disclose a protected conviction or caution as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2013 or any circumstances ancillary to that protected conviction or caution - as outlined within the applicant notes above.

If you have answered 'yes' to any of the questions above, please use the space on the next page to provide details.

If you have answered 'yes’ to any of the questions above, please use this space to provide details. Please indicate clearly the number(s) of the question that you are answering. You may continue on a separate sheet if necessary and may attach supplementary comments should you wish to do so.
DECLARATION

IMPORTANT
The Data Protection Act 1998 requires us to advise you that we will be processing your personal data. Processing includes: holding, obtaining, recording, using, sharing and deleting information. The Data Protection Act 1998 defines ‘sensitive personal data’ as racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, physical or mental health, sexual life, criminal offences, criminal convictions, criminal proceedings, disposal or sentence.

Where you are applying for a position which involves regulated activity, this will also include any barring decisions made by the Disclosure and Barring Service (DBS) against the Children’s or Adults barred lists under the terms of the Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedom’s Act 2012).

The information that you provide in this declaration form will be processed in accordance with the Data Protection Act 1998. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Once a decision has been made concerning your appointment, RUH will not retain this declaration form any longer than necessary [see further details in ‘Guidance Notes for Applicants’ which was provided with your application form. This declaration will be kept securely and in confidence. Access to this information will be restricted to designated persons within the organisation who are authorised to view it as a necessary part of their work.

In signing the declaration on this form, you are explicitly consenting for the data you provide to be processed in the manner described above.

I have read the ‘Guidance Notes for Applicants’ that accompanied my application form, and I consent to the information provided in this declaration form being used by RUH for the purpose of assessing my application, and for enquiries in relation to the prevention and detection of fraud.

I confirm that the information that I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my application being rejected, or if I am appointed, in my dismissal, and I may be liable to prosecution.

Please sign and date this form.

SIGNATURE...........................................................................................................................................

NAME (in block capitals) ............................................................................................................................

DATE..........................................................................................................................................................
Please complete and return this Model Declaration Form in a separate envelope marked 'Confidential'. Forms should be returned to:

NAME: ................................................................................................................................................

JOB
TITLE: ................................................................................................................................................

ADDRESS: ...........................................................................................................................................

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If you wish to withdraw your consent at any time after completing this declaration form or you have any enquiries relating to information required in this form, please contact the Recruitment Team.

All enquiries will be treated in strict confidence.
Appendix 9: DBS Self-Declaration Form B – for positions not exempt from Rehabilitation Act 1974

SELF DECLARATION FORM B

APPLICANT NOTES

IN CONFIDENCE

The Royal United Hospital Bath NHS Trust (RUH) aims to promote equality of opportunity and is committed to treating all applicants for positions fairly and on merit regardless of ethnicity, disability, age, gender or gender re-assignment, religion or belief, sexual orientation, pregnancy or maternity, marriage or civil partnership. We undertake not to discriminate unfairly against applicants on the basis of criminal conviction or other information declared.

Prior to making a final decision concerning your application, we shall discuss with you any information declared by you that we believe may have a bearing on your suitability for the position. If we do not raise this information with you, this is because we do not believe that it should be taken into account. In that event you still remain free, should you wish, to discuss the matter with the recruiting manager. As part of assessing your application, we will only take into account relevant criminal record and other information declared which is relevant to the position being applied for.

The information that you provide in this declaration form will be processed in accordance with the Data Protection Act 1998. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Please ensure that you read the ‘Guidance Notes for Applicants’ that accompanied your application form carefully before completing this declaration form. These notes provide you with further and more detailed information about how your application will be processed, who information will be disclosure to, and the checks that will be done to verify the information provided.

Please answer all of the following questions. If you answer ‘yes’ to any of the questions, please provide full details in the space indicated. Please also use the space below to provide any other information that may have a bearing on your suitability for the position for which you are applying. You may continue on a separate sheet if necessary, and you may attach supplementary comments should you wish to do so.

The position for which you have applied is regarded as non exempt from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 [the Exceptions Order]. This means that you are required to declare all current ‘unspent’ criminal convictions or cautions (including reprimands and final warnings). You are not required to disclose convictions or cautions which have become ‘spent’.

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Document name: Disclosure and Barring Service Policy and Procedure
Issue date: 23 October 2014
Author: Melanie Ross, Resourcing Manager
Ref.: 176
Status: Final
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Answering ‘yes’ to any of the questions below will not necessarily bar you from an appointment within the NHS. This will depend on the relevance of the information you provide in respect of the nature of the position for which you are applying, and the particular circumstances.

1. Are you currently bound over or do you have any current ‘unspent’ convictions or cautions (including reprimands or warnings) that have been issued by a Court or Court-Martial in the United Kingdom or in any other country?

   NO ☐
   YES ☐

   If YES, please include details of the order binding you over and/or the nature of the offence, the penalty, sentence or order of the Court, and the date and place of the Court hearing.

   You do not need to tell us about parking offences.

2. Have you been charged with any offence in the United Kingdom or in any other country that has not yet been disposed of?

   NO ☐
   YES ☐

   If YES, please include details of the nature of the offence with which you are charged, date on which you were charged, and details of any on-going proceedings by a prosecuting body.

   You are reminded that if you are appointed, you are required as part of your contractual arrangements with our organisation to inform us immediately where you are charged of any new conviction (including warnings, cautions, reprimands), or fitness to practise proceedings in the United Kingdom or in any other country that might arise in the future while you are in our employment or are undertaking an activity on behalf of our organisation.

   You do not need to tell us if you are charged with a parking offence.

3. Are you aware of any current investigations being undertaken by the NHS Counter Fraud and Security Management Service (NHS CFSMS) following allegations made against you?

   NO ☐
   YES ☐

   If YES, please include details of the nature of the allegations made against you, and if known to you, any action to be taken against you by the NHS CFSMS.
4. Have you been investigated by the Police, NHS CFSMS or any other Investigatory Body resulting in a current conviction or dismissal from your employment or volunteering position?

   NO □
   YES □

If YES, please include details of the nature of the allegations made against you, and if known to you, any action to be taken against you by the Investigatory Body.

Investigatory bodies include Local Authorities, Customs and Excise, Immigration, Passport Agency, Inland Revenue, Department of Trade and Industry, Department of Work and Pensions, Security Agencies, Financial Service Authority. This list is not exhaustive, and you must declare any investigation conducted by an Investigatory Body.

5. Have you ever been dismissed by reason of misconduct from any employment, volunteering, office or other position previously held by you?

   NO □
   YES □

If YES, please include details of the employment, office or position held, the date that you were dismissed and the nature of allegations of misconduct made against you.

6. Have you ever been disqualified from the practise of a profession, or required to practise subject to specified limitations following fitness to practise proceedings, by a regulatory or licensing body in the United Kingdom or in any other country?

   NO □
   YES □

If YES, please include details of the nature of the disqualification, limitation or restriction, the date, and the name and address of the licensing or regulatory body concerned.

7. Are you currently the subject of any investigation or fitness to practise proceedings by any licensing or regulatory body in the United Kingdom or in any other country?

   NO □
   YES □

If YES, please include details of the reason given for the investigation and/or proceedings undertaken, the date, details of any limitation or restriction to which you are currently subject, and the name and address of the licensing or regulatory body concerned.
8. Are you currently subject to any other prohibition, limitation, or restriction that means we are unable to consider you for the position for which you are applying?

   NO □
   YES □

If YES, please include details.

9. Do you know of any other matters in your background which might cause your reliability or suitability for employment or volunteering role to be called into question?

   NO □
   YES □

If YES, please include details.

Please note that you are not required to disclose information about convictions, cautions (including reprimands and final warnings) which are deemed as spent under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 - as outlined in the applicant notes above.

If you have answered ‘yes’ to any of the questions above, please use this space to provide details. Please indicate clearly the number(s) of the question that you are answering.

You may continue on a separate sheet if necessary and may attach supplementary comments should you wish to do so.
DECLARATION

IMPORTANT
The Data Protection Act 1998 requires us to advise you that we will be processing your personal data. Processing includes: holding, obtaining, recording, using, sharing and deleting information. The Data Protection Act 1998 defines ‘sensitive personal data’ as racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, physical or mental health, sexual life, criminal offences, criminal convictions, criminal proceedings, disposal or sentence.

The information that you provide in this declaration form will be processed in accordance with the Data Protection Act 1998. It will be used for the purpose of determining your application for this position. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

Once a decision has been made concerning your appointment, RUH will not retain this declaration form any longer than is necessary [see further details in ‘Guidance Notes for Applicants’]. This declaration will be kept securely and in confidence. Access to this information will be restricted to designated persons within the organisation who are authorised to view it as a necessary part of their work.

In signing the declaration on this form, you are explicitly consent for the data you provide to be processed in the manner described above.

I have read the ‘Guidance Notes for Applicants’ that accompanied my application form, and I consent to the information provided in this declaration form being used by the RUH for the purpose of assessing my application, and for enquiries in relation to the prevention and detection of fraud.

I confirm that the information that I have provided in this declaration form is correct and complete. I understand and accept that if I knowingly withhold information, or provide false or misleading information, this may result in my application being rejected, or if I am appointed, in my dismissal, and I may be liable to prosecution.

Please sign and date this form.

SIGNATURE: ........................................................................................................................................................................................................

NAME (in block capitals): ...................................................................................................................................................................................................

DATE: ........................................................................................................................................................................................................
Please complete and return this Model Declaration form in a separate envelope marked 'confidential'. Forms should be returned to:

NAME:.................................................................................................................................................

JOB TITLE:................................................................................................................................................

ADDRESS:................................................................................................................................................
.................................................................................................................................................................
.................................................................................................................................................................

If you wish to withdraw your consent at any time after completing this declaration form or you have any enquiries relating to information required in this form, please contact the Recruitment Team.

All enquiries will be treated in strict confidence.
Appendix 10: DBS Risk Assessment Form A (awaiting the outcome of a DBS Disclosure Check Certificate)

If an employee is to work within Maternity Services, Paediatrics, NICU, Emergency Department or the Older People Unit the Trust will not permit commencement prior to receipt of a satisfactory DBS check.

Section 1 – Employee Details (To be completed by the Recruitment Team)

<table>
<thead>
<tr>
<th>Candidate Name</th>
<th>Position applied for</th>
<th>Department &amp; Division</th>
<th>Recruiting Manager</th>
</tr>
</thead>
</table>

Section 2 – Pre employment checks (To be completed by the Recruitment Team)

<table>
<thead>
<tr>
<th>Date DBS application sent</th>
<th>Yes/Date</th>
<th>No</th>
<th>Pending</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clear self-declaration (has the candidate declared any convictions, cautions, reprimands or warnings?)</td>
<td>Yes/Date</td>
<td>No</td>
<td>Pending</td>
<td>N/A</td>
</tr>
<tr>
<td>Satisfactory registration check</td>
<td>Yes/Date</td>
<td>No</td>
<td>Pending</td>
<td>N/A</td>
</tr>
<tr>
<td>Identity check completed</td>
<td>Yes/Date</td>
<td>No</td>
<td>Pending</td>
<td>N/A</td>
</tr>
<tr>
<td>Reference checks completed</td>
<td>Yes/Date</td>
<td>No</td>
<td>Pending</td>
<td>N/A</td>
</tr>
<tr>
<td>Right to work check completed</td>
<td>Yes/Date</td>
<td>No</td>
<td>Pending</td>
<td>N/A</td>
</tr>
<tr>
<td>Occupational Health check completed</td>
<td>Yes/Date</td>
<td>No</td>
<td>Pending</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Section 3 - Risk Assessment (To be completed by the Recruiting Manager)

Risk considerations:
- Does the post involve one to one contact with children or other vulnerable groups?
- What level of supervision will the post holder receive?
- Does the post involve any direct responsibility for finance or items of value?

What is the impact on the service and how detrimental would it be for the Trust if this individual did not start until the DBS disclosure is received? Why should the individual commence in post?
What is the risk to the organisation?

Please detail what measures/safeguards will be put in place to ensure the safety of patients pending the return of a satisfactory DBS disclosure. (This should include no access to patients unless supervised at all times, training, non-patient contact duties etc)

Please state who will be responsible for the supervision of this individual whilst you await the outcome of their DBS disclosure?

Section 4 – Authorisation (To be completed by the Divisional Manager or equivalent Senior Manager/Professional Lead)

Please note that by signing this DBS Risk Assessment form you are aware that we are agreeing to start this applicant without following the Trust's recruitment protocols and the NHS Safer Recruitment protocols.
Should the disclosure certificate highlight any issues which make the applicant unsuitable as an employee we may need to dismiss the individual through the Disciplinary Policy and Procedure and may be at risk of appeal and an Employment Tribunal.

<table>
<thead>
<tr>
<th>Based on the criteria and recommendations provided on this form my decision is as follows:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Signature</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Position</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th></th>
</tr>
</thead>
</table>

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Author: Melanie Ross, Resourcing Manager
Ref.: 176
Status: Final
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Appendix 11: DBS Risk Assessment Form B

DBS Risk Assessment Form B (convictions declared/undeclared)

To be completed where a positive disclosure has been received.

**Section 1 – Employee Details (To be completed by the Recruitment Team)**

<table>
<thead>
<tr>
<th>Candidate Name</th>
<th>Position applied for</th>
<th>Department &amp; Division</th>
<th>Recruiting Manager</th>
</tr>
</thead>
</table>

**Section 2 – Level of Disclosure (to be completed by the Recruitment Team)**

<table>
<thead>
<tr>
<th>Level of disclosure requested</th>
<th>Enhanced</th>
<th>Standard</th>
<th>Basic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vulnerable Adults List</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Vulnerable Children’s list</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

Details of Offence(s)

<table>
<thead>
<tr>
<th>1.</th>
<th>Offence (as detailed on the DBS Disclosure Certificate)</th>
<th>Details (if known – provide a brief outline of the circumstances surrounding the offence(s) as indicated on the application form or verbally from applicant)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Section 3 – Risk Assessment (to be completed by the HR Operations Team and Recruiting Manager)**

<table>
<thead>
<tr>
<th>Did the applicant declare any of the disclosure information prior to the DBS being applied for?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>If not has the applicant provided an explanation for this?</td>
<td></td>
</tr>
<tr>
<td>Does the applicant agree that the information provided on the DBS Disclosure Certificate is correct?</td>
<td></td>
</tr>
<tr>
<td>If not why not?</td>
<td></td>
</tr>
</tbody>
</table>

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Author: Melanie Ross, Resourcing Manager  Page 59 of 66
<table>
<thead>
<tr>
<th>Question</th>
</tr>
</thead>
<tbody>
<tr>
<td>When was the offence committed and how old was the applicant at the time?</td>
</tr>
<tr>
<td>Is this a matter a one off offence or are there a number of offences which form a pattern?</td>
</tr>
<tr>
<td>Are there any mitigating circumstances? (e.g. peer pressure, financial, lack of judgement etc)</td>
</tr>
<tr>
<td>Has the applicant’s circumstances changed since the offence?</td>
</tr>
<tr>
<td>Does the applicant regret the matter(s)? What is their attitude towards the matter(s) now?</td>
</tr>
<tr>
<td>Would they do anything differently? Have they demonstrated any efforts not to re-offend (e.g. by attending a rehabilitation course)</td>
</tr>
</tbody>
</table>

**Questions relating to the post and risks involved**

<table>
<thead>
<tr>
<th>Question</th>
</tr>
</thead>
<tbody>
<tr>
<td>What is the nature of the role and what level of contact will the individual have with children/vulnerable adults?</td>
</tr>
<tr>
<td>What is the frequency of the contact with patients?</td>
</tr>
<tr>
<td>Will the applicant be required to work unsupervised with patients at any time?</td>
</tr>
<tr>
<td>Does the post require dealing with or access to money?</td>
</tr>
<tr>
<td>Will the nature of the post present and realistic opportunities for re-offending?</td>
</tr>
<tr>
<td>In light of the above, do you consider employing the individual to be a high/medium or low risk?</td>
</tr>
<tr>
<td>Can any safeguards be implemented to reduce/remove any risk if the appointment is considered to be a medium or low risk? (e.g. no unsupervised contact)</td>
</tr>
</tbody>
</table>
Recruiting Manager's decision to proceed (to be completed by the Recruiting Manager)

Comments:

After discussion of the matter(s) with the applicant and in light of the information provided, do you wish to:

<table>
<thead>
<tr>
<th>Withdraw Offer of Employment</th>
<th>Continue with Offer of Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td></td>
</tr>
<tr>
<td>Position</td>
<td></td>
</tr>
<tr>
<td>Signature</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td></td>
</tr>
</tbody>
</table>
Appendix 12: DBS Risk Assessment Form Guidance

Notes

1. These notes are intended to set out some guidance for the handling of staff who are awaiting a DBS Disclosure Check.

2. For new starters, you will be notified by the Recruitment team requesting that a DBS risk assessment form be completed.

3. When employees are allowed to commence work prior to the receipt of their DBS check, they are required to be under supervision (accompanied at all times) and a risk assessment form to be completed.

4. In signing off the risk assessment you are taking professional responsibility for the employee. If you require advice on this issue, please contact your professional or safeguarding lead.

5. Please ensure that you email the completed risk assessment form back to the Recruitment Team within 3 days.

6. Please make sure that other colleagues are aware (in a non-judgemental way) of the situation and how they can support you and the employee, making specific reference to the requirement to be accompanied in the interim.
Appendix 13: Legal duties to refer to the DBS

Please refer to the flow chart in relation to whether information that comes to light during the course of an employee's employment should be referred to the DBS.

1. Is the employee any of the following? 
   Regulated activity provider
   Personnel supplier
   Local authority
   Education and Library Board (NI)
   Health & Social Care (HSC) Trust (NI)
   Keeper or register or Supervisory authority
   Yes
   No
   As you are not one of the groups listed in legislation you do not need to refer. If you have concerns relating to a person you should contact their employer, social services or the police as appropriate.

2. Is/was the person working in regulated activity? 
   Yes
   No
   If the person is not working in regulated activity there is no requirement to refer to the DBS.

3. Have you undertaken an investigation to establish the facts and gather evidence? 
   Yes
   No
   You should follow the Trust safeguarding and disciplinary procedures in the first instance to ensure that facts have been established and evidence has been collected. Then consider whether the person should be referred after internal investigations have been completed.

4. Have the allegations been found to be sustained? 
   Yes
   No
   If allegations have been found to be unsubstantiated and the person has not been removed from regulated activity there is no requirement to refer

5. Has the person you are considering referring been removed from regulated activity (either through instruction or of their own volition) because they caused harm or pose a risk of harm to a child or a vulnerable adult? 
   Yes
   No
   Do you still have safeguarding concerns about the person? 
   No
   No further action required.
   Yes

6. You MUST refer the person to the Disclosure and Barring service. Please complete the DBS Referral Form and supply the information requested on the form if you hold it.

   A referral to the DBS MAY be made with information to support concerns
Ratification Assurance Statement

Dear Claire

Please review the following information to support the ratification of the below named document.

Name of document: DBS Policy
Name of author: Melanie Ross
Job Title: Recruitment Manager

I, the above named author confirm that:

☐ The Policy presented for ratification meets all legislative, best practice and other guidance issued and known to me at the time of development of the Policy;

☐ I am not aware of any omissions to the Policy, and I will bring to the attention of the Executive Director any information which may affect the validity of the Policy presented as soon as this becomes known;

☐ The Policy meets the requirements as outlined in the document entitled Trust-wide Policy for the Development and Management of Policies (v4.0);

☐ The Policy meets the requirements of the NHSLA Risk Management Standards to achieve as a minimum level 2 compliance, where applicable;

☐ I have undertaken appropriate and thorough consultation on this Policy and I have documented the names of those individuals who responded as part of the consultation within the document. I have also fed back to responders to the consultation on the changes made to the Policy following consultation;

☐ I will send the Policy and signed ratification checklist to the Policy Coordinator for publication at my earliest opportunity following ratification;

☐ I will keep this Policy under review and ensure that it is reviewed prior to the review date.

Signature of Author: Melanie Ross Date: 04 September 2014
Name of Person Ratifying this policy: Claire Buchanan

Job Title: Director of HR
Signature: Date: 04 September 2014

To the person approving this policy:

Please ensure this page has been completed correctly, then print, sign and post this page only to: The Policy Coordinator, John Apley Building.

The whole policy must be sent electronically to: ruh-tr.policies@nhs.net

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Author: Melanie Ross, Resourcing Manager Page 64 of 66
## Consultation Schedule

<table>
<thead>
<tr>
<th>Name and Title of Individual</th>
<th>Date Consulted</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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</tr>
</tbody>
</table>

The following people have submitted responses to the consultation process:

<table>
<thead>
<tr>
<th>Name and Title of Individual</th>
<th>Date Responded</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<tr>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Committee/s (if applicable)</th>
<th>Date of Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>TCNC Policy sub group</td>
<td>31 July 2014</td>
</tr>
<tr>
<td>TCNC Policy sub group</td>
<td>20 August 2014</td>
</tr>
</tbody>
</table>
Equality Impact: (A) Assessment Screening

To be completed when submitted to the appropriate Executive Director for consideration and approval.

Person responsible for the assessment:
Name:
Job Title:

<table>
<thead>
<tr>
<th>Does the document/guidance affect one group less or more favourably than another on the basis of:</th>
<th>Yes/No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ethnic origins (including gypsies and travellers)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nationality</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gender (including gender reassignment)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Culture</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religion or belief</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sexual orientation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disability</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(learning disabilities, physical disability, sensory impairment and mental health problems)</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Is there any evidence that some groups are affected differently?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>If you have identified potential discrimination, are there any valid exceptions, legal and/or justifiable?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Is the impact of the document/guidance likely to be negative?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>If so, can the impact be avoided?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What alternative is there to achieving the document/guidance without the impact?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Can we reduce the impact by taking different action?</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

If you answered NO to all the above questions, the assessment is now complete, and no further action is required.

If you answered YES to any of the above please complete the Equality Impact: (B) Full Analysis.

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