



# Disclosure and Barring Service (DBS) Checks

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2021 – 2022 Policy and Procedures

Head of Human Resources

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## 1. Policy

- 1.1. City of Wolverhampton College is committed and passionate about providing a safe and secure environment in which all students, apprentices and employees are enabled to achieve the best they can from working or studying at the College.
- 1.2. A Disclosure and Barring Service (DBS) check is a criminal record check that discloses cautions, reprimands, warnings and convictions unspent according to the Offenders Act 1974.
- 1.3. The College will ensure, through the appropriate use of DBS checks, that it does not employ or make use of the services of any person who has a criminal conviction or record of conduct that could present a risk to the safety and wellbeing of City of Wolverhampton students, apprentices and employees.
- 1.4. City of Wolverhampton College is a registered body with the DBS and complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure Information. It also complies fully with its obligations under the Data Protection Act 2018 and other relevant legislation pertaining with the safe handling, use, storage, retention and disposal of Disclosure information.
- 1.5. Reference made to 'children and young people' refers to those under the age of 18 years old. The term 'adults at risk of harm' refers to people aged 18 years and over who may need or receive community care services by reason of mental health or other disability, age or illness and who may be unable to take care of themselves or protect themselves against significant harm or exploitation.

## 2. Background

- 2.1. The CRB was introduced in April 2002 to provide a 'one stop' service for access to criminal record checks for employment purposes. It replaced the previous system of local police record checks and List 99 (the register of people who are deemed unfit to work with children and young people). This service is known as 'Disclosure' and is now the only available method of carrying out criminal record checks.
- 2.2. On 1 December 2012, the Criminal Records Bureau (CRB) merged with the Independent Safeguarding Authority (ISA) to become the Disclosure and Barring Service (DBS).
- 2.3. The College will request a DBS check (also referred to as a disclosure check) as part of the recruitment process. These checks are processed by the Disclosure and Barring Service (DBS). A DBS check is a background check used by employers on behalf of applicants to ensure that a candidate is suitable to work in a specific industry. The types of check are:
  - *Basic check*, which shows unspent convictions and conditional cautions
  - *Standard check*, which shows spent and unspent convictions, cautions, reprimands and final warnings
  - *Enhanced check*, which shows the same as a standard check plus any information held by local police that's considered relevant to the role
  - *Enhanced check with a check of the barred lists*, which shows the same as an enhanced check plus whether the applicant is on the adults barred list, children's barred list or both

- 2.4 Regulations Activity is a term used to describe certain job functions carried out by employees as defined by the Disclosure and Barring Service (DBS). Guidance is sought to identify the types of work eligible for an enhanced DBS check.  
<https://www.gov.uk/government/publications/dbs-workforce-guidance>
- 2.5 Applications for a Disclosure are made by the College as the Registered Body, which countersigns and pays for the application. When the individual receives the Disclosure Certificate they must present it to the College for checking. A record of receipt of this is kept on the individual's electronic Human Resource file which is password and security protected and on the individual's paper based Human Resource File, which is always kept securely, in lockable, non-portable storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.
- 2.6 It will be a condition of all offers of employment made by the College that a satisfactory DBS disclosure is obtained as part of the on-boarding process. Should any prospective employee to whom this applies refuses to comply with this condition as part of the on-boarding process, this will result in the withdrawal of the provisional employment offer.

### **3. Cautions and Convictions**

- 3.1 As of May 2013, the DBS will filter criminal record certificates to remove old and minor convictions and cautions (subject to a list of exceptions) e.g. if somebody aged 18 or over at the time of conviction, the conviction would be removed only if all of the following apply: 11 years have passed since date of conviction, it is the person's only offence or it did not result in a custodial sentence.
- 3.2 Should any employee be convicted of an offence during the period of their employment, it is their duty to declare this to the Head of Human Resources in order for the risk to be assessed. Failure to do so may result in disciplinary action being taken.

### **4. The Rehabilitation of Offenders Act 1974 (ROA)**

- 4.1 The main purpose of the ROA is to ensure that a person who has been convicted of a criminal offence in the past and who has not re-offended in a specified period is, so far as possible, treated as if the offence and the conviction for it had never occurred. The ROA achieves this by enabling some convictions to become 'spent', or ignored, after a period of time, so that the offender does not have to declare the conviction when applying for a job. In some instances, however, exemptions are made from the ROA, allowing the employer to ask candidates to declare all convictions, cautions, warnings and so on. Work in a further education institution where normal duties of that work involve regular contact with children and young people aged under 18 and adults at risk of harm is exempted from the ROA.
- 4.2 Applicants are requested to provide information about their criminal background on the application form so that any issues raised can be dealt with at the interview stage (or shortly after) and a decision can be made on that basis, subject to the Disclosure check. Should applicants wish to submit a disclosure under separate cover and not via the online application form, they may do so by writing to the Head of Human Resources at City of Wolverhampton College. The application form includes a

statement to candidates that their appointment is subject to a satisfactory Disclosure check, and that a criminal record will not necessarily prevent an offer of employment.

## 5. Scope

- 5.1 City of Wolverhampton College requires all employees, agency workers and volunteers to have a type of DBS Disclosure appropriate to their role.
- 5.2 Employees engaging in regulated activity will require an enhanced check with a check of the barred lists.
- 5.3 Other employees who are not engaged in regulated activity, but will have regular opportunity for access to students under the age of 18 or people of any age who may be vulnerable for other reasons, will require an enhanced check.
- 5.4 Employees will be re-checked if they are out of the business for a period of three months or more e.g. long term sickness, maternity, adoption, shared parental leave and return to work – even if on a phased return.
- 5.5 All contractors and agency workers will be assessed to determine the level of access to students and apprentices and level of supervision on site before DBS disclosure requirements are specified in the Contract.

## 6. Procedure

- 6.1 Once a provisional offer of employment has been made, Human Resources will issue the necessary Disclosure paperwork for completion and will verify the applicant's identification in line with DBS guidance. Original documents are seen and checked and the Disclosure application form is countersigned and sent to the DBS.
- 6.2 The Disclosure certificate is posted to the individual's registered home address and it is the responsibility of the individual to produce the original certificate to Human Resources. Human Resources will check for any recorded convictions, cautions, etc. and take a copy of the DBS certificate which is retained for six months in a confidential area. The unique DBS reference number is recorded on the individual's electronic Human Resources file which is password and security protects with access strictly controlled and limited to those who are entitled to see it as part of their duties.
- 6.3 If the Disclosure certificate shows recorded items such as convictions or cautions, Human Resources will pass the certificate together with the relevant paperwork to the Head of Human Resources for consideration. In all situations, where there are any offences relating to children and young people or adults at risk of harm, the Head of Human Resources will consult with the Designated Safeguarding Lead and the Executive Management Team (EMT). Under no circumstances will an appointment be made if a person is on the Barred List (an Enhanced check for Regulated Activity).
- 6.4 The following will be taken into account when reaching a decision about employing an individual with a criminal conviction or caution:
  - Whether the conviction or other matter is relevant to the position
  - The seriousness of the offence or other matter
  - The length of time since the offence or other matter occurred

- Whether the applicant has a pattern of offending or other relevant behaviour
  - Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters.
  - The circumstances surrounding the offence and the explanation(s) offered by the individual
- 6.5 Where the decision is taken to employ an individual with a criminal conviction or caution, the Head of Human Resources will place a record of the risk assessment, using the above criteria on their personal file. No appointment of an individual with criminal convictions or cautions relating to children and young people or adults at risk of harm can be confirmed without the agreement from the Designated Safeguarding Lead or a member of EMT.
- 6.6 Where the decision is taken not to appoint an applicant because of the information on their Disclosure, the Head of Human Resources will provide EMT with a recorded risk assessment using the criteria stated in clause 6.4. No provisional offer of appointment can be withdrawn without the agreement from a member of the EMT.

## **7. Discussing Criminal Records**

- 7.1 If a candidate has given details of their criminal record at the interview, it may be appropriate to discuss at this stage.
- 7.2 Where an applicant's criminal record was disclosed in their application prior to interview and they are provisionally offered employment, Human Resources will need to discuss this with the applicant prior to them commencing.
- 7.3 Where an applicant's criminal record is not made available prior to interview and there are issues revealed through the DBS Disclosure, which Human Resources feel need to be discussed, Human Resources will meet with the applicant. Such a discussion will also be necessary when the Disclosure contradicts what the applicant has declared. It may be that they have, for example, misunderstood what is meant by a spent conviction or were unaware that cautions would also be included in the Disclosure. Following any discussion, the provisions outlined in paragraphs 6.5 and 6.6 apply.
- 7.4 If any applicant disputes the information contained on a Disclosure, they can appeal to the DBS. If a mistake has been made a fresh Disclosure will be issued to the individual who must provide to Human Resources for checking. A final decision about the applicant's suitability for the job will not be made until the outcome of the appeal.
- 7.5 The College cannot accept responsibility where a job offer has been withdrawn due to entry errors on the DBS return.

## **8. Update Service**

- 8.1 The Disclosure and Barring Service (DBS) launched an Update Service on 17 June 2013. Details are as follows:
- DBS checks are updated on a regular basis rather than just on the day they were applied for
  - The College can carry out a free, online check on the status of a DBS certificate

- New applicants or relevant employees can register with the Update Service
- New employees will have to provide their original DBS form issued as well as access to the Update Service
- Employees are encouraged to apply and to keep their registration updated each year. Employees who do not sign up to the update service will be expected to pay for their DBS disclosure as and when the College requires it
- The Update Service costs employees £13 per year. The College will review annually in order to ensure that it is kept up to date and repay the renewal fee. It is the employee's responsibility for the Update Service to be maintained – if not, the employee must pay for the full DBS Disclosure
- This service is free for volunteers. A volunteer must not receive any payment to qualify for the free service
- The DBS certificate is portable between roles (provided the same level and type of check are required)
- Employers will no longer receive copies of the DBS check, it will only be sent to individuals
- Individuals would need to give the College consent to carry out an on-line check.

## **9. Portability**

- 9.1 There is no official expiry date of a criminal record check issued by the DBS. Any information revealed on a DBS certificate will be accurate at the time the certificate was issued. Consequently, the College will normally require a renewed DBS application to be made or a renewed DBS status check for individuals who are subscribed to the DBS Update Service.
- 9.2 For a College there is no requirement to obtain an enhanced DBS certificate or carry out checks for events that may have occurred outside the UK, if, during a period which ended not more than three months before the person's appointment, the applicant has worked in:
- A school in England in a position which brought them regularly into contact with persons aged under 18: or
  - Another institution within the further education sector in England: or
  - A 16 to 19 Academy, in a position which involved the provision of education and caring for, training, supervising or being solely in charge of persons aged under 18
- 9.3 Where all other checks are in place with respect to a new member of staff, then subject to any appropriate conditions that may be relevant a start date may be confirmed. The College will still normally require a renewed application as outlined in 9.1.

## **10. Conditional Employment**

- 10.1 DBS checks can take several weeks to be processed. There may be occasions where an employee is urgently required to start work before the receipt of a satisfactory DBS Disclosure. This can only be authorised by the Head of Human Resources or a member of EMT subject to the following conditions:

- Where the individual has no declared convictions or cautions in the application process which may cause concern
- Where the individual is not on the barred list
- The Line Manager has provided a written risk assessment (Part One is completed by the individual and Part Two by the Manager) to the Head of Human Resources. In addition, a copy of the previous DBS is applicable and at least one reference from their previous employer

## **11. Re-checks**

- 11.1 All employees will need to be re-checked every three years.
- 11.2 If there become concerns about an existing staff member's suitability to work with children, the College reserves the right to carry out additional relevant checks. If a person working at the College moves from a post that was not regulated activity into work which is considered to be regulated activity, the relevant DBS checks for that regulated activity will be carried out.

## **12. Storage, Use and Disposal of DBS Information**

- 12.1 Disclosure information is kept securely with access strictly controlled and limited to those who are entitled to see it as part of their duties.
- 12.2 In accordance with Section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. The College will maintain a record of all those to whom Disclosures or Disclosure information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.
- 12.3 Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given. Once a recruitment (or other relevant) decision has been made, the College will not keep information for 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.
- 12.4 If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, the College will consult the DBS and will give full consideration to the data protection and human rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail. Once the retention period has elapsed, the College will ensure that any Disclosure information is destroyed.
- 12.5 However, notwithstanding the above, the College may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment decision taken.

### **13. Equality and Diversity**

- 13.1 If any employee has difficulty at any stage of the procedure because of a disability they should discuss the situation with their Line Manager or a member of Human Resources as soon as possible.
- 13.2 Candidates or employees who need a carer (for reasons of their disability), or an interpreter/translator to attend a meeting with them, for disability or language reasons may arrange this with Human Resources.
- 13.3 Candidates or employees who require assistance accessing a meeting should inform HR who will ensure that venues for meetings are accessible.
- 13.4 The College is committed to fairness and equality of treatment for all employees and will comply with the requirements of the Equality Act 2010 and the ACAS Code of Practice in the implementation of these procedures. The College will not discriminate against any employee through use of this procedure directly or indirectly for reasons related to their race, sex, ethnic or national origin, marital status, age disability, sexual orientation, gender identity, religious or political belief or trade union membership.