

# Disclosure & Barring Service (DBS) Checks Procedure

## Procedure information

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Summary of document:

To inform employees of the Disclosure and Barring Service (DBS) Checks procedure.

Scope:

To all staff who have a responsibility as detailed in the Disclosure and Barring Service (DBS) Policy.

To be read in conjunction with:

[948 - Disclosure and Barring Service Policy](#) – opens in a new tab

Owning group:

People, Organisational Development and Culture Committee

Executive Director job title:

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Reviews and updates:

1 – originally one policy

2– new procedure (split from original 948 Policy)

Keywords

Disclosure Barring Service DBS

Glossary of terms

DBS – Disclosure and Barring Service

SRA – Senior Recruitment Advisor

AM – Appointing Manager

NWSSP – NHS Wales Shared Services Partnership

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## Scope

To all staff who have a responsibility as detailed in the [948 - Disclosure and Barring Service \(DBS\) Policy](#) – opens in a new tab.

## Aim

The aim of this document is to ensure a robust and consistent approach in the DBS checking.

## Objectives

The aim of this document will be achieved by the following objectives:

- Accessing the need for a DBS
- Identify the types of DBS
- DBS process
- Identify process for positive disclosures

## DBS

Types of DBS Check

The following types of DBS check are available to employers in the NHS, each providing different types of information:

1. Basic
2. Standard
3. Enhanced without barred list
4. Enhanced with children's barred list information
5. Enhanced with adults barred list information
6. Enhanced with children's and adults barred list information

For up to date guidance on workforce guides please visit: [Eligibility guidance for enhanced DBS checks - GOV.UK \(www.gov.uk\)](#) [Eligibility guidance for standard DBS checks - GOV.UK \(www.gov.uk\)](#) - opens in a new tab.

For information relating to DBS Periodic checks - refer to [periodic checks](#)

For more information on the types of checks and regulated activity please visit:

<https://www.nhsemployers.org/your-workforce/recruit/employment-checks/criminal-record-check> - opens in a new tab.

## Advertising Posts Which Require Disclosure

Disclosure checks will be required for all posts, which will require the person engaged in that work, to have access to patients as part of their normal day to day duties. In such cases the advertisement will clearly advise applicants of this requirement.

Appointing managers are responsible for identifying if a post requires a DBS check as part of the Vacancy Authorisation process on the Trac Recruitment system. This will also include whether or not the post holder will have access to children or adults or both groups.

Further guidance on the level of checks required for posts within the Health Board is available at [DBS eligibility guidance - GOV.UK \(www.gov.uk\)](#)  
[Eligibility guidance for standard DBS checks - GOV.UK \(www.gov.uk\)](#) – opens in a new tab. Staff should approach the Resourcing Team for advice /guidance if required.

A statement is added to the advert to make applicants aware that the post is subject to the Rehabilitation of Offenders Act (Exceptions Order) 1974 and as such it will be necessary for a submission for disclosure to be made to the Disclosure and Barring Service to check for any previous criminal convictions

All Doctors and Dentists require enhanced disclosure with barred lists checks which will be processed by the Medical Recruitment/Workforce Department.

### Appointing to Posts Which Require Disclosure

The interview panel should remind candidates during the interview process that appointment to the post is subject to a satisfactory Disclosure Check if applicable. They should also, as part of the interview, ask candidates if they are aware of any legal reason they can't undertake the role eg: have any criminal convictions, cautions, reprimands or other disposals that will show up on a DBS. It should be emphasised that this includes spent convictions and also includes details of driving offences, including speeding (if dealt with within a court) and drink-driving.

Where an appointment is subject to a satisfactory disclosure, this will be outlined in the appointee's offer of employment letter.

### Requesting Disclosure

If a candidate is made a conditional offer of employment to a post where disclosure is required, the requirement for them to undertake a DBS check will be outlined in the offer letter and they will be sent an electronic link to the e-DBS system to complete before attending their Pre Employment Appointment meeting.

They will be required to bring a specified set of documentation with them to their Pre- Employment Appointment meeting for verification before the e-DBS form is submitted via the Trac system by secure electronic connection to the DBS.

The DBS performs the checks.

### Receipt of Disclosure

When the checks are complete, Trac is notified via the secure electronic connection and the DBS post the certificate to the applicant.

Trac automatically updates the applicant's file on the Trac system to 'success' for clear DBS forms or 'await DBS certificate' if there is something on the certificate. The actual details of the information included are not disclosed.

DBS is requested from the applicant by either NWSSP or the Senior Recruitment Advisor (SRA) and is sent to the SRA who will then discuss this with the Appointing Manager (AM) and only escalated if there is not an agreed outcome with the AM.

If withdrawing a job offer is being considered the Senior Recruitment Advisor will refer the matter to the Assistant Director of W &OD for further discussion/consideration.

### **Starting Work Prior To Receipt Of A DBS Check**

In exceptional circumstances staff may be allowed to commence employment prior to the receipt of their DBS check. In such exceptional circumstances a Risk Assessment must be completed. The Risk Assessment form can be found – [DBS Risk Assessment Form](#). – opens in a new tab.

### **Dealing with Unsatisfactory Disclosures**

When assessing applicants who declare convictions, cautions etc. the criteria should allow for the fact that a conviction does not automatically stop a person gaining employment. However, someone who is barred must not be engaged in regulated activity as this is a criminal offence.

Appointing managers should consider the situation carefully before making a conditional offer of employment to individuals who are:

- On probation (in a legal sense);
- Under a suspended prison sentence;
- Released from prison on parole;
- Still under a conditional discharge;
- Subject to Terrorism Prevention and Investigation Measures.

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

When considering disclosure information employers must assess:

- Any legal or regulatory requirements;
- The nature of the offence;
- Its relevance to the position being applied for;
- The length and type of sentence issued;
- At what age the individual committed the offence;
- Whether the applicant has a pattern of offending behaviour, for example, if there are multiple offences;
- Whether the applicant's circumstances have changed since the offending behaviour. For example, where the offence was time limited or committed as a juvenile, and the individual has taken on responsibilities in life to enhance their standing in society, such as through education or voluntary work;

- The circumstances surrounding the offending behaviour and the explanation offered by the individual.

However, where the disclosure indicates that the DBS has made a barring decision against regulated activity, it is illegal for an employer to allow them to engage in regulated activity from which they are barred.

A record of the decision made must be kept by the Appointing Manager for six months.

### **Withdrawing an Offer of Employment**

If the nature of the additional information provided, is such that the Health Board feels that the conditional offer of employment should be withdrawn, the applicant should be informed that the reason for the withdrawal is due to the contents of their DBS. Managers must discuss such cases with the Senior Recruitment Advisor before taking any action.

However, where a disclosure check reveals that the DBS has made a barring decision against regulated activity, the offer of employment must be withdrawn immediately as it is illegal for the employer to allow them to engage in the regulated activity from which they are barred. The appointing officer must explain to the appointed employee that it is a criminal offence and give consideration as to whether the Health Board wants to notify the police for the Health Board to knowingly offer or give employment to any person who has been barred from working with children or adults or to fail to remove them from such work if it is discovered that they have been barred.

### **Internal Applicants (Internal to Health Board or NHS Wales)**

Internal applicants (to Health Board or NHS Wales) who are moving to a post which demands the same level of disclosure will not require another disclosure provided a satisfactory DBS check was carried out within the last 3 years prior to the application for the post.

The trigger for a new check is where:

- Their current DBS check is more than 3 years old;
- They have never had a DBS check before and are 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;
- They have made a positive declaration;
- Their role has changed and they now require a higher or lower level check or a check against one or both of the barred lists;
- There is concern about the individual's suitability for the post.

If any of the above triggers apply, a new DBS check must be undertaken.

Under no circumstances should a previous Standard DBS check be accepted for posts which require an Enhanced DBS check.

### **Recruiting from overseas**

Currently, the DBS cannot access criminal records held overseas.

If the Health Board is recruiting individual staff from any overseas country, the Recruitment Team will request a certificate of good conduct or overseas criminal record check at the offer stage.

If the Health Board is recruiting a number of overseas applicants as part of a dedicated recruitment campaign, the Health Board must ask the applicant to provide a certificate of good conduct or overseas criminal record check at the offer stage.

N.B. if the individual requires a skilled worker visa and Certificate of Sponsorship in order to be able to work in the UK, a certificate will be required for applicants and from their partners covering the last 10 years.

For guidance on how to obtain certificates visit [Criminal records checks for overseas applicants - GOV.UK \(www.gov.uk\)](http://www.gov.uk) - opens in a new tab.

Before commencing all overseas recruits must complete a DBS overseas risk assessment. This Risk Assessment form can be – [DBS Risk Assessment Form](#). - opens in a new tab.

### Arrangement for Checking Staff Not Engaged by the Health Board

#### Agency Workers/Locums

It is important that all workers or locums provided via an Agency are subject to checks that are no less rigorous than for employees. The agency is accountable for ensuring that the appropriate DBS checks have been conducted to the required level three yearly. This will include Enhanced Checks for regulated activity if required.

The Health Board reserves the right to conduct random audits of the DBS checks completed by agencies.

The requirement of agencies to undertake disclosure on their staff is written into and form part of the Agency's Terms and Conditions with the Health Board.

#### Temporary Staffing

All Bank-only workers, who require a DBS check, will be required to undertake the appropriate level of DBS Disclosure prior to commencement in post.

#### Contractors

Where private contractors provide staff who work in positions giving them access to patients, they must carry out an appropriate level of DBS Disclosure checks in respect of each member of their staff with the Disclosure and Barring Service. This must happen at least once a year, and they must be able to provide the results of the disclosure to the Health Board upon request.

The requirement of private contractors to undertake disclosure on their staff will be written into and form part of their contract with the Health Board. Refer to the Health Board Policy: [541 – Control of Contractors Policy](#). - opens in a new tab.

## Placement Students

It is the responsibility of the relevant university or college to carry out DBS checks on any of their students who will be undertaking clinical placements where they will undertake work that falls within the Exceptions Order, Police Act regulations and/or regulated activity within Health Board.

The level of disclosure must be agreed with the Health Board in advance. The Health Board will advise on any placement that meets this criterion. Eligibility criteria must be met.

## Honorary Contract Holders

In terms of honorary contracts it is the responsibility of the employing organisation to carry out DBS checks and to ensure that the correct level of disclosure check is undertaken. A DBS Eligibility Checklist should be completed and provided with the Honorary Contract request to ensure the correct level of check.

DBS Checks that are more than 3 years old will not be accepted. This also applies to requests for an extension to an Honorary Contract.

Refer to [713 – Honorary Contract procedure](#) - - opens in a new tab.

## Work Experience/Placements

A minimum age limit for DBS checks has been set in the Protection of Freedom Act 2012. This means that employers must not apply for a DBS check for individuals aged under 16.

Students aged 16-18 who are on work experience placements engaging in activity with vulnerable groups will also 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. Within the Health Board, work experience students are 16 years, or older, on commencement.

## Volunteers

The eligibility criterion for a DBS check is the same regardless of whether the individual is a paid employee or unpaid volunteer.

If a volunteer requires a DBS check because of their volunteering role and responsibilities, consideration will be given as to whether the position satisfies certain criteria to qualify for a free of charge disclosure. The definition of a 'volunteer' is outlined within the Police Act 1997 (Criminal Records) Regulations 2002 as:

“A person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative.”

For DBS purposes it is deemed that 'unpaid' means not in receipt of any payment (for example, remuneration, allowance, financial benefit, payment in kind, or other means of support) in relation to the activity. The applicant must not therefore:

- Receive payment for activities (except for travel and other approved out of pocket expenses);
- Be on a placement/work experience;

- Be on a course that requires them to do this job role;
- Be in a trainee position that will lead to a full-time role/qualification.

Refer to the Health Board Policy [107 – Volunteers Policy](#) - opens in a new tab..

## Redeployment

The Health Board's [158 - Redeployment Policy](#) - opens in a new tab. notes a number of reasons why a member of staff may be redeployed. Dependent on the role of the redeployed staff member, a DBS check may be required. The receiving Line Manager must liaise with the staff member to complete the Registration onto the Redeployment Register. Where required the DBS of the staff member being redeployed, must be checked if the role requires this.

## Retire and Return

A check may take place to ensure the person retiring and returning has a relevant DBS check in place. Dependant on the role returning to a DBS check may be required.

## Periodic Checks

There is no legal requirement for employers to carry out periodic checks, however positions within the Health Board which require staff to work with children will be required to have a DBS re-check every 3 years.

A table detailing positions within the Health Board requiring periodic checks can be found at [hyperlink: DBS Periodic Check](#) – opens in a new tab

## Use of the DBS Update Service

The DBS Update Service is a facility where an individual may choose to have their DBS Disclosure certificate continually monitored to ensure the information is still correct and take it with them from role to role – where the new role does not change the level of check required or the workforce they will be working or volunteering with i.e. children, adults or both.

If an applicant declares that they have subscribed to the Update Service, the Health Board can go online, with employee consent, and carry out a free, instant check to find out if the information released on the DBS certificate is current and up-to-date. This negates the need to undertake a periodic check if applicable. The responses to the update service checks will be:

- No new information exists;
- If the original certificate contained 'no relevant information';
- New information exists;
- There is no record of the certificate in the service.

## References

Disclosure & Barring Service (DBS)