



# Working with Vulnerable Adults and Children – Disclosure and Barring Service (DBS)

This procedural document supersedes: CORP/EMP 17 v.6 - Working with Vulnerable Adults and Children – Disclosure and Barring Service (DBS)



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### Amendment Form

<b>Version</b>	<b>Date Issued</b>	<b>Brief Summary of Changes</b>	<b>Author</b>
Version 7	15 January 2020	<ul style="list-style-type: none"> <li>• Update regarding DBS Update Service</li> <li>• Update to reflect Trust decision to charge prospective employees for DBS Checks</li> <li>• Details on process when DBS is returned with convictions</li> </ul>	Kelly Fairhurst
Version 6	15 September 2015	<ul style="list-style-type: none"> <li>• Title change</li> <li>• Updated to reflect change of arrangements (as described in paragraph 1).</li> <li>• Reflects Care Act 2014 terminology.</li> </ul>	John Scott
Version 5	May 2011	<ul style="list-style-type: none"> <li>• Title change</li> <li>• Updated to reflect introduction of mandatory ISA registration 26 July 2010.</li> </ul>	H Selvedge
Version 4	November 2009	<ul style="list-style-type: none"> <li>• Updated to reflect changes on 12.10.09 with the introduction of ISA.</li> </ul>	H Selvedge
Version 3	June 2008	<ul style="list-style-type: none"> <li>• Appendix A added to policy entitled 'Criminal Records Bureau – Information and Guidelines'. This provides further, more detailed information to support the main policy.</li> <li>• Page 5, section 6 – Procedure. A paragraph has been added re current members of staff being recruited into other posts within the Trust.</li> <li>• Page 7, Section 8 – Timescales. A paragraph on the portability of CRB disclosures has been removed. This document has been reviewed, without change.</li> </ul>	S Francis

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## 1 INTRODUCTION

Our organisational mission is to be the safest Trust in England, outstanding in all we do. We all have a duty to treat adult patients, children and young people, relatives and carers with respect and dignity at all times. Many of our jobs involve working with children (under 18's) or vulnerable adults (or Adults at Risk, as the Care Act 2014 describes them) and, for these jobs, there are specific safeguarding measures which must be followed. This involves checking people's background history to ensure there is nothing to prevent them from working with vulnerable adults and children.

From December 2012, the Disclosure and Barring Service (DBS) was formed by the merger of the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) under the Protection of Freedoms Act 2012. It is a legal requirement in the UK for regulated activity employers to refer safeguarding concerns to the DBS. It is illegal for anyone barred by the DBS to work, or apply to work with the sector (children or adults) from which they are barred. It is also illegal for an employer to knowingly employ a barred person in the sector from which they are barred.

The DBS provides access to information across England and Wales about criminal convictions and other police records to help employers make an informed decision when recruiting staff. This information is known as a 'disclosure'.

The Rehabilitation of Offenders Act (Exceptions) Orders 1975 allows the Trust to require healthcare workers to disclose details of criminal convictions, which would otherwise be 'spent' in terms of the Act.

## 2 PURPOSE

Our overriding priority is to ensure that patients are protected from anyone who may wish to harm them. We will not employ anyone who has not received clearance to work in regulated activity with vulnerable adults and children. We will not employ anyone who is held on the barred list by the DBS. Anyone found to be seeking work with vulnerable groups, whilst on the barred list will be referred to DBS and liable for criminal penalties.

## 3 DUTIES AND RESPONSIBILITIES

All Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust (DBTH employees and volunteers must ensure they have the appropriate clearance to work in the Trust.

The People & Organisational Development (P&OD) Medical Workforce and Recruitment Team is responsible for ensuring that all pre-employment checks are carried out correctly in line with the NHS Employers standard checks. For recruitment undertaken by Divisions/Directorates they are responsible for these checks.

Line managers in areas covered by regulated activity are responsible for ensuring that their staff have the appropriate clearance levels prior to commencing in post.

The Director of People & OD is responsible for the implementation of this policy and for ensuring that administrative systems are in place for managing DBS activity in accordance with the DBS Code of Practice and the Data Protection Act.

The Safeguarding Team is responsible for providing advice, guidance and support to DBTH staff on all aspects of safeguarding.

If an applicant for employment with DBTH fails to disclose information regarding a criminal conviction, caution, warning, reprimand, or bind over [regardless if they are spent or unspent] and this information subsequently comes to light the applicant is potentially guilty of committing an offence under the Fraud Act 2006. This may lead to the withdrawal of the offer of employment and the matter being referred to the Trust's Local Counter Fraud Specialist.

## 4 PROCEDURE

### 4.1 Pre-employment checks

The P&OD Medical Workforce and Recruitment Team is responsible for ensuring that all pre-employment checks are carried out correctly including DBS Disclosure checks. DBTH has engaged a partner organisation, Online Disclosures, to manage the checking process on our behalf.

The Medical Workforce and Recruitment Team use the DBS eligibility tool to determine if a DBS check is required and the level of disclosure. Further detailed information is available on the intranet.

There are two types of DBS disclosures standard and enhanced:

#### Standard DBS check

These are primarily for posts that involve working with children or vulnerable adults. Standard disclosures contain details of all convictions held on the Police National Computer including current and 'spent' convictions as well as details of any cautions, reprimands or final warnings.

#### Enhanced DBS Disclosure

These are for posts that involve a far greater degree of contact with children or vulnerable adults. In general the type of work will involve regularly caring for, supervising, training or being in sole charge of such people. Enhanced DBS disclosures contain the same information as the Standard disclosure but with the addition of any relevant and proportionate information held by the local police forces.

The requirement for a DBS disclosure check must be included in all job adverts and clarified with applicants at the interview stage. Any provisional offer of employment will be subject to a satisfactory check being obtained.

The Trust is passing on the cost of the DBS checks on to prospective employees. Prospective employees can pay for their DBS check over their first two months' salary. In the event that a candidate withdraws from the recruitment process or the Trust retracts an offer of employment due to unsatisfactory pre-employment checks the amount of the DBS check will still be payable by the candidate through an invoice from the Trust's Finance Department.

Applicants with a criminal conviction or criminal record are not automatically barred from employment with DBTH. However, if a positive disclosure is returned, the recruiting manager will discuss this with the prospective employee and seek advice from P&OD.

As a rule, people should not start work before all pre-appointment checks are complete. In some very exceptional circumstances - for example where there is no risk to patient safety or welfare; or where induction training is planned - it may be possible to conditionally appoint. You should discuss this with the P&OD Medical Workforce and Recruitment Team or your HR Team. This will be required to complete a risk assessment authorised by the recruiting manager.

DBS disclosure checks are not portable from other organisations, no matter how recently they were undertaken, unless the prospective employee is on the DBS Update Service.

#### **4.2 Agency workers and contractors**

The Trust requires that agencies obtain the necessary DBS Disclosure checks for temporary and agency workers prior to these individuals working at the Trust. If at any time managers are concerned that the appropriate checks have not been carried out, they should raise this with P&OD and the agency to ensure the DBS check is completed.

With regards to other staff not directly employed by the Trust, such as maintenance contractors, it is the relevant manager's responsibility to assess the risk and determine whether it is necessary to seek assurance from the company that an appropriate DBS check has been carried out. Consideration should be given to the nature and location of the work and whether the individual will be unsupervised etc. Advice can be sought from the P&OD department.

#### **4.3 Honorary Contracts/Letters of Authority**

DBS checks will be carried out as appropriate by the Medical Workforce and Recruitment Team or a NHS to NHS check will be undertaken when individuals are employed by another NHS Trust whilst undertaking work at DBTH. This involves checking with their current employer that they have undertaken the relevant pre-employment checks.

#### 4.4 DBS Update Service

In June 2013 the DBS introduced the update service with the aim of helping to improve the speed of the recruitment process by making it easier to apply for DBS checks.

The DBS update service is an online subscription service that lets individuals keep their standard or enhanced DBS certificates up to date. It allows employers to check a certificate on line, with the individuals consent, and therefore enables people to move roles within the NHS or to other sectors without the need for a new DBS check. Employees would only need a new DBS check if they were changing the type of vulnerable group they were working with e.g. from adult to child.

Joining the update service is voluntary and does carry a charge which employees would be responsible for paying for on an annual basis. Employees would need to join the update service at the same time that they are applying for a new DBS check. Further information about the update service can be found by following this link: <https://www.gov.uk/dbs-update-service>.

## 5 DBS DOCUMENTATION RETURNED WITH CONVICTIONS

The following procedure must be followed if the DBS documents for an employee or prospective employee are returned highlighting any convictions or disclosing any other relevant information.

The Medical Workforce and Recruitment Team receive the DBS form and will raise any issues with the relevant recruitment manager and also notify the Deputy Director of P&OD.

The details will initially be reviewed by the individual's immediate manager and depending on the severity of the offence and the specific circumstances; this may be escalated to a senior manager/Director, which will typically be the Clinical or Divisional Director. If there is any doubt whatsoever as to whether there may be a serious risk to patients, colleagues or the public as a result of the offence, this should be escalated to the Divisional/Directorate Manager/Director to progress the matter. The Divisional/Directorate Manager/Director is responsible for making the Deputy Director of P&OD aware of such matters, as appropriate, even if it is felt appropriate for the immediate manager to progress the matter.

A comprehensive review should be undertaken by the manager/Director, in order to decide whether the individual can continue to be employed or be offered employment in the role as a result of this offence/conviction.

This review will need to determine whether the existence of the offence/conviction poses any potential risks to patients, colleagues, the public or others and consequently whether the individual's employment will be affected. This will need to be a clearly documented and fair investigation into the facts of the particular case.

The following questions should be considered:

- What is the nature of the offence?
- What is the nature of the individual's job role?
- When was the offence committed?
- Is there a pattern of recurring offences?
- Is there a potential risk to others?
- If so, what is the degree and nature of this risk?
- Why has the individual not declared this conviction at an earlier stage, e.g. at the time of completing the DBS documentation or at another stage in the recruitment procedure?
- Does further information need to be gathered as part of this review?
- Is it appropriate to contact the relevant police authorities for further investigation? In these cases, the P&OD department would co-ordinate this request.

In parallel to the investigation undertaken as outlined above, the relevant manager/Director should also discuss this matter with the individual concerned. This should be handled sensitively and non-judgementally with an aim of initially establishing whether the information provided by DBS is accurate and to explore the circumstances of the offence. The individual should also be asked why they have not disclosed the offence/conviction at an earlier stage of completing the DBS documentation. The individual can choose whether they wish to have a Staff Side representative or colleague with them during these discussions and P&OD may also be involved if appropriate.

Once the investigatory review has been completed, the relevant manager/Director, in conjunction with P&OD, will make a decision as to whether the individual can be accepted for employment or continue in their current role given the nature of the offence/conviction. Following investigation if it is felt that an individual has misled the Trust or withheld relevant information on the DBS documentation or during the recruitment process their offer of employment will be withdrawn (if they are a prospective employee). If the individual is a current employee this may constitute gross misconduct and disciplinary action will be held in line with the Trust's Disciplinary Procedure.

This decision will be discussed with the individual and confirmed in writing, with reasons for the decision. If the outcome is a recommendation to consider the dismissal of an existing employee as a result of this matter, the appropriate disciplinary proceedings will be held in line with the Trust's Disciplinary Procedure.

In these cases, the DBS documentation and relevant investigation notes will be kept on the individual's personal file or recruitment file in a sealed envelope addressed 'Only to be opened by the Deputy Director of P&OD.'

For further advice, or if there is a question of accuracy of the information provided by DBS, please contact the DBS – [www.homeoffice.gov.uk/disclosure-and-barring](http://www.homeoffice.gov.uk/disclosure-and-barring)



## 6 TRAINING/ SUPPORT

The P&OD Medical Workforce and Recruitment Team can provide any guidance on DBS checks. Guidance and relevant forms are also available on the Recruitment page of the Intranet.

## 7 MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
Non-compliance of policy by Divisions and Directorates	People & OD Recruitment Team	On Going	Issues to be reported to respective Divisions and Directorate management teams
Review of Policy	Medical Workforce and Recruitment Team in consultation with the DBTH Safeguarding Team	On Going	Amendments to reflect changes in Employment Law, and DBTH processes/procedures.
Compliance of Policy	Internal Audit	Annual Audit Practice	As per annual audit practice
Compliance with Policy	Senior Responsible Manager in P&OD (Deputy Director)	Quarterly	<ul style="list-style-type: none"> <li>• Sample check of processes undertaken and results recorded.</li> <li>• Action plans developed to resolve process failures / mitigate risks.</li> <li>• Issues reported to respective Divisions and Directorate management teams</li> </ul>

## 8 DEFINITIONS

**Regulated activity:** Work that a barred person must not do in relation to children comprises, in summary:

- (i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/ guidance on well-being, or drive a vehicle only for children;
- (ii) Work for a limited range of establishments ('specified places'), with opportunity for contact: e.g. schools, children's homes, childcare premises.

**Adult at Risk:** The Care Act 2014 defines an adult at risk as a person aged 18 years or over who:

- has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- is experiencing, or at risk of, abuse or neglect; and

- as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.

## 9 EQUALITY IMPACT ASSESSMENT

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are disadvantaged over others. Our objectives and responsibilities relating to equality and diversity are outlined within our equality schemes. When considering the needs and assessing the impact of a procedural document any discriminatory factors must be identified.

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (See Appendix 1)

## 10 ASSOCIATED TRUST PROCEDURAL DOCUMENTS

Discharge of Patients from Hospital Policy - PAT/PA 3  
 Mental Capacity Act 2005 – Policy and Guidance, including Deprivation of Liberty Safeguards (DoLS) - PAT/PA 19  
 Privacy and Dignity Policy - PAT/PA 28  
 Freedom to Speak Up Policy ‘Speak up to make a difference’ - CORP/EMP 14  
 Equality Analysis Policy - CORP/EMP 27  
 Incident Management Policy - CORP/RISK 33  
 Safeguarding Children Policy - PAT/PS 10  
 Domestic Abuse Policy - PAT/PS 12  
 Safeguarding Adults Policy - PAT/PS 8  
 Fraud, Bribery and Corruption Policy and Response Plan – (CORP/FIN1 (D)  
 Data Protection Policy – CORP/ICT 7

## 11 DATA PROTECTION

Any personal data processing associated with this policy will be carried out under ‘Current data protection legislation’ as in the Data Protection Act 2018 and the General Data Protection Regulation (GDPR) 2016). Data will only be used for the purpose of determining an employee’s application for a position or continued eligibility. It will also be used for purposes of enquiries in relation to the prevention and detection of fraud.

For further information on data processing carried out by the trust, please refer to our Privacy Notices and other information which you can find on the trust website:

<https://www.dbth.nhs.uk/about-us/our-publications/uk-data-protection-legislation-eu-general-data-protection-regulation-gdpr/>

DBTH will comply with the DBS Code of Practice and Data Protection Act requirement on the handling, use, storage, retention and disposal of disclosures. Specifically, disclosure information will:

- be kept securely in P&OD
- not be shared or passed to anyone not entitled to receive it
- be used only for the specific purpose for which it was requested
- normally only be retained for 6 months and then destroyed
- record basic details of the disclosure, post title, subject title, recruitment decision taken.

## 12 REFERENCES

Disclosure and Barring Service <https://www.gov.uk/government/organisations/disclosure-and-barring-service>

The Care Act 2014. [Factsheet](#)

## 13 REFERRALS TO DBS

We are legally required to refer information about individuals who may pose a risk to children and vulnerable adults to the Disclosure and Barring Service. This is to ensure that any potential threats to vulnerable groups can be identified and dealt with effectively. We must refer someone to DBS if we:

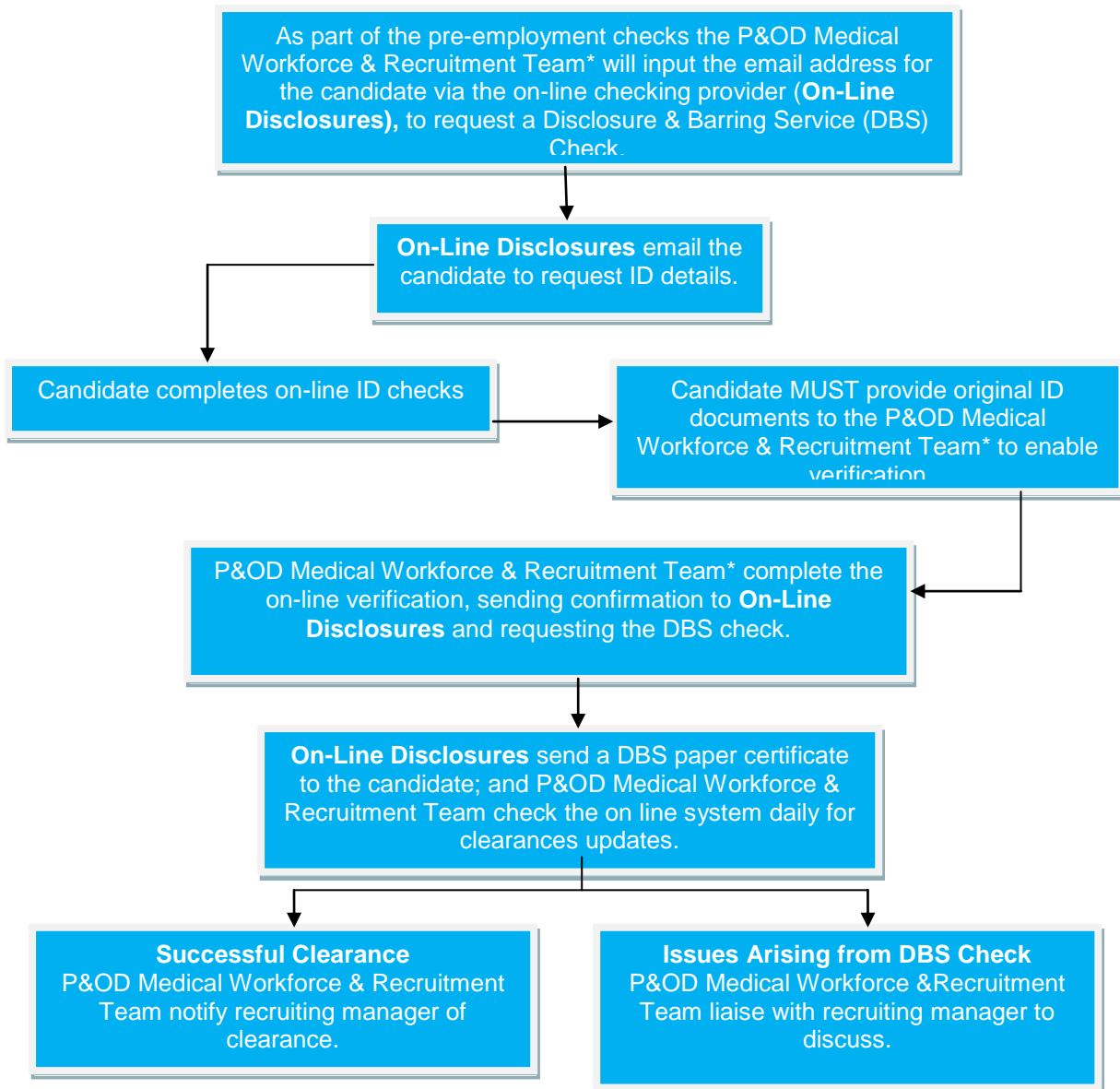
- dismissed them for harming someone
- removed them from working in a regulated activity because they might harm someone, or
- planning to dismiss them for either of the above reasons, but they resigned first.

The HR Casework Team advises on all cases which may lead to dismissal and will inform the Head of Safeguarding of all DBS referrals.

### APPENDIX 1 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/ Strategy	Division	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Working with Vulnerable Adults and Children – Disclosure and Barring Service (DBS)	People and Organisational Development	Kate Carey	Existing Policy	August 2019
<b>1) Who is responsible for this policy?</b> P&OD				
<b>2) Describe the purpose of the service / function / policy / project/ strategy?</b> Protecting patients				
<b>3) Are there any associated objectives?</b> Legal requirement				
<b>4) What factors contribute or detract from achieving intended outcomes?</b> Diligence of P&OD Medical Workforce and Recruitment Team in following process.				
<b>5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief?</b> None identified				
<b>6) Is there any scope for new measures which would promote equality?</b>				
<b>7) Are any of the following groups adversely affected by the policy?</b>				
<b>Protected Characteristics</b>	<b>Affected?</b>	<b>Impact</b>		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
<b>8) Provide the Equality Rating of the service / function /policy / project / strategy – tick (✓) outcome box</b>				
<b>Outcome 1 ✓</b>	<b>Outcome 2</b>	<b>Outcome 3</b>	<b>Outcome 4</b>	
<i>*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form in Appendix 4</i>				
<b>Date for next review: July 2022</b>				
<b>Checked by: Kelly Fairhurst</b>			<b>Date: August 2019</b>	

## APPENDIX 2 - HOW TO OBTAIN DBS CLEARANCE



\* Unless local recruitment arrangements are in place