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DBS Checks and Criminal Convictions Policy



BATH SPA
UNIVERSITY

1. Purpose

- 1.1 The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.
- 1.2 This document outlines Bath Spa University's policy on the use of DBS checks and recruitment of staff, workers and volunteers with criminal convictions or those who are barred from working with vulnerable groups. For student requirements on DBS checks and criminal convictions see [Student DBS Policy](#).
- 1.3 This policy applies to all staff, workers and volunteers and will be made available to applicants at the outset of the recruitment process where a DBS request for disclosure of their criminal record is required.

2. Definitions

This policy refers to vulnerable groups including children and adults.

- 2.1 A child is anyone under the age of 18. The term "young person" is often used to refer to individuals aged 16 and 17 as they possess more legal rights than those aged under 16, but this does not alter their status as a child.
- 2.2 An Adult at Risk, sometimes known as a "vulnerable adult" means an adult who:
 - has needs for care and support (whether or not the local authority is meeting those needs), and
 - as a result of those needs is unable to protect themselves against the abuse or neglect or the risk of it, and
 - is experiencing, or is at risk of, abuse or neglect.

Examples might include individuals who have learning disabilities, mental ill-health conditions (including dementia) or who are physically frail or have a chronic illness, physical or sensory disability, older people with support/care needs, misuse drugs or alcohol or those with neurodivergent diagnoses.

- 2.3 Regulated activity for children is:

- Unsupervised activities on a frequent basis; teaching, training, or instruction; care or supervision; advice or guidance on wellbeing; or driving a vehicle for children. The definition of frequent in this instance is where this work is being undertaken once a week or more often, or on more than 4 days in a 30-day period, or overnight (between 2am and 6am) with the opportunity for face-to-face contact.

- Work in a 'specified place' on a frequent basis with opportunity for contact including; schools, children's homes, childcare premises. The definition of frequent in this instance is more than 3 days in a 30-day period, or overnight (between 2am and 6am) with the opportunity for face-to-face contact. This does not include work by supervised volunteers.
- Relevant personal care, for example, washing or dressing; or health care by or supervised by a professional. This activity does not need to meet the frequency threshold.
- Registered childminding; and foster-carers. This activity does not need to meet the frequency threshold.

2.4 Regulated activity for adults focuses on the nature of activities, which, if required by an adult, will define them to be vulnerable. Staff and managers of staff providing the following activities will be conducting regulated activity:

- Health care – any health care professional providing health care to an adult or anyone who provides health care to an adult under the supervision of a health care professional.
- Personal care – providing assistance, supervision, or advice in relation to activities including eating and washing.
- Social care
- Assistance with cash, bills, or shopping
- Assistance in the conduct of a person's own affairs
- Transporting an adult because of their age, disability, or illness to or from their home and a place where they will receive health care, personal care, or social care.

For further details of regulated activity including examples in Higher Education see [DBS eligibility guidance](#).

3. Disclosure of criminal convictions

- 3.1 It is the university policy to require applicants to disclose any 'unspent' criminal convictions as part of their application. Under the Rehabilitation of Offenders Act, 1974 (amended) ex-offenders are not required to disclose to prospective employers, convictions defined as 'spent' under the Act. However certain roles, particularly those working with vulnerable groups, in positions of trust or sensitive areas are exempt from these provisions, and in these cases, all convictions must be declared and DBS clearance obtained prior to starting employment.
- 3.2 The university will not discriminate unfairly against applicants with a criminal record. Having a criminal record will not necessarily bar an applicant from working for the university; the nature of a disclosed conviction and its relevance to the role in question will be considered. This is with the exception of; a person who has unspent convictions for violence, assault, or damage to

property, which are likely to be incompatible with working for the university or; a person who is barred from working with vulnerable groups. It is a criminal offence to employ a person in a 'regulated position' where they have been barred from working with vulnerable groups.

- 3.3 Where a conviction has been disclosed in an application for a role at the university, a discussion will take place with the applicant regarding the offence and its relevance to the position. Failure to reveal information relating to unspent convictions will lead to withdrawal of an offer of employment, or termination of employment.
- 3.4 All staff are required to disclose cautions or criminal convictions acquired during employment at the university which may be relevant to their position or that related to violence, assault, or damage to property. Disclosure is to be made confidentially to the line manager and Human Resources who will consider the effect of the offence on the staff members role, and whether it may require referral to a DBS safeguarding panel (see section 6).
- 3.5 Examples of convictions relevant to positions include:
a driving offence for a driver position,
theft or fraud for a finance position,
convictions relating to vulnerable groups if working in regulated activity.
- 3.6 Disclosures relating to vulnerable groups will be referred to a DBS Safeguarding panel who will consider whether a referral to the Disclosure and Barring Service is necessary.

4. Disclosure and Barring Service

- 4.1 The university uses the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, especially those who work with children and adults at risk.
- 4.2 The university complies fully with both the DBS code of practice, and our obligations under the Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention, and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.
- 4.3 The university engages an umbrella body to process its DBS checks. An umbrella organisation is a body which is registered to countersign applications and receives certificate information on behalf of other employers or recruiting organisations. The university takes all reasonable steps to satisfy itself that the umbrella organisation will handle, use, store, retain and dispose of certificate information in full compliance with the [DBS Code of Practice](#) and in full accordance with this policy.

- 4.4 Certificate information is only passed to the Line Manager, Human Resources or authorised DBS safeguarding panel members, who receive it in order to undertake their duties. It is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage - DBS check information will only be used for the specific purpose for which it was requested and for which the applicant's full consent will have been obtained.

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

Disposal - Once the retention period has elapsed, the university will ensure any DBS check information is destroyed and while awaiting destruction, DBS check information will be kept securely. A record of the date of issue of a check, the name of the subject, the type of check requested, the position for which the check was requested, the unique reference number of the check, and the details of the recruitment decision taken, will, however, be securely stored beyond the retention period for monitoring purposes.

- 4.5 If a member of staff requires a DBS check to perform their role, this must be satisfactorily completed prior to them starting work. In exceptional situations following discussion and agreement with the Line Manager and a completed risk assessment a staff member may start work before a check is received but with full supervision and safeguards at all times until clearance is received.

5. Appointments requiring a DBS check

- 5.1 A DBS check is only requested after a thorough assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a check is required, job adverts and recruitment documentation will contain a statement that a check will be requested in the event of the individual being offered the position.
- An applicant **may** be required to submit a basic DBS check where the university deems it appropriate for the nature of the role.
 - An applicant **may** be required to submit a standard DBS check where they work in positions of trust which are defined by the [Rehabilitation of Offenders Act Exceptions Order 1975](#).
 - An applicant **will** be required to submit an enhanced DBS check where they will be working with vulnerable groups.
 - An applicant **will** be required to submit an enhanced DBS check request which includes a barred list check, where they will be working in 'regulated' activity with vulnerable groups as defined by the Safeguarding Vulnerable Groups Act 2006.

- 5.2 For positions that require a DBS check will be reviewed and where necessary the DBS check repeated every three years. This will ensure that the university records are kept up to date and any new relevant information (e.g., cautions or convictions) are considered in the appropriate manner.
- 5.3 Below sets out the different levels of DBS check, what information is checked and what starting arrangements need to be considered if checks can not be completed ahead of their start date.

DBS Type	Definition & Example	Check Type	Starting Arrangements
Basic DBS Check	<p>Can be used for any position or purpose.</p> <p>Example Roles: Estates – Maintenance & Trades Roles</p> <p>Student Wellbeing Services Roles – e.g. Administrator and Mental Health Strategy Officer</p>	<p>Provides details of convictions and conditional cautions from the Police National Computer (PNC) that are considered to be unspent under the terms of the Rehabilitation of Offenders Act (ROA) 1974.</p>	<p>Not able to start until a DBS check has been initiated. May start and work with additional supervision and safeguards until clearance is received.</p>
Standard DBS Check	<p>Covers duties, positions and licences included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 e.g. court officers, employment within a prison, and Security Industry Authority (SIA) licences.</p>	<p>Provides details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC) which have not been filtered in line with legislation.</p>	<p>Not able to start until acceptable disclosure has been received back from the DBS and agreed by recruiting manager. In exceptional situations following a risk assessment an employee may start before a disclosure is received but with full supervision and safeguards at all times until clearance is received.</p>
Enhanced DBS Check	<p>Covers specific duties, positions and licences included in both the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and the Police</p>	<p>Contains the same PNC information as a Standard DBS Check but also includes a check of information held by local police forces.</p>	<p>Not able to start until acceptable disclosure has been received back from the DBS and agreed by recruiting manager. In exceptional situations following a</p>

	<p>Act 1997 (Criminal Records) regulations.</p> <p>Example Roles: Student Accommodation Manager</p> <p>Professional Development Officer Careers and Employability</p>		<p>risk assessment an employee may start before a disclosure is received but with full supervision and safeguards at all times until clearance is received.</p>
<p>Enhanced DBS & Barred List Check (Child)</p>	<p>Covers roles which require individuals to engage in regulated activity with children (including all posts working within a 'specified place') and a small number of posts as listed specifically for this category in the Police Act 1997 (Criminal Records) regulations.</p> <p>Example Roles: School of Education Lecturer/ Senior Lecturer – PGCE Programme visiting schools.</p> <p>Bath Spa London Staff (on Further Education Site)</p>	<p>Provides an enhanced check, plus information from the DBS children's Barred List.</p>	<p>Not able to start until acceptable disclosure has been received back from the DBS and agreed by recruiting manager. In exceptional situations following a risk assessment an employee may start before a disclosure is received but with full supervision and safeguards at all times until clearance is received.</p>
<p>Enhanced DBS & Barred List Check (Adult)</p>	<p>Covers roles which require individuals to engage in regulated activity with adults at risk and a small number of posts as listed specifically for this category in the Police Act 1997 (Criminal Records) regulations</p>	<p>Provides an enhanced check, plus information from the DBS adults' Barred List.</p>	<p>Not able to start until acceptable disclosure has been received back from the DBS and agreed by recruiting manager. In exceptional situations following a risk assessment an employee may start before a disclosure</p>

			is received but with full supervision and safeguards at all times until clearance is received.
Enhanced DBS & Barred List Check (Child & Adult)	Covers roles which require individuals to engage in regulated activity with both children and adults at risk and a small number of posts as listed specifically for this category in the Police Act 1997 (Criminal Records) regulations. Example Roles: Student Wellbeing Services Mental Health Advisor – Registered Counsellors	Provides an enhanced check plus information from the DBS children's and adults' Barred Lists.	Not able to start until acceptable disclosure has been received back from the DBS and agreed by recruiting manager. In exceptional situations following a risk assessment an employee may start before a disclosure is received but with full supervision and safeguards at all times until clearance is received.

5.4 For applicants who are required to complete a DBS check as noted above and are living abroad or have spent time living abroad in the past, including students applying for work at the university, overseas criminal record checks will need to be completed, see [Criminal record checks for overseas applicants](#) for more information.

6. The DBS Safeguarding Panel

6.1 Where a DBS check reveals information about an applicant, this requires care review, and a DBS Safeguarding panel is convened by the HR department for this purpose. The Panel is made up of the following representatives:

Panel Chair	Director of HR
Representative 1	Head of Student Wellbeing Services
Representative 2	University Secretary

*Or delegated representatives for the above.

6.2 The panel considers the documentation in relation to an applicant's suitability for a role.

6.3 In coming to a judgement, the DBS safeguarding panel will consider only those offences which may be deemed relevant to the job role. Consideration is given to the following factors:

- **The nature of the offence** - In general, convictions for sexual, violent or drug offences will be particularly strong contra-indications for working with children and adults at risk. Driving or drink-related offences, in the context of transporting students, are also relevant.
- **Date at which offence occurred** - Offences that took place many years in the past may often have less relevance than recent offences. However, convictions for serious violent or sexual offences or serious offences involving substance abuse are more likely to give cause for concern than, for instance, an isolated case of dishonesty committed when the applicant was young.
- **The frequency of the offence** - A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.
- **Penalty for an offence** - A substantive penalty for an offence is more likely to give cause for concern than a caution.

6.4 The date and decision reached by the DBS safeguarding panel will be retained on the staff HR file.

7. Criminal offences obtained during employment

7.1 Where a current staff member discloses that a caution or conviction has occurred after the start of employment, or the University is made aware of this information, and may have a bearing on the staff member's suitability to work with vulnerable groups, a DBS Safeguarding panel meeting would take place as detailed above to review available information.

7.2 In recognition that this information may not be as accurate as a DBS check, the university reserves the right to take appropriate steps to obtain information relevant to the caution or conviction and take appropriate action so as to manage any new risk that might have arisen.

8. Responsibilities

8.1 Staff Member

- Comply with the DBS Policy and process for applying for a check, and any renewal checks, failure to comply will result in amended duties preventing unsupervised access and may result in disciplinary action.
- Complete the DBS application form in full and as soon as reasonably practicable on receipt of the request to do so, following the guidance.
- Provide, when requested to do so, the necessary documentation in support of the application
- Cooperate throughout the process and provide additional information if requested
- Notify the university if they are

8.2 Line Manager

- Understand the DBS Policy, and related procedures, seeking further advice where necessary. Where the need for a DBS check is unclear, seek advice from Human Resources.
- Ensure staff are aware of and comply with the DBS Policy and procedures, failure to ensure staff are complying with the policy may result in disciplinary action.
- Ensure job descriptions for roles that are eligible for a DBS check clearly state this in the special conditions. Checking regularly that the job description continues to meet the requirement for a DBS check (e.g. research or other new activities which may require a DBS check for the first time).
- Treat disclosures with sensitivity and confidentiality
- Conduct a risk assessment and put in place measures (e.g. amended duties) to ensure staff or volunteers without DBS clearance do not have unsupervised access to vulnerable groups (i.e. children and adults at risk).

8.3 Human Resources

- Provide training, coaching, advice, guidance and support as necessary
- Ensure that where roles are eligible for a DBS check, the contract states that offers of employment are subject to DBS checks
- Or where roles become eligible in the duration of their employment at BSU, that these obligations are confirmed in writing
- Process DBS checks in accordance with this policy and procedure
- Ensure the policy, and related procedures, are regularly reviewed, kept up to date and legally compliant.

Document Details

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