

Policy on Disclosure and Barring Service (DBS) Checks

1. Introduction

This policy sets out the approach that Birmingham City University will take when recruiting employees to posts involving work with children and vulnerable adults (by vulnerable adults we mean individuals over 18 years of age when engaged in activities set out in Part 2 of Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 including but not limited to when accessing healthcare). This policy also applies to existing employees in posts involving work with children and vulnerable adults.

The majority of roles at Birmingham City University do not require a DBS check, however there are certain roles which fall under 'regulated activity' as explained below in paragraph 3b and would require a DBS check with barring lists for child or adult or both child and adult. These roles are typically in healthcare, education and social work and can be found listed in Annex A (<https://icity.bcu.ac.uk/HR/Disclosure-and-Barring-Service> .)

The University is committed to equality of opportunity for all job applicants and aims to select people for employment on the basis of their skills, abilities, experience, knowledge and, where appropriate, qualifications and training.

The University will comply with its legal obligations in relation to recruiting people to work with children and vulnerable adults.

2. Scope

This policy applies to all posts at Birmingham City University involving working with children and vulnerable adults.

3. Roles and Responsibilities

The roles and responsibilities set out below include but are not limited to the following:

Vice Chancellor's Office, PVC/Executive Deans, Heads of School and Service Directors

- Ensuring that this policy is effective by monitoring its implementation.

Line Managers

- Undertaking such checks as may be required before allowing an employee to commence work

- Creating records in accordance with the General Data Protection Regulations, including updating the ERP system
- Implementing this policy consistently
- Seeking advice, when required, from Human Resources at the earliest opportunity
- Making fair and consistent decisions on the basis of the available facts

All employees

- Allowing the University to complete such checks as are required for their job role and to update those checks as required
Notifying the University of any matter which might affect their DBS record.

Human Resources Department

- Providing advice to managers on all aspects of the application of the policy and in order to support fair and consistent decision making.
- Ensuring records are retained in accordance with the General Data Protection Regulations including on the ERP system.
- Monitoring and reviewing the effectiveness of the policy and providing reports for effectiveness monitoring.

4. Procedure and Criteria

(a) Types of Disclosure and Barring Service check

The University is able to apply for a Disclosure and Barring Service (DBS) check as part of a safer recruitment process where the role meets the prescribed eligibility criteria. The level of check will depend upon the nature of the role e.g. those working in posts that involve unsupervised or regular and close contact with groups including children are likely to be in Regulated Activity. Only those posts involving Regulated Activity will be subject to Enhanced DBS checks which include a barred list check. However, those working in a supervised capacity with children (i.e. someone is working with them) will be subject to an Enhanced DBS check but not a barred list check.

There are four types of Disclosure and Barring Service (DBS) check:

- (i) Basic disclosure:** These disclosures may be obtained by the individual themselves from the Disclosure and Barring Service, through BCU's systems or via a responsible organisation registered with the DBS service. A Basic disclosure will contain details of convictions and conditional cautions considered to be unspent under the terms of the Rehabilitation of Offenders Act 1974.

The Rehabilitation of Offenders Act 1974 aims to give those with convictions or cautions the chance, in certain circumstances, to wipe the slate clean and start afresh.

Under the Act, eligible convictions or cautions become 'spent' after a specified period of time known as the 'rehabilitation period', the length of which varies depending on the nature of the conviction.

At Birmingham City University, we do not normally require a basic disclosure as part of our recruitment procedures.

- (ii) **Standard disclosure:** Standard disclosures must only be obtained for positions which are listed as examples under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended).

Standard disclosure contains details of all current convictions and spent convictions as well as details of any cautions, reprimands or warnings held on the Police National Computer. These are all shown on a criminal record check.

The Recruiting Manager must consider whether the role meets the following criteria for **Standard disclosure**:

- Applying for a Security Industry Authority (SIA) licence

- (iii) **Enhanced disclosure:** To be eligible to request an Enhanced disclosure, the position must be identified as an exempt position as described above but must also be included in the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013 as work with children or vulnerable adults.

Enhanced disclosure contains the same details as a Standard disclosure together with any information held locally by the Police that is reasonably considered might be relevant to the post applied for.

The Recruiting Manager must consider whether the role meets the following criteria for an **Enhanced disclosure (working with children)**:

- Individuals who carry out regulated activity with children where the work is done infrequently (but more than once).
- Individuals who work in an educational environment where their normal duties bring them into regular contact with students under the age of 18.

The Recruiting Manager must consider whether the role meets the following criteria for an **Enhanced disclosure (working with vulnerable adults)**:

- Individuals who work in a high security psychiatric hospital
- Individuals who carry out activities with vulnerable adults that are specifically defined as work with vulnerable adults
- Individuals who manage, on a day-to-day basis, anyone who carries out activities with vulnerable adults that are specifically defined as work with vulnerable adults

In each case the work is as defined by the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013.

- (iv) **Enhanced disclosure with barred lists check:** To be eligible to request an Enhanced disclosure with barred lists, the position or activities must be listed as a regulated activity in the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act in 2012.

Enhanced disclosure with barred lists check contains the same information as Enhanced disclosure together with details of whether the person is on the DBS barred list for children or vulnerable adults or both and is only available for those individuals engaged in regulated activity with children and vulnerable adults.

The Recruiting Manager must consider whether the role meets the following criteria for an **Enhanced check with child barring list**:

- Individuals who provide teaching, training or instruction to children on more than 3 days in a 30-day period or overnight between 2am and 6am with the opportunity for face-to-face contact with the children.
- Individuals who provide care or supervision of children on more than 3 days in a 30-day period or overnight between 2am and 6am with the opportunity for face-to-face contact with the children.
- Individuals who provide advice or guidance wholly or mainly to children and this specifically relates to their emotional, educational or physical well-being on more than 3 days in a 30-day period or overnight between 2am and 6am with the opportunity for face to face contact with the children.
- Individuals who provide healthcare to children, either as a health care professional or under the direction or supervision of a health care professional. This includes providing psychotherapy and counselling. This only has to be done once.
- Individuals who undertake the regular day to day management or supervision of individuals carrying out regulated activity with children.

The Recruiting Manager must consider whether the role meets the following criteria for an **Enhanced check with adult barring list**:

- Individuals who provide healthcare to vulnerable adults either as a health care professional or under the direction or supervision of a health care professional. This includes psychotherapy and counselling.
- Individuals who provide personal care to vulnerable adults. This includes physically assisting vulnerable adults, prompting and then supervising vulnerable adults, or training, instructing or providing advice or guidance on eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails and this is done because of the adult's age, illness or disability.
- Individuals who are regulated social workers providing social work to vulnerable adults who are clients or potential clients.
- Individuals who manage or supervise anyone on a day-to-day basis who carries out regulated activity for vulnerable adults.

(b) Regulated Activity

This is work that a barred person must not do.

- **The scope of Regulated Activity for children is summarised below:**
 - i. Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice or 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.
- iii. Relevant personal care e.g. washing or dressing, or healthcare by or supervised by a professional
- iv. Registered child-minding and foster carers

Work under (i) and (ii) is regulated activity only if done regularly – such as more than 3 days in a 30 day period.

- **The scope of Regulated Activity for Adult is summarised below:**

The scope of regulated activity in relation to vulnerable adults is defined as those who provide:

- Healthcare
- Personal Care
- Social Work
- Assistance with cash, bills or shopping
- Assistance with conduct of an adult's own affairs
- Conveying vulnerable adults who need it because of their age, illness or disability.

If any adult requires these regulated activities, it will mean that the adult will be considered as 'vulnerable' at that particular time.

(c) DBS Panel

The DBS Panel comprises of the Director of HR and/or the Deputy Director of HR and/or Head of HR Shared Services. The DBS Panel makes determinations as set out in this policy.

(d) Disclosure of criminal convictions

The University requires job applicants and existing employees, for specific posts, to disclose whether they have any criminal convictions which are both relevant and unspent (other than where protected cautions and protected convictions do not need to be disclosed), depending on the job concerned. The University requires this information to assess any risk the applicant or existing employee may pose to the University including both staff and students.

If a job applicant discloses that they have a criminal conviction at interview, HR will issue a Criminal Conviction Declaration Form for the applicant to complete and return directly to HR. This form together with the DBS check will be compared at a DBS panel meeting so that the risk can be assessed.

If the applicant or employee provides false information which indicates that they are not barred, when they are, this is likely to constitute gross misconduct on grounds of dishonesty and result in the withdrawal of the offer or summary dismissal.

(e) Roles which have been identified as requiring a DBS check

Annex A (<https://icity.bcu.ac.uk/HR/Disclosure-and-Barring-Service>) provides a list of roles which have been identified as requiring a DBS check. These roles have been set up on the online system.

The Hiring Manager is responsible for checking the role against the list of roles in Annex A and identifying the need for a DBS check and the level required in the 'Authority to Fill' form.

In the situation where the Hiring Manager does not find the role title listed in Annex A but they consider that a DBS check may be required, they should speak to their Resourcing Advisor in the first instance who will liaise with the Recruitment Manager to identify whether a DBS check is required and to have the role set up if this is appropriate.

(f) Occasional DBS checks

There will be occasions when certain individuals at the University will be engaged in activities with children and vulnerable adults as part of their role for example as a personal tutor, running summer schools, outreach programmes, taster days, family events or interviews with prospective students. Where this is the case, it is essential that the line manager flags the activity to their Resourcing Advisor as soon as possible if they believe that the activity could fall within the scope of regulated activity as detailed in Paragraph 3b above as Standard and Enhanced DBS checks can typically take up to 8 weeks to be returned.

(g) Process with Know Your People (First Advantage)

Where a Standard, Enhanced and Enhanced with barred list DBS is required, the University will seek the job applicant's agreement to make a joint application to the Disclosure and Barring Service for the DBS check. The DBS check will be done through an umbrella company called First Advantage, whose platform for managing these kinds of requests is called Know Your People.

To enable the job applicant to carry out the DBS check (other than where a basic and standard disclosure is required), the Human Resources department (HR) will start the process by entering some basic details into the Know Your People on-line portal: the applicant or employee's name, job title and email address, The applicant will then receive an email from Know Your People detailing next steps.

Once the applicant has completed the form online, they will be asked to print off a document and to take this, together with their documents proving identification, to a Crown Post Office or to BCU HR Department, as directed, for verification.

The Post Office will notify Know Your People when the verification of the documents has been completed. Know Your People will then send the information to the Disclosure and Barring Service for processing. Once the check has been completed, the certificate will be issued directly to the individual. HR can access the portal where the certificate numbers are kept and will be able to see whether the check was 'clear' or not. HR may request to see a copy of the certificate.

The fee for the DBS application and verification of documents at the Post Office will be paid by the University directly to First Advantage.

The applicant's data is captured onto the Know Your People portal. First Advantage are Data Protection Act compliant and ISO27001 accredited.

The information on the portal is archived after 3 years. HR will run regular reports from the First Advantage system to identify when the 3-year anniversary is coming up. From this information HR will request a new DBS check to be done.

(h) Offers of employment

An offer of employment for a post involving work with children or vulnerable adults will be conditional on the job applicant satisfying the University's usual requirements for employment (for example to provide satisfactory references and produce documentation establishing his/her right to work in the UK).

In addition, the offer of employment will be conditional, where required, on satisfactory completion of DBS checks, depending on the post in question. Where the job applicant refuses to agree to an application to the DBS or a DBS check is completed but the job applicant refuses to allow the University to see the DBS certificate, the applicant will be treated as not having satisfactorily completed the DBS check and the offer of employment will be withdrawn.

The University will not usually allow anyone to start work until the DBS check, two references (one must be from the applicant's most recent employment) and right to work checks have been satisfactorily completed. Only in exceptional circumstances would an applicant be allowed to start work in the absence of a DBS check and then only following a risk assessment being completed by the hiring manager and HR. Once completed, this risk assessment will be submitted to the DBS panel for consideration. The DBS panel will either approve or not approve the proposal to allow employment to commence in advance of the University receiving the DBS check. If the DBS panel does not approve the proposal, the applicant will not be permitted to start work until the DBS check is received.

Please refer to section **(k)** for more information regarding Risk Assessment.

(i) Positive Disclosures

Applicants

If there are any warnings, cautions or convictions listed on the applicant's certificate, HR will support the hiring manager to undertake a risk assessment which will be referred to the DBS Panel. Depending on the nature and date of the conviction, the Applicant may be asked to attend a meeting with the DBS panel so that the Applicant can explain the circumstances of the offence. The DBS panel will consider the suitability of the Applicant for appointment into the role based on the information contained in the disclosure and the following:

- The nature of the offence(s).
- The age at which it was committed
- Its relevance to the professional area in question
- Any pattern of offending behaviour
- The two references provided
- Whether the individual declared the offence(s) at any stage during the recruitment process.

The DBS Panel will then decide whether the person is considered suitable to start or continue in the role. If the decision is that they are not suitable then the offer of employment may be withdrawn or where employment has commenced in accordance with any risk assessment, employment will be terminated.

Current employees

For current employees whose role is subject to a Disclosure and Barring Service check, should there be any change in their status in respect of matters covered by the DBS certificate, they must inform their line manager immediately. The line manager will notify HR who will support the line manager to prepare a risk assessment.

Whilst the University is investigating any change in status and preparing a risk assessment, unless suitable alternative work can be identified, the University may suspend the employee from duty on full pay. Any temporary removal from normal working duties is not a disciplinary sanction. Suspension will be kept for as short a period of time as possible and will be reviewed regularly.

The risk assessment will refer to the DBS panel to determine next steps, which might include assignment to other duties or referral for disciplinary action.

(j) Referrals to the Disclosure and Barring Service related to safeguarding concerns

If an employee in a regulated activity has been dismissed or removed from their post due to safeguarding concerns, or would have been dismissed or removed from their post if they had not resigned, the University will make a referral to the Disclosure and Barring Service via the Director of HR or the Deputy Director of HR.

(k) Risk Assessments

Where a risk assessment is required prior to appointment, a member of the Resourcing team will provide the hiring manager with a risk assessment form to complete and will support the hiring manager to carry out a risk assessment. The risk assessment will be completed in the following type of situations:

- The applicant has declared a conviction or an offence as part of the recruitment process
- The DBS check has shown a conviction or offence
- In exceptional circumstances, the faculty or department requires the applicant to start work before the DBS check has been received

A risk assessment will also be completed by the line manager with HR guidance where an existing employee has declared that they have a conviction or committed an offence which might affect their DBS status.

Once the risk assessment is completed, it will be submitted to the DBS panel for consideration and to evaluate the risk.

Not all criminal convictions will be a bar to appointment or continued employment. The results of or any change to a DBS check will be considered on an individual basis and the University will act in a proportionate manner when deciding whether or not to proceed with the appointment to the post in question or to refer an existing employee for disciplinary action. However, the protection of children or vulnerable adults is the University's primary concern.

(l) Renewal of DBS Check

The University requires all employees who are in a post which has exemption from the Rehabilitation of Offenders Act 1974 to inform their line manager and the Human Resources Department should they be convicted of an offence.

Renewal of DBS certificates will take place every 3 years or upon a change of role if additional checking is required. This will be arranged by HR using First Advantage's Know Your People online platform.

(m) EU & Overseas

If applicants have lived outside the UK for six months or more in the last five years, the Human Resources department will need to see a criminal record check for the country in which the applicant has been living. For further information, please speak to the Resourcing Adviser you have been working with in the Human Resources Department.

5. Data Protection

The University processes information about an individual's criminal convictions in accordance with its Data Protection Policy and the Policy Statement on the secure storage, handling, use, retention and disposal of disclosures and disclosure information relating to the recruitment of staff. In particular, data collected during recruitment is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the recruitment process. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the University's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the disciplinary procedure.

Once an individual is recruited, information about his/her criminal record gathered in the course of the vetting process will not be transferred to his/her personnel file.

The University is also committed to going through the proper DBS channels to establish whether or not an individual has a criminal record.

6. Review

This Policy will be reviewed by the Human Resources Department (HRD) every three years, or sooner where new developments in employment legislation necessitate such a review, where factual clarification is required or changes to operational practices take place. Reviews will be carried out in consultation with our trade union, managers and other key stakeholders. The next review will be undertaken by October 2026.

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Mark O'Dwyer
Director of Human Resources