



## **Disclosure and Barring Service Check – Including Our Commitment to the Recruitment of Ex-Offenders Policy**

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Head of Human Resources

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## Context

Safeguarding children and adults is absolutely paramount and that the College builds good safeguarding practice into routine procedures and practices. It is vital, therefore, that running parallel with this policy, the College adheres to robust recruitment and vetting procedures that minimise the risk of employing people who might abuse children and adults, or are otherwise unsuited to work with them.

## Introduction

All employees who work for the College will be subject to enhanced disclosure checks and repeated checks will be made not more than every 3 years of employment. This is because all of our staff have access to students, unsupervised in the majority of cases. As lots of our students are under the age of 18 years, this means that these students are classed as children. This process also applies to volunteers and people on teacher-type training courses. The College may also request an individual undertakes a DBS check at any point in the employment relationship. In terms of recruitment, only the successful applicant will be expected to complete a DBS check.

Employees will also be re-checked if they are out of the business for a period of 3 months or more, eg. long term sickness, maternity, adoption or shared parental leave. Employees who transfer from a non-regulated role into a regulated role will also be re-checked.

Employees will be encouraged to apply for the Update Service and to keep their registration updated each year. The College will check the update service each year in order to ensure that it is kept up-to-date and to repay the renewal fee. New employees will have to provide their original DBS form issued as well as access to the update service. Employees who do not sign up to the update service will be expected to pay for their own DBS disclosure as and when the College requires it. The College will pay for the first DBS disclosure (if the update service has not been accessed), and will pay for the annual cost of the update service providing that this is evidenced it is available. It is the employee's responsibility that the update service is maintained – if not, then the individual must pay for the full DBS disclosure. All employees have to have a DBS disclosure document as determined by their job specification, whilst working for the College.

Enhanced checks will take one of the following forms:

- Child workforce – this puts the individual into 'Regulated' activity for children i.e. under 18 years old responsible for teaching, training, instruction, care for or supervision of children.
- Adult Workforce – this puts the individual into 'Regulated' activity for adults' personal care (eating, drinking, toileting, washing, bathing, dressing, oral care or care of the skin, hair or nails) provided for reasons of age, illness or disability.
- Child and Adult Workforce – the individual's role covers both children and adults (as per above).

## **All new employees to the College**

All new recruits need to have the appropriate DBS issued or allow the College access to the update service. Often, there is a business need for new recruits to start prior to the DBS certificate being issued. In these circumstances, risk assessment forms need to be completed. The first part of the form is completed by the individual and part two, by the manager. The College will then need to see a previous copy of the individual's DBS certificate, at least one reference and a List 99 check and barred Teachers' check if appropriate. Once these have been completed, the decision whether the College can take the risk for the individual to start, lies with the Deputy Principal or the Principal/Chief Executive.

## **Handling Applicants with Adverse Disclosures**

It is important that applicants are honest when completing the application form with the College and tell us if they have any cautions or convictions. If the individual has told the College in writing (either on the application form or via a separate written communication) prior to the issuing of the DBS, the College will consider whether or not the disclosure will make a demonstrable difference to the applicant's ability to undertake the role. The College is likely to look more favourably at applicants who declare past issues. Applicants who do not disclose issues that are then declared on the DBS certificate, are highly likely to have any offer of employment retracted.

Having a conviction will not necessarily bar someone from employment with the College who will only take a criminal record into account when the conviction is relevant. Protection of the applicant's rights and interests must be weighed against the rights and interests of the College, its students, its employees and the public image including our duties and responsibilities to these or other groups.

It is an offence for a barred person to work, apply to work or for the College to offer work in Regulated Activity with a group they are barred from working with. Candidates on the Barred List will not be employed by the College. If the checks reveal that a candidate is on the Barred List for Regulated Activity, the College will make a referral to DBS to notify them of an individual's attempt to apply for barred work.

## **Handling Staff with Adverse Disclosures**

It is covered in the College's Disciplinary & Capability Policy that all staff have to inform their manager if they are subject to police action as soon as possible. Some staff may have previous cautions/convictions and these will be already known to the College. For all positive disclosures, a screening form is completed and recommendations are made by the Deputy Principal. Those recommendations could include either no further action to be taken, or to direct the line manager to undertake a formal interview with the individual and report back to the Deputy Principal when a decision will need to be made as to the person's continued suitability for employment. If the conviction/caution is known to the College i.e. already declared, no action will be taken with the member of staff.

If a new conviction/caution comes to light via a DBS check, and the individual has not declared the caution/conviction prior to that check, the screening form is still completed. The line manager is highly likely to be instructed to carry out a formal interview and report back on the situation. Depending upon the severity of the caution/conviction, the College's Disciplinary & Capability Policy may be invoked.

If the situation occurs where a conviction is pending or being investigated, the College may well need to take action to safeguard the individual and the College in the short/medium term. This can include precautionary suspension, restricting duties, moving the individual's base etc. We will ensure that the people who are aware of the situation are as few as possible. They are likely to include the Principal/Chief Executive and the Deputy Principal (Safeguarding lead). We will take into consideration whether we need to take advice from the LADO (Local Authority Designated Officer) or the police. We will ensure that as few people as possible within the College are fully aware of the situation as we understand that not all investigations will lead to convictions/cautions. We will ensure that the individual is kept informed of our actions and where possible, we will agree what communications are appropriate.

### **Referral to the Disclosure and Barring Service (DBS)**

The Safeguarding Vulnerable Groups 2006 Act sets a legal duty for the College to refer information to the DBS if a member of staff/volunteer/contractor is dismissed or removed from working with children and/or adults (in what is legally defined as Regulated Activity) because they meet the referral criteria. We will therefore forward information to the DBS in all cases where an individual is dismissed or removed from regulated activity (or would have been removed had they not already left) because they harmed or posed a risk of harm to vulnerable groups including children. In cases where the College believes the individual has committed a criminal offence, information will also be forwarded to the police at the earliest opportunity.

### **Employees Supervising Young People during Work Experience**

If as part of an employee's duties, they are asked to supervise young people (under 18s) on work experience, this is considered as regulated activity and an enhanced DBS check with Children's Barred List is required.

### **Agency Workers**

The agency is legally the employer for any agency workers and the responsibility to obtain a relevant disclosure is theirs. The College makes it clear to agencies that we work with what standard of check is required for each role, but both HR staff and the manager should obtain confirmation from the agency and the individual that the appropriate check is in place against the Children's and/or Adults barred list.

### **Contractors**

The organisation providing the contractor is legally the employer of any contractors and the responsibility to obtain a relevant DBS check or Enhanced check for Regulated activity is theirs. If contractors are procured, the Estates Team need to ensure that all Safeguarding requirements are included within the procurement documentation. We will audit the information on a regular basis to ensure compliance with these requirements.

### **Volunteers**

A volunteer is described as a person who performs an activity which involves spending time unpaid (except for travelling and approved out of pocket expenses) doing something which aims to benefit someone (individuals or groups) other than, or in addition to, close relatives.

Volunteers who assist on a regular basis in a role which meets the parameters for requiring a DBS check are required to undertake a DBS check, and if the role is also classed as Regulated Activity, they will be eligible for an Enhanced check. The disclosure is provided free of charge providing that the individual meets the DBS criteria.

To obtain a free disclosure check with DBS, the applicant must not:

- Receive any payment (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; and/or
- Be in a trainee position that will lead to a full-time role post qualification

### **Gender Recognition Certificates**

The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate. When a full gender recognition certificate has been issued, the person is legally considered to be of the acquired gender.

If the person is required to undergo a DBS check as part of the recruitment process, they must disclose any previous names and/or gender to the DBS who have established a special application procedure/dedicated contract officer to maintain confidentiality. The email address is [sensitive@db.s.gsi.gov.uk](mailto:sensitive@db.s.gsi.gov.uk)

Gender confidentiality will be maintained where the individual has no criminal convictions and where there is no other information held by any Police Authority, as a clear disclosure certificate is the ultimate result. However, if they did have convictions under their previous gender that were considered relevant to the role, then the individual's gender change would become evident through the provision of conviction information on the DBS disclosure certificate showing both gender names. Please see the section on Handling and Storage of DBS Disclosures for further clarity.

### **Handling and Storage of DBS Disclosures**

Disclosure information is kept in the confidential section of an employee's file and 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.

Disclosure information is only passed to those who are authorised to receive it in the course of their duties. Where relevant/current information is disclosed, it may be necessary to speak with the line manager of the individual – we do not disclose the actual DBS certificate. We maintain a record of all those to whom Disclosures or Disclosure information has been revealed and we recognise that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

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.

Colleagues are expected to bring the original certificate in to a nominated member of the HR team who will take a copy of that certificate. Any previous DBS certificates will be destroyed at that time.

## **Retention**

We would normally keep the DBS information on file and replace it when an updated form is available. When employees leave our employment, this information would be destroyed rather than archived.

## **Disposal**

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately suitably destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). However, notwithstanding the above, we may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the Programme for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment decision taken.

## **GDPR**

In terms of the Data Protection Act 2018 (encompassing General Data Protection Regulation (EU) (2017/679) (GDPR)), reference should be made to the College's "Data Protection" and "Data Retention and Erasure" policies for clarification regarding how individuals' personal data is collected, managed and stored as a result of following this policy.

## **Safer Recruitment**

Safer recruitment training is available for all new managers. This is considered mandatory training for managers and no recruitment panel will run without a minimum of one person having received this training.

## **Recruitment of Ex-Offenders**

All individuals or organisations using the Disclosure & Barring Service (DBS) Disclosure service to help assess the suitability of applicants for positions of trust will become recipients of disclosure information, some of it very sensitive. To safeguard the interests of such applicants, individuals and organisations must comply fully with the DBS Code of Practice.

The basic requirement of the Code of Practice is that recipients of disclosure information should treat all job applicants with a criminal record fairly and not discriminate unfairly against the subject of a disclosure on the basis of conviction or other information revealed. However, as a College and responsible for children and vulnerable adults, we believe that applicants who have previous convictions for violent offences or supplying drugs are highly unlikely to be suitable employees.

The Code also obliges recipients to have a written policy on the recruitment of job applicants with a criminal record, which can be given to all applicants for positions where a disclosure is requested. This written policy on the recruitment of ex-offenders will be made available to all disclosure applicants at the start of the recruitment and selection process.

We undertake to treat all applicants for positions fairly and not to discriminate unfairly against any subject of a disclosure on the basis of conviction or other information revealed.

We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.

We encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process. It is essential that applicants disclose in full on application forms and other apparel if convictions/cautions have been received whether or not they are spent if they are likely to be outlined on a DBS certificate. Applicants who do not complete the information accurately may be dismissed if employment is offered and accepted or an offer retracted.

At interview, or in a separate discussion, we will ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. In return, applicants should be aware that failure to reveal information that is directly relevant to the position sought will normally lead to withdrawal of an offer of employment.

We undertake to discuss any matter revealed in a disclosure with the job applicant whenever we feel that it may be necessary to withdraw a conditional offer of employment.

Having a criminal record is not necessarily a bar to working with us. This will depend on the nature of the position and the circumstances and background of the offences disclosed.

Agreed UCU 15/7/15, UNISON 23/7/15 and AMiE 28/7/15. UCU/UNISON 5/7/16, 18/7/17, 4/7/19 AMiE 1/7/16 and 21/7/17. Agreed UCU/UNISON/AMiE 17/1/17, 3/8/18 EA 7/9/15, 7/11/18 This policy contains information that outlines the College's intention, however, there may be instances where the College is unable to fulfil the above obligations. We are committed, however, to act in a fair and reasonable manner.