

HUMAN RESOURCES

Employee DBS Checks and Criminal Convictions Policy

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EMPLOYEE DBS CHECKS AND CRIMINAL CONVICTIONS POLICY

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1. AIMS AND PURPOSE

- 1.1 The University of Chester recognises the need for responsible employment practices that enable the University to recruit and manage people from the widest pool of talent in ways that maintain its duty of care to its staff, students and other stakeholders and protect its business interests.
- 1.2 The purpose of this policy is to set out the principles relating to employing staff with criminal records and the procedures relating to the checking of criminal records, ensuring compliance with relevant legislation and good practice guidelines.

2. SCOPE AND AVAILABILITY

- 2.1 This policy will be taken into account when recruiting for all posts at the University of Chester. This policy applies only to staff appointments; there is a separate Student Screening Policy which deals with DBS checks for students.
- 2.2 Copies of this policy are available from Human Resources and on the HR Intranet site. This policy is also available on the University's corporate website so that applicants to whom a DBS check applies can access it.

3. GENERAL PRINCIPLES

- 3.1 The Rehabilitation of Offenders Act 1974 provides that ex-offenders are not usually required to disclose to potential employers convictions that are defined as 'spent' under the Act. The University requires applicants to declare 'unspent' criminal cautions and convictions as part of their application, except where they are applying for a job that is eligible for disclosure, in which case all cautions and convictions should be disclosed and a Disclosure and Barring Service check must be obtained as a condition of employment.
- 3.2 The University of Chester will not discriminate unfairly against applicants with a criminal record. Having a criminal record will not necessarily bar an applicant from working at the University; the nature of the disclosed conviction and its relevance to the role they have applied for will be considered. Where a conviction has been disclosed, a discussion will take place to consider the relevance of the conviction. Failure to reveal information regarding unspent convictions may lead to withdrawal of an offer of employment.
- 3.3 All staff are contractually required to disclose immediately any conviction or caution that they may acquire during their employment. Any disclosure should be made confidentially to the Director of Human Resources. Failure to do so may be regarded as gross misconduct and could result in termination of employment.

4. DISCLOSURE AND BARRING SERVICE

- 4.1 The University utilises the Disclosure and Barring Service (DBS) to obtain information to enable it to assess the suitability of applicants for posts working with vulnerable groups or in certain positions of trust. The University is a registered user of the DBS and complies with the DBS code of practice.

4.2 A disclosure will only be requested where it is clear that it would be relevant for the position concerned. This decision relates to the post and not the individual being appointed. Examples of roles requiring a DBS Check are listed in Appendix A.

4.3 There are two different levels of DBS disclosure, standard and enhanced. In addition to an enhanced disclosure it is possible to obtain a barred list check to identify when an individual is barred from working with either children or vulnerable adults. The DBS will exclude certain specified old and minor offences in line with filtering rules.

4.4 Standard Disclosures

4.4.1. A standard disclosure will contain details of any spent and unspent convictions, cautions, reprimands and warnings from the police national computer. A standard disclosure will not reveal whether an individual is barred from working with vulnerable groups.

4.4.2. A successful candidate may be required to submit a standard DBS disclosure if they are appointed to certain positions of trust as defined by the Rehabilitation of Offenders Act (ROA) Exceptions Order 1975.

4.5 Enhanced Disclosures

4.5.1. An enhanced disclosure will contain the same details contained within a standard disclosure along with non-conviction information from local police records if it is thought relevant to the vulnerable group to which the check relates.

4.5.2. A successful candidate will be required to submit an enhanced disclosure if they are appointed to a position listed in the ROA Exceptions Order and in Police Act Regulations, and meet the pre-September 2012 definition of regulated activity. These definitions are detailed in Appendix B.

4.6 Enhanced Disclosures with Barred List Checks

4.6.1. A barred list check will identify if an individual has been barred from working with the relevant vulnerable group. If a person is on the barred list for the relevant vulnerable group, they are prohibited from seeking to undertake regulated activity with the relevant group, and employers must not knowingly employ someone on a barred list to undertake regulated activity with the relevant group.

4.6.2. A successful candidate will be required to submit an enhanced disclosure which includes a barred list check if they are appointed to a post which is eligible for an enhanced disclosure and which meets the current definition of regulated activity. These definitions are detailed in Appendix B.

5. PROCEDURE FOR OBTAINING DBS DISCLOSURES

5.1 When a vacancy has been approved, the HR Adviser will liaise with the line manager to determine whether a DBS disclosure is relevant to the post with reference to Appendices A and B. Where a disclosure is required, the further particulars for the post will include a clear statement to that effect.

- 5.2 In such cases, a conditional offer of employment will be made subject to a satisfactory DBS disclosure. A candidate will not be required to apply for a disclosure until a conditional offer of employment has been made.
- 5.3 The successful candidate will normally be required to complete the DBS application using the online service at <http://www.chester.ac.uk/disclosure>. The successful candidate will receive an email with further details regarding the process. Once the online form has been completed, the individual is required to visit Human Resources with the relevant identity documents.
- 5.4 If an individual already has a disclosure of the same type and level and has subscribed to the DBS Update Service, the University will accept DBS disclosures obtained through other organisation.
- 5.5 Upon receipt of the DBS electronic certificate, the disclosure number and date of the disclosure will be recorded on the individual's personnel file.
- 5.6 Reasonable steps will be taken to ensure that a DBS certificate has been received by the time the individual commences in their role. By exception, in the event that a DBS certificate has not been received by the time the individual commences in their role, the line manager will be advised of this and will be responsible for risk assessing the work to be undertaken and ensuring appropriate supervision until the DBS certificate is received – the risk assessment at Appendix C should be used for this purpose.
- 5.7 Where an electronic disclosure details evidence of a conviction, caution or other relevant information, the individual will be asked to attend Human Resources with their original disclosure certificate. The information will be referred to the Director of Human Resources who will consider the individual's suitability for the role in conjunction with the chair of the selection panel. The following points will be taken into account:
- The nature of the offence and its relevance to the role
 - The length of time since the offence occurred
 - Whether or not the offence was an isolated incident
 - Any relevant information provided by the individual about the circumstances
 - Whether the individual had already disclosed the offence
- 5.8 If a disclosure reveals evidence of a conviction but it is deemed to have no bearing on the person's appointment, a note will be made on the employee's file to this effect. If it is decided that it is not appropriate to proceed with the appointment, the offer of employment will be withdrawn. In all cases the certificate will be destroyed as confidential waste.
- 5.9 It is the University's policy to re-check the DBS status of certain groups of staff every three years. Rechecks can be done using the DBS Update Service where appropriate.

6. STORAGE AND DESTRUCTION OF RECORDS

- 6.1 The information provided by applicants and the DBS is of a sensitive and personal nature. It will only be used to judge the suitability or otherwise of an individual for the post in question.

- 6.2 Disclosure information is stored securely with access limited to and information shared only with those who are authorised to see it as part of their roles.
- 6.3 Once a recruitment (or other relevant) decision has been made, the disclosure information will be destroyed as confidential waste. The fact that a disclosure has been completed will be recorded on the individual's file, but no reference to specific offences will be made.

7. OPERATIVE DATE AND REVIEW

- 7.1 This policy was approved by the Strategic Executive Team on 31st May 2023 and will take immediate effect.
- 7.2 Human Resources has the responsibility for ensuring the maintenance, regular review and updating of this policy. The Director of Human Resources will ensure that changes and amendments are ratified by the appropriate University committees.
- 7.3 In developing and reviewing this policy, consideration has been given to any actual or potential adverse impact on equality groups.

Roles Requiring a DBS Check

Faculty/ Department	Job Title	Type of Check	Barred List Check	Legislative Wording
Faculty of Health, Medicine & Society	Academic staff/Visiting Lecturers in any subject area that is covered by the University contract with the NHS (e.g. nursing/midwifery/social work/dietetics/medicine) who supervise students on placement, undertake link activity or other types of regulated activity	Enhanced	Both	Adult workforce Legislative wording 14
School of Education	Academic staff/Visiting Lecturers who visit schools	Enhanced (re-check every 3 years)	Child	DFE statutory guidance – specified place
Various	Academic staff with PAT responsibility for students under the age of 18	Enhanced	Child	Child workforce Legislative wording 11
Various	Academic Staff/Visiting Lecturers who undertake regulated activity by virtue of Section 24 of the ESFA Conditions of Funding (Grant) (HEI) in relation to Apprenticeship programmes	Enhanced	Child (in relation to learners under the age of 19)	DFE Statutory Guidance
Nursery	Nursery staff and Nursery Manager's line manager and Ofsted registered person	Enhanced (re-check every 3 years)	Child	Child workforce Legislative wording 10 & 16
Directorate of Access, Skills & Apprenticeships	Outreach staff who visit schools	Enhanced	Child	DFE Statutory guidance - specified place
Student Services	Counsellors, Mental Health Advisors, Wellbeing Advisors, Disability Support staff	Enhanced	Adult	Adult workforce - Legislative wording 7
Student Services	Student Experience Managers/Officers	Enhanced	Both	Child workforce legislative wording 11
Student Services	Strategic and Operational Safeguarding Leads	Enhanced	Both	Child workforce legislative wording 20, adult legislative wording 14

APPENDIX A

Faculty/ Department	Job Title	Type of Check	Barred List Check	Legislative Wording
Chaplaincy	Chaplains, Associate Chaplains (if directly employed by the University of Chester)	Enhanced	No	Faith specific statutory guidance
Sport & Active Lifestyle	Lifeguards	Enhanced	No	Child workforce legislative wording 1
Estates and Facilities	Porters/Security	Enhanced	Adult	Adult workforce legislative wording 7

NB. This is not an exhaustive list

Levels of Disclosure and Definitions of Regulated Activity

Level of Disclosure	Criteria	Examples of the Types of Role Applicable
Standard disclosure	Positions detailed in the Rehabilitation of Offenders Act (ROA) Exceptions Order 1975	Positions not involving working with children or vulnerable adults but includes specified occupations, licences and entry into specified professions e.g. Chartered accountant, medical practitioner on entry into the profession only
Enhanced disclosure	Position detailed in the ROA Exceptions Order and in Police Act Regulations, and meets the pre-September 2012 definition of regulated activity ¹	Supervised activities with children which would be considered regulated activity if unsupervised and not in a 'specified place' Infrequent activities with children which would be considered as regulated activity if frequent Activities with vulnerable adults that are not deemed as regulated activity under current definitions
Enhanced disclosure with barred list check	Position eligible for an enhanced disclosure (as above) and meets the current definition of regulated activity ²	Unsupervised regulated activity with children on a regular basis Working in a 'specified place' with children Specified activities with adults who are deemed as vulnerable when in receipt of those activities

Definitions

1 Pre 2012 Definitions of Regulated Activity

Regulated activity covers anyone working closely with children or vulnerable adults, either paid or unpaid, not part of a family or personal arrangement, on a frequent, intensive or overnight basis. Frequent means once a week or more (except in health or personal care services where frequent means once a month or more); intensive means on four days or more in a single month.

Regulated activity can include, but is not limited to, any of the following:

- teaching, training or instruction, care or supervision of children
- teaching, training or instruction for vulnerable adults

- providing advice or guidance wholly or mainly for children, which relates to their physical, emotional or educational wellbeing
- providing advice, guidance or assistance wholly or mainly for vulnerable adults
- any form of treatment or therapy provided to children or vulnerable adults
- driving a vehicle that is being used only for the purpose of conveying children or vulnerable adults and their carers

In some specified settings (e.g. schools, children's homes, childcare premises, adult care homes), regulated activity includes anyone who works or volunteers on a frequent or intensive basis, and whose work gives them the opportunity for contact with children or vulnerable adults, regardless of the nature of the activity. For example, this may include catering, cleaning, administrative and maintenance staff if they work once a week or more or four days or more in a single month or overnight.

2 Current Definitions of Regulated Activity

2.1 Regulated activity relating to children:

- Unsupervised activities: teaching, training, instructing, care for or supervising children, or providing advice/guidance on well-being, or driving a vehicle only for children (if these activities are regularly supervised by a person in regulated activity then the work is not considered regulated activity);
- Work for a limited range of establishments ('specified places'), with opportunity for contact: e.g. schools, children's homes and childcare premises.

Work under i. and ii. is regulated activity only if done regularly (once a week or more, on 4 or more days in a 30-day period, or in some cases overnight between 2am and 6am)

- Relevant personal care, e.g. washing, dressing or healthcare by or supervised by a professional
- Registered childminding or foster carers

A child is a person under the age of 18, or under the age of 16 when in employment.

2.2 Regulated activity relating to adults:

Adults are no longer labelled as 'vulnerable' but rather the definition identified activities that if any adult requires them this leads to the adult being considered vulnerable at that time. This means that the focus is on the activity rather than the person required the activity or the setting in which the activity is conducted. There are six categories of activity which fall within the current definition, and anyone providing day-to-day supervision or management of the people conducting these activities also fall within the definition:

- Providing healthcare
- Providing personal care

- iii. Providing social work
- iv. Assisting with cash, bills and/or shopping
- v. Assisting with the conduct of the person's own affairs
- vi. Conveying (i.e. driving an adult to a place where they will be receiving healthcare, social work or personal care)

**SAFER RECRUITMENT RISK ASSESMENT:
PENDING DBS DISCLOSURE**

It is a legal requirement that for certain roles at the University of Chester where individuals are providing education and regularly caring for, teaching, training, instructing, supervising or being solely in charge of persons under 18 and/or adults who require ‘regulated activities’ to be provided on their behalf at a particular time, must have the appropriate type of DBS Disclosure.

In circumstances where a DBS Disclosure is pending, a manager has discretion to allow an individual to commence work, if the Risk Assessment form below has been completed and the name of the supervisor/s is provided. This Risk Assessment can only be completed once the DBS application has been submitted.

It is essential for Risk Assessment form to be completed by the line manager of the postholder if a DBS Disclosure has not been received when the postholder is due to start work. Once completed it should be forwarded to the HR Team who will log that this has been completed. This applies to colleagues working on or off University sites.

Name of New Starter	
Faculty/Department	
Job Title	
Date DBS Submitted	
Proposed start date	
Brief Description of the Job role, their previous experience and have they previously held a DBS	
Briefly describe the supervisory arrangements and restrictions to their role that are proposed (these might typically include wearing a visitors badge at all times, regular rotation of duties, being accompanied and supervised when undertaking regulated activities)	
Briefly describe the business reasons why the new starter needs to join the University urgently	
Risk Assessment completed by:	
Name:	Job Title:
Signed:	Date:
Risk assessment Valid until: (not to exceed 1 calendar month from start date)	