

# VETTING CHECKS AND DISCLOSURE AND BARRING SERVICE (DBS)

## Policy Statement

The Colleges have ambitions to be the best they possibly can and in doing so aim to provide education and training to diverse groups of students including those aged under 18 and vulnerable adults; they are committed to good safeguarding practices and the requirements under the intended Further Education (Providers of Education) (England) Regulations 2006 and the Safeguarding Vulnerable Groups Act (2006). This document reflects changes resulting from the Protection of Freedom Act 2012, to ensure the best possible use of the information provided by the Disclosure and Barring Service (DBS) vetting and identity checks to ensure safer recruitment.

The Colleges are an educational institution which is mainly for the provision of full-time education to children and as such is classified as an establishment.

This position Statement also covers contractors, volunteers, visiting lecturers etc.

## Procedures

### 1. Introduction

- 1.1. The establishment of the DBS provides availability of criminal record information. It is crucially important that people who have been convicted are treated fairly and are given every opportunity to establish their suitability for positions.
- 1.2. The existence of a comprehensive Disclosure service will not however be regarded as a substitute for any of the full range of existing pre-appointment checks, including taking up references and enquiring into the person's previous employment history. Disclosures will be seen as complementary to existing recruitment practice and will only be sought after a candidate has been provided with a provisional offer of employment or a voluntary position.
- 1.3. It should be noted that when legislation changes, the College's DBS vetting process will change accordingly.
- 1.4. The Colleges have a statutory and moral duty to ensure that they function with a view to safeguarding and promoting the welfare of young people and adults who are or may become vulnerable who receive education and training at the Colleges.

- 1.5. As an establishment it is recognised that all staff can be DBS checked for regulated activity in relation to children, however, only those staff undertaking regulated activity in relation to adults can be DBS checked against this criteria (see below). A note will be made on the Single Central Record if this is the case.
- 1.6. Governors are required to have a DBS in place and these will be completed with support from the Clerk as required.
- 1.7. Sub-contractors will be required to confirm any staff undertaking work for the Colleges have the relevant DBS in place and that there are no convictions which may prevent them undertaking work.

## 2. Definition

- 2.1 The protection of Freedoms Act 2012 has meant changes to the Safeguarding Vulnerable Groups Act 2006 (SGVA) and, in December 2012, merged the functions of the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) to form the Disclosure and Barring Service (DBS). This in turn scales back Regulated Activity (RA) and abolishes registration, monitoring and controlled activity from 10 September 2012.
- 2.2 Activity carried out in a specified place is also regulated activity relating to children. A specified place is an establishment listed in the Safeguarding Vulnerable Groups Act 2006, schedule 4, Part 1 (3). Establishment includes an educational institution which is mainly for the provision of full-time education. The Colleges currently have a larger cohort of full time education children than adults and as such are classified as an establishment.
- 2.3 The student mix changes annually, therefore there will be an annual review in October to consider whether the Colleges should remain classed an establishment. If the cohort has sufficiently changed for this not to be the case, then a complete review of this position statement and supporting processes is required
- 2.4 **Regulated Activity in relation to Children: Scope**

An activity is regulated activity in relation to children if carried out:

- in an establishment;
  - frequently (once a week or more often), or on 4 or more days in a 30-day period;
  - by the same person, engaged in work for or in connection with the purposes of the establishment;
  - it gives the person the opportunity, in their work, to have contact with children.
- 2.5 Day to management or supervision on a regular basis is regulated activity for children.

2.6 Exceptions to this include;

- Activity by a person contracted (or volunteering) to provide occasional or temporary services (not teaching, training or supervision of children).
- Volunteering, under day to day supervision of another person engaging in regulated activity.
- Activity by a person in a group assisting or acting on behalf of, or under direction of another person engaging in regulated activity;
- For activity undertaken regularly in a number of different establishments, but only infrequently in each: each establishment is only arranging the activity infrequently, so each establishment is not a regulated activity provider in relation to that activity

2.7 Risk assessments will be carried out with respect to these exceptions in order to establish the level of risk. These risk assessments will be carried out by the relevant and responsible manager and then checked and signed off by the Principal, Deputy Principal or Assistant Principal of the relevant College.

2.8 **Regulated activity in relation to adults: Scope**

The definition of vulnerable adult is amended so that adults are defined as vulnerable by the activities being carried out regardless of the setting or service. For example, a Worker or volunteer will be carrying out regulated activity if they;

- provide assistance with a person's cash, bills or shopping because of their age, illness or disability;
- are responsible for transporting an adult, because of their age, state of health or a disability to, from or between places where they receive healthcare, personal care or social work and are a regulated health care professional (or acting under the supervision of one)
- are providing personal care or social work which is required in connection with any health services or social services.

2.9 There is no longer a requirement to do activities a certain number of times before a person is engaging in regulated activity.

2.10 Contractors, Agency Workers, Self-Employed – Any staff not directly employed will be fully vetted and checked. Reference is made to the checks to be made in HR's DBS processes.

2.11 For contractors who are going to be regularly on any of the Colleges premises for a temporary period e.g. for building works, checks will be undertaken as part of the agreed terms. Reference is made to the checks to be made in HR's DBS processes.

- 2.12 For less regular and ad hoc contractors e.g. lift repairs, reference is made to the checks to be made in HR's DBS processes.
- 2.13 For contractors who are regularly working on the Colleges premises, such as Security and cleaning firms, all such roles will be fully checked. Reference is made to the checks to be made in HRs DBS processes.
- 2.14 Information which comes to the attention of HR, not disclosed previously, will be investigated further.

### **3. Proof of Identity – (for candidates who accept a position at the College)**

- 3.1 Documents suitable for proof of identity requested from all candidates invited to interview are advised by the Disclosure and Barring Service.
- 3.2 Following successful interview, if a candidate does not have an enhanced certificate acceptable to the relevant College any letter or offer will be made conditionally subject to DBS check, the post may not be taken up until such time that appropriate disclosure is obtained unless a robust risk assessment is carried out and authorised by the Principal, Deputy Principal or Assistant Principal of the relevant College prior to the candidate starting. Please refer to HR DBS processes for more detail.
- 3.3 All proof of identity to support this disclosure must be original - photocopies will be not be acceptable.
- 3.4 In accord with DBS regulations all information obtained prior to and following a status check will be held by Human Resources.
- 3.5 The Colleges will accept Disclosure issued by a school, or FE College, if the individual has been employed by them within the 3 months prior to appointment, working in a school or FE College which involved the provision of education and regularly caring for, training, supervising or being in sole charge of children or young people under 18 or adults identified as vulnerable.

### **4. Vetting and Identity Checks**

Applicable to all staff, agency/temporary workers or volunteers. A comprehensive list of documents which are acceptable is issued prior to interview.

Original (photo copies will not be accepted) evidence to provide proof of the following will be required:

- Full name – Birth Certificate, passport and/or work permit
- Any change of surname e.g. marriage certificate

- Address
- Date and place of Birth
- Qualifications
- Photographic identity e.g. passport/driving licence
- Right to work in the United Kingdom

4.2 In addition past employment history will be checked as will references etc.

4.3 Details of the DBS certificate will be kept on the Colleges Single Central Record which is kept by Human Resources.

## 5. Update Service

- 5.1 Individuals can choose to subscribe to the Government Update Service. This service will ensure their DBS certificate will be kept up-to-date so that they can take it with them from role to role within the same workforce.
- 5.2 If an applicant has subscribed to the Update Service the Colleges are able to go online, with the individual's consent, and carry out a free, instant check to find out if the information released on the DBS certificate is current and up to date.
- 5.3 If the status has not changed since the date of issue, the certificate is valid and a new certificate is not required.
- 5.4 If the status has changed, the certificate is out of date and a new certificate is required. A status will change if new convictions, cautions, reprimands or warnings, amendments are made to these or if an applicant becomes barred during the life of the certificate.

## 6. Enforced Subject Access Requests

- 6.1 Organisations are permitted to ask employees, job assistants or contractors whether they have any criminal convictions, however, they cannot insist upon disclosure of convictions which are deemed as expired or spent where these roles fall outside of the specified categories of employment. As Further Education Colleges identified as an establishment, the Colleges are permitted to ask these questions under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013) by SI 2013 1198.
- 6.2 The Data Protection Act 1998 has rendered it a criminal offence to conduct 'enforced subject access requests' (ESAR). This process has previously enabled prospective employers to request applicants to apply to the DBS personally, by way of an ESAR which they are then asked to supply to the employer in advance of starting work. This has enabled Companies to obtain information about employees, applicants or contractors, including spent convictions, which they would not otherwise be able to obtain.

6.3 It is not the Colleges policy to undertake ESAR's. This process will not be undertaken and DBS requests will only be made by the Colleges where it is legitimately entitled to do so.

## Statement on the recruitment of ex-offenders

- As an organisation using the Disclosure and Barring Service (DBS) to assess applicants' suitability for positions of trust, the Colleges comply fully with the DBS Code of Practice and undertake to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of conviction or other information revealed.
- To support this approach, and further to guidance from NACRO, questions about convictions have now been removed from the online application form that is visible to the manager carrying out the shortlisting. HR will still be able to see this information to ensure Safeguarding concerns are addressed.
- The Colleges are committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability, pregnancy or maternity, gender re-assignment or offending background.
- We have a written policy on the recruitment of ex-offenders, which is made available to all Disclosure applicants at the outset of the recruitment process. Applicants /employees are required to declare any pending criminal prosecutions they may have as well as any spent criminal convictions, cautions, reprimands and final warnings as defined under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. The only exception to this requirement is that applicants/employees do not need to disclose any 'protected' cautions or convictions as defined by the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975 (Amendment) (England and Wales) Order 2013.
- 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.
- All applicants called for interview are asked to provide details of their criminal record at the application process. We request that detailed information is sent under separate, confidential cover, to the Human Resources Officer, and we guarantee that this information is only seen by those who need it as part of the recruitment process.
- We ensure that staff in all Colleges who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

- Due to changes in law, the DBS service have now introduced a filtering service to identify and remove convictions and cautions. These are convictions and cautions which can no longer be legally shown on a certificate.
- Those convictions NOT filtered out include:
  - Those specified by parliament relating to an agreed list (held by HR). This list includes offences which are serious and relate to sexual or violent offences and/or Safeguarding
  - Cautions less than six years old, where the individual was over 18 at the time
  - Cautions given less than 2 years ago, where the individual was under 18 at the time
  - Convictions resulting in a custodial sentence – regardless of whether served
  - Convictions given less than 1 year ago, where the individual was over 18 at the time
  - Convictions given less than 5.5 years ago, where the individual was under 18 at the time
  - Where the individual has more than one conviction, all convictions will be shown
- Under the Exceptions Order 2013, all cautions and convictions for specified serious violent and sexual offences and other specified offences of relevance for posts concerned with safeguarding children and vulnerable adults will remain subject to disclosure. Therefore, for these certain offences, applicants are required to always disclose such details, regardless of when the offence took place. A full list of these offences can be found on the DBS website.
- The relevant College principal with the support of Central HR will consider any DBS Certificate with cautions and/or convictions. They will consider the nature of the caution/conviction, time lapse and area of work. A final decision on whether an offer of employment should be made will be documented and communicated to the applicant.
- We make every subject of a DBS Disclosure aware of the existence of the DBS Code of Practice and make a copy available on request and we undertake to discuss any matter revealed in a Disclosure with the person seeking the position before, if necessary, terminating employment.
- Having a criminal record will not necessarily bar a person from working with us. This will depend on the nature of the position and the circumstances and background of the offence.