



# Disclosure And Barring Service (DBS) Procedure

Author: HR Department

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Associated Documentation:

Recruitment and Selection Policy  
Managing Allegations against staff in a position of trust  
NHS Employers: NHS Employment Checking Standards – Criminal Record and Barring Checks  
Fit and Proper Persons Policy and Procedure  
Disciplinary Policy  
Capability Policy  
Professional Registration Policy

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## Staff Summary

Yorkshire Ambulance Service (the Trust) recognises the importance of its responsibilities as a healthcare provider in ensuring that criminal record and barring checks are carried out in the appointment and ongoing employment of all eligible individuals.

This Procedure and accompanying guidance set out how the Trust will ensure compliance with regulatory and legal requirements for obtaining information from the Disclosure and Barring Service (DBS) to enable safe recruitment decisions to be made in the appointment and continued employment of staff, volunteers, temporary staff and contractors.

### 1.0 Introduction

- 1.1 The Trust has a duty of care to protect the safety and wellbeing of patients. It must therefore have in place measures to ensure that it does not employ anyone who might be considered unsuitable to work with or have access to vulnerable patients. A DBS pre-employment check is just one of the pre-employment checks that may be carried out. The Trust will undertake a DBS clearance where it has been identified as a requirement of the role. The level of clearance will be determined by the type of work the individual will be undertaking and where the work is carried out.
- 1.2 In order to comply with our responsibilities under the Rehabilitation of Offenders Act 1974, and to ensure the Trust does not unfairly discriminate against anyone based on historical criminal offences, this document sets out how criminal history information should be considered as part of the application for employment process.
- 1.3 This procedure should be read in conjunction with the Trust's Recruitment and Selection policy, NHS Employers Guidance – Criminal Record and Barring Checks and Disclosure and Barring Service guidance documents.

### 2.0 Principles

- 2.1 The Trust will not allow an employee to commence in role, prior to a DBS check being completed, if it is required for that particular role. In exceptional circumstances, the Trust may make a risk-based decision to appoint applicants while they are awaiting the outcome of a DBS check. For example, for them to do their induction training, or to undertake other duties which would not include them engaging in any form of 'regulated activity'. In such cases safeguards will be put in place to manage that individual i.e., supervision, restricted duties, and access to patients, until the disclosure has been obtained.
- 2.2 The Trust will take all necessary action to ensure that re-checks are carried out at three yearly intervals for roles that have been identified as requiring a recheck.
- 2.3 Failure to complete forms when requested may result in disciplinary action being taken in accordance with the Trust's Disciplinary Policy.
- 2.4 The Trust will manage the DBS process in line with the principles and definitions outlined in the NHS Employers Guidance – Criminal Record and Barring Checks.
- 2.5 As a registered body, the Trust will observe the *Code of Practice for registered persons and other recipients of disclosure information (April 2009)*.

### **3.0 Roles and Responsibilities**

#### **3.1 Director of People & Organisational Development**

Has overarching responsibility for ensuring that the contents of this procedure are applied consistently and fairly across the Trust.

#### **3.2 Directors, Associate Directors and Heads of Service**

Directors, Associate Directors and Heads of Services are responsible for overseeing the dissemination and implementation of this Procedure across their service(s)/Directorate with reference to responsibility for NHS Employment Check Standards for recruiting managers. They are also responsible for considering the impact this Procedure may have on teams and services.

#### **3.3 Human Resources**

The HR Team via the Recruitment Team and HR Services are responsible for undertaking checks on behalf of the Trust, and providing accurate, timely advice to managers / employees to ensure the Procedure is appropriately and consistently applied across the Trust.

#### **3.4 Line Managers and / or Recruiting Managers**

Line Managers and/or Recruiting Managers are responsible for:

- Overseeing the dissemination and implementation of this Procedure across their service.
- Keeping any information they receive regarding applicants' convictions confidential.

Recruiting Managers are responsible for:

- Ensuring that all new employees are recruited appropriately for their service in line with this Procedure.
- Querying any highlighted information about convictions on application forms during the interview process and ensuring that records are retained in case of query at a later date.

#### **3.5 Employees, applicants, and volunteers**

These individuals are responsible for taking due consideration of this procedure when they apply for transfer or new position, or in the event they are subject to a warning, reprimand, caution or conviction whilst in employment.

Applicants must present the DBS certificate on demand, following their application to the Trust. If a certificate is not received, any offers made may be withdrawn.

Individuals must declare any warnings, reprimands, cautions or convictions they may have to the Trust. They must alert their manager if they become subject to any Police /other Agency investigation/s or if they receive a new caution or conviction, this must be done within 7 calendar days of the event, or as soon as reasonably practicable.

Individuals who are in a regulated profession (GMC, NMC, HCPC etc) are required by their codes of practice to report to the above as soon as possible, and this information is usually then shared directly with the Trust.

Volunteers working are expected to sign up to the DBS update service.

If an individual is covered under the Gender Recognition Act 2004, they may make a sensitive application to the DBS by phoning 0151 676 1452 or emailing [sensitive@db.gov.uk](mailto:sensitive@db.gov.uk).

### 3.6 **Agency Providers**

To comply with the Temporary Workers Procedure and the NHS Employments Check Standards, by ensuring all necessary checks have been undertaken for any interim staff supplied to the Trust.

## 4.0 **Level of Disclosure and Eligibility**

4.1 Before the Trust considers asking an individual to make an application for a DBS disclosure, it is legally responsible for ensuring that they are entitled to submit a disclosure request for the job role. The Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, and in certain circumstances, the Police Act 1992 (Criminal Records) Regulations 2002, as amended, lists the types of work, employment, or professions on which you can legally obtain a DBS check.

4.2 There are currently four levels of disclosure, Basic, Standard, Enhanced Disclosure and Enhanced Disclosure with children and/or adults barred list.

### 4.3 **Basic Check**

The basic check can be used for any position or purpose. A basic certificate will contain details of convictions and cautions from the Police National Computer (PNC) that are considered to be unspent under the terms of the Rehabilitation of Offenders Act (ROA) 1974. A basic check is required for staff who have access to patients in the normal course of their duties (non-regulated activities).

### 4.4 **Standard/Enhanced Disclosure**

Standard Disclosure is available for any position or licensing application listed in the Rehabilitation of Offenders Act 1974, (Exceptions) Order 1975. Standard DBS checks show details of both spent (old) and unspent (current) convictions including cautions, reprimands and warnings held on the Police National Computer. A standard disclosure check is required for staff who have access to patients in the normal course of their duties (non-regulated activities).

Enhanced Disclosure check is available for specific duties, positions and licences included in both the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and the Police Act 1997 (Criminal Records) regulations, for example, regularly caring for, training, supervising or being solely in charge of children and specified activities with adults in receipt of health care or social care services.

An **enhanced level** certificate contains the same PNC information as the standard level certificate but also includes a check of information held by police forces.

A **standard disclosure** check is required for those posts involving a far greater degree of contact with, and carrying out regulated activity with, children or adults direct care.

### 4.5 **Enhanced Disclosure with Barred List**

This check is only available for those individuals who are carrying out a regulated activity and a small number of positions listed in Police Act 1997 (Criminal Records) regulations, for example, prospective adoptive parents and taxi and Private Hire Vehicle (PHV) licences. An enhanced level certificate with barred list check(s) contains

the same PNC information and check of information held by police forces as an enhanced level check but in addition will check against the children's and/or adult's barred lists.

## **5.0 Making a decision when there is a positive disclosure (Recruitment)**

- 5.1 Possession of a criminal conviction does not automatically make an applicant unsuitable for employment in the NHS. Additionally, the NHS People Plan places a focus on inclusive recruitment and the need for NHS organisations to adapt their recruitment processes to ensure their workforces reflect the diversity of the communities they serve. However, where the disclosure indicates that the DBS has made a barring decision against one or both of the barred lists, it is illegal for an employer to allow them to engage in regulated activity from which they are barred.
- 5.2 Following submission of the DBS certificate (this is sent to the applicant and not the Trust, therefore applicants must submit this on receipt), where a Disclosure reveals the existence of a criminal record, the Recruitment Team will check to ensure the information has been declared by the applicant prior to appointment on their application form, on the model declaration form and on their DBS check documentation. They will refer the matter to the Recruiting Manager for discussion with the applicant. HR advice must be sought by the Recruiting Manager prior to any discussion with the applicant.
- 5.3 Where a positive DBS disclosure is received, the applicant must be offered the opportunity of discussing the information with the Recruiting Manager, who will be supported in the discussion by a HR representative. Any discussions in relation to information contained in DBS disclosures should be handled sensitively and in the strictest of confidence. Where a discussion is required in relation to information returned on a DBS disclosure then this must take place in an appropriate environment i.e., where the conversation cannot be overheard.
- 5.4 The DBS outcome discussion will be held by the Recruiting Manager with support from HR, and will be the context for the Trust risk assessment process. The discussion with the applicant should support the gathering of information (see section 5.5) to assist with decision making. The meeting with the applicant should include:
- Explaining the focus of the discussion is to allow the Trust to gain further information to identify whether there might be risks that need to be given further consideration.
  - Reassure the applicant of the Trusts values around promoting equal and fair opportunities for all.
  - Asking the applicant about positive changes since the offending behaviour.
  - Explaining the next steps, so the applicant is clear on what happens next and who will contact them once a decision has been made.
- 5.5 When considering disclosure information and any associated risks, the Trust will assess the following (some of this should be collected from the applicant):
- any legal or regulatory requirements
  - the nature of the offence
  - the severity of the offence
  - its relevance to the position being applied for
  - the length and type of sentence issued

- at what age the individual committed the offence
- whether the applicant has a pattern of offending behaviour, for example, if there are multiple offences
- the circumstances of any offence and whether the applicant's circumstances have changed since the offending behaviour. For example, where the offence was time-limited or committed as a juvenile and the individual has taken on responsibilities in life to enhance their standing in society, such as through education or voluntary work
- the circumstances surrounding the offending behaviour and the explanation offered by the individual
- whether individual disclosed the details as part of the recruitment process
- whether the disclosure was made known to their professional body where relevant

The Recruiting Manager's decision must be documented in the **Risk Assessment Documentation** (Appendix A) provided for this purpose. The Risk Assessment must be fully completed by the Recruiting Manager and/or HR Representative. Where the offer is progressed, the Risk Assessment will be held on the individual's personal file. If the offer is withdrawn, the Risk Assessment will be destroyed after 12 months.

- 5.6 Where the Trust is not satisfied with the information provided by the applicant or the information issued on the DBS Disclosure certificate, the Trust can withdraw the job offer explaining to the candidate the reason for doing this. It is the Recruiting Manager's responsibility to speak to the candidate in this instance. Managers should notify recruitment in order that a withdrawal of employment offer letter can be sent, and the recruitment file closed.
- 5.7 Should the applicant be unhappy with the decision to withdraw the employment offer or should there be further information that they wish to be considered the applicant can contact the Recruitment Team who will arrange for an independent review of the decision.
- 5.8 If following an individual's appointment, it comes to light that they have a criminal record and have failed to disclose information that is relevant to the position held, the circumstances for the criminal record and the reason for non-declaration by will be investigated. The investigation may lead to disciplinary action under the Trust Disciplinary Policy or withdrawal of an employment offer if it is considered that the applicant deliberately withheld information about their criminal record.

## **6.0 DBS Rechecks for existing employees**

- 6.1 DBS re-checks are to be carried out routinely (every 3 years) for PTS frontline staff and volunteers. If there are any delays in receiving the recheck and the DBS expires, the Line Manager must consider the risks associate with the role, whilst waiting for the check to be completed. Costs for the rechecks will be covered by the Trust.
- 6.2 Where existing staff change role within an organisation i.e., through recruitment and the level of DBS check required for both roles is the same, then providing the original DBS check was carried out within the last 3 years, a new DBS check will not be required. However, where a previous positive DBS has been deemed acceptable and risk assessed, this should be reviewed for the new position in line 5.2. If the new role requires a higher level of check, then a new DBS check must be completed before an unconditional offer of the new role is made as set out for external applicants. Costs must be covered by the member of staff unless this is for redeployment or as a result of organisational change.



- 6.3 Existing employees who may or may not have been previously subject to a disclosure check may, as a result of changes in legislation, regulations or working practices be required to undertake a Disclosure check during the course of their employment with the Trust.
- 6.4 The Trust reserves the right to ask existing employees in relevant positions for a disclosure check if their actions or activities give cause for concern. The grounds for this could be allegations of inappropriate behaviour made by a colleague, parent, carer or member of the public (this list is not exhaustive). In such circumstances a full investigation will be carried out in accordance with the relevant Trust policies. Where there are reasonable grounds, the Trust may require a new DBS check to be undertaken; costs will be met by the Trust.
- 6.5 Any employee refusing to comply with a DBS Disclosure request will be advised that their deliberate and unreasonable refusal to carry out this fundamental legal requirement and/or to comply with this contractual obligation will lead to the employee being subject to disciplinary action including suspension and up to and including dismissal, in line with the Trust's Disciplinary Policy and/or Capability Policy.
- 6.6 For staff who are Retiring and Returning or staff who wish to leave and return to Bank working arrangements, if their DBS has expired or is due to expire a check will be requested before they return to work. Costs must be met by the applicant.
- 6.7 For staff who require a DBS recheck for the purposes of education/placement at other organisations, unless the reason for the education/placement is mandated by the Trust or, as part of an agreed career development programme, costs must be met by the applicant.
- 7.0 Making a decision when there is a positive disclosure (Existing Employee)**
- 7.1 If a DBS re-check for an existing member of staff returns with a positive disclosure the HR Team will request a copy of the certificate to check and establish if the information has already been recorded and the Trust were previously aware. If the conviction is new, then the Line Manager will be contacted to arrange to discuss the disclosure with the employee and complete a **Risk Assessment** (Appendix B). The purpose of the discussion will be to establish the impact and risk in their current role. Reference should also be made to Allegations Against Staff Policy and the Professional Registration Policy. Employees should be aware that some convictions could lead to termination of their employment, where a Risk Assessment determines the risk to be incompatible with the individual's employment, unless suitable alternative employment can be found.
- 8.0 Volunteers**
- 8.1 Volunteers will be DBS checked in line with the criteria in this Procedure. DBS checks for volunteers are free of charge (except for the administration fee) to the Trust. Volunteers who are not willing to complete a DBS check cannot be used by the Trust in any capacity. Volunteers are expected to sign up to the DBS Update service.
- 9.0 Staff Recruited from overseas**
- 9.1 The Trust will carry out overseas police checks when recruiting staff from abroad. A Certificate of Good Practice will be applied for, where appropriate. This also applies to

applicants who have spent more than 6 months overseas during the last 5 years. Currently, the DBS can only access criminal records held on the Police National Computer (PNC) in England, Wales, and Scotland (there is also some conviction data held on the PNC from Northern Ireland).

- 9.2 Where the position meets the criteria for a disclosure check even if the applicant states they have never lived in the UK before, the Trust will request a disclosure check in addition to the individual's overseas police check. All overseas police checks will be in accordance with that country's justice system and with UK requirements. A UK address is required to request any checks.

## **10.0 Storage and Handling of DBS Notices**

- 10.1 The Trust does not receive a copy of the DBS Disclosure notice but email confirmation of successful completion of the check is received. Confirmation that the DBS check has been carried out on an individual will be recorded within the Electronic Staff Record (ESR) for the employee, this is to provide assurance that a disclosure check has been completed. The certificate number, the outcome and date, will be maintained on the individual's electronic staff record (ESR). No reference to any conviction details will be recorded on ESR.
- 10.2 Any original documents supplied by any individual will be returned to them immediately. Any copy documentation will be immediately and securely destroyed. Completed Risk Assessment will be retained confidentially on the individuals HR File with access limited.

## **11. Process for Review and Revision**

- 11.1 This Procedure will be reviewed in three years' time unless legislative or other changes necessitate an earlier review.

## **12. Definitions**

### **12.1 Disclosure and Barring Service**

The Disclosure and Barring Service (DBS) (a government body) helps employers make safer recruitment decisions each year by processing and issuing DBS checks for England, Wales, the Channel Islands, and the Isle of Man. The DBS also maintains the Adults' and Children's Barred Lists and makes considered decisions as to whether an individual should be included on one or both of these lists and barred from engaging in regulated activity. This body replaced the Independent Safeguarding Authority (ISA) and the Criminal Records Bureau (CRB)

### **12.2 DBS – Disclosure and Barring Service Barred List**

There are two barred lists administered by the Disclosure and Barring Service (DBS) (the Children's List and the Adults List). Checks against these lists apply to any regulated activity that involves the individual working or volunteering with children or adults.

### **12.3 Regulated Activity**

Regulated activity refers to certain roles that involve working with children or vulnerable adults, such as teaching and providing care. Anyone who is on the Disclosure and Barring Service (DBS) barred lists cannot work in these roles. Therefore, organisations who recruit people for regulated activities must legally carry

out Enhanced DBS checks to confirm whether they are barred and to prevent them from accessing these roles.

Regulated activities are eligible for **Enhanced DBS checks with children's and/or adults' barred lists**. They reveal whether or not a person has committed criminal activity that makes them unsafe to work with children or vulnerable adults.

**12.4 Disclosure Certificate**

A certificate that provides criminal record information, depending upon the type of disclosure requested.

**12.5 Standard Disclosure**

These contain details of all criminal convictions including those 'spent', together with cautions, reprimands, warnings and bind overs. This disclosure will also contain information from records held by the Department of Health (DH) and the Department for Education and Skills (DFES) to help NHS employers assess the suitability of candidates.

**12.6 Enhanced Disclosure**

These contain information that would be in a standard disclosure and in addition to other information held by local police forces on the Police National Computer (PNC) and judges to be relevant to the application e.g., details of impending prosecutions.

**12.7 Spent Convictions**

Convictions defined by the Rehabilitation of Offenders Act 1974 as being 'spent' after specified periods of time. Spent convictions do not need to be brought to the attention of the Trust unless the work or post is covered by the Rehabilitation of Offenders 1974 Exemptions Order.

## Appendix A

### Positive DBS Risk Assessment Form (Recruitment)

This form should be used by the Recruiting Manager (or nominated deputy) to assess the applicant's/volunteer's suitability for the position stated below, in light of matter(s) disclosed on their Disclosure and Barring Service (DBS) certificate.

DBS Disclosures are an important tool when recruiting safely within the NHS. Managers should only consider convictions and cautions that are specifically relevant to the position being appointed to. Further consideration should be given as to whether the conviction/s would pose any potential risk to patient safety while undertaking the role. It may be necessary to contact the candidate to discuss the matters disclosed further, to support with your decision.

<b>Applicant Name</b>	
<b>Position Applied For</b>	
<b>Department/Division</b>	
<b>Recruiting Manager (or nominated deputy)</b>	

<b>Questions for Consideration</b>	<b>Comments</b>	
Did the applicant declare any of the disclosure information prior to the DBS being applied for? If not, has the applicant provided an explanation for this?		
Is the role a regulated activity from which the individual is barred?  If yes – only complete Decision and Next Steps.	No	Yes
Does the applicant agree that the information provided on the DBS Disclosure Certificate is correct?  If not, why not?		
Are you satisfied with the applicant's/employee's/volunteer's		

explanation of the circumstances of the offence?	
When the offence was committed and how old was the applicant at the time?	
Is this a matter a one-off offence or are there a number of offences which form a pattern?	
What is the relevance of the offence the offence and there any mitigating circumstances? (E.g., peer pressure, financial, lack of judgement, traumatic event etc.)	
Have the applicant's circumstances changed since the offence? (If so how)	
Does the applicant regret the matter(s)? What is their attitude towards the matter(s) now?	
Can the applicant demonstrate any efforts not to re-offend (e.g., by attending a rehabilitation course)	
Is the individual barred from working in regulated activity? (If applicable)	
What level of supervision does the post-holder receive?	
Were suitable references obtained and ID checked? (If references gave cause for concern, please state details)	

<b>Questions for Consideration</b>	<b>Comments</b>
What is the nature of the role and what level of contact will the individual have with children/vulnerable adults?	
What is the frequency of the contact with patients?	

Will the applicant be required to work unsupervised with patients at any time?	
Does the post require dealing with or access to money, finance or items of value?	
Will the nature of the post present and realistic opportunities for re-offending?	
Who might be harmed?	
In light of the above, do you consider the individual to be a high/medium or low risk?	
Can any safeguards be implemented to reduce/remove any risk if the appointment is considered to be a medium or low risk?  Please detail these and who is responsible for each action.  (e.g., no unsupervised contact)	

Has this been discussed with the safeguarding team? (If applicable)	
Has this been discussed with HR? Please state the HR contact name	

**Comments:**

**Decision:**

After discussion of the matter(s) regarding the applicant and considering the information provided, I wish to:

<b>Withdraw offer of employment</b>		<b>Continue with offer of employment</b>	
<b>If the outcome of the referral results in an offer of employment being withdrawn, has the applicant been informed? (It is the Recruiting Manager's responsibility to speak to the candidate in this instance)</b>		<b>Yes/No</b>	

<b>Recruiting Manager (or Deputy) Name</b>	
<b>Position</b>	
<b>Signature/Electronic signature</b>	
<b>Date</b>	

## Appendix B

### Positive DBS Risk Assessment Form (Existing Employee)

This form is to be used in light of matter(s) disclosed on an existing employees Disclosure and Barring Service (DBS) certificate to establish the impact and risk in the individual's current role.

Managers should only consider convictions and cautions that are specifically relevant to the position held. Further consideration should be given as to whether the conviction/s would pose any potential risk to patient safety while undertaking the role.

Reference should also be made to Allegations against Staff Policy and the Professional Registration Policy. Employees should be aware that some convictions could lead to termination of employment, where a risk assessment determines the risk to be incompatible with the individual's employment, unless suitable alternative employment can be found.

#### Section 1 – Employee Details

<b>Employees Name</b>	
<b>Role</b>	
<b>Department/Division</b>	
<b>Line Manager</b>	

#### Section 2 – Risk Assessment (to be completed by the Line Manager and HR)

##### Assessing the Risk:

Questions for Consideration	Comments
Did the individual declare any of the disclosure information prior to the DBS being applied for?	
Is the Trust already aware of the disclosure is the information recorded?	
Is there new information? If not, has an explanation been provided?	
Do they agree that the information provided on the DBS Disclosure Certificate is correct? If not, why not?	



Are you satisfied with the explanation of the circumstances of the offence?	
When was the offence committed and how old were they at the time?	
Is this a matter a one-off offence or are there a number of offences which form a pattern?	
What is the relevance of the offence the offence and there any mitigating circumstances? (E.g., peer pressure, financial, lack of judgement, traumatic event etc.)	
Have circumstances changed since the offence? (If so how)	
Do they regret the matter(s)? What is their attitude towards the matter(s) now?	
Have they demonstrated any efforts not to re-offend (e.g., by attending a rehabilitation course)	
Are they barred from working in regulated activity? (If applicable)	
What level of supervision does the post-holder receive?	

**Risks associated with the role/patient safety:**

Questions for Consideration	Comments
What is the nature of the role and what level of contact will the individual have with children/vulnerable adults?	

What is the frequency of the contact with patients?	
Does the post require the individual to work unsupervised with patients at any time?	
Does the post require dealing with or access to money, finance or items of value?	
Will the nature of the post present and realistic opportunities for re-offending?	
Who might be harmed?	
Are there any other factors or information that needs to be considered?  If yes, please detail.	
In light of the above, do you consider the individual to be a high/medium or low risk?	
Can any safeguards be implemented to reduce/remove any risk if the risk considered to be a medium or low risk?  Please detail these and who is responsible for each action.  (e.g., no unsupervised contact)	
Has this been discussed with the safeguarding team? (If applicable)	
Has this been discussed with HR? Please state the HR contact name	

**Section 3 – Line Managers comments and decision regarding next steps**

**Comments:**

**Next Steps:**

<b>Line Manager Name</b>	
<b>Position</b>	
<b>Signature/Electronic Signature</b>	
<b>Date</b>	

A copy of this form will be retained on the individual's personnel file.