

Suitability of Ex-Offenders for Employment Procedure

1 Scope and Purpose of Procedure

- 1.1 This procedure applies to all employees and potential employees.
- 1.2 As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the Disclosure and Barring Service (DBS). The College complies fully with the DBS code of practice and undertakes to treat all applicants for positions fairly.

2 Procedure Statements

- 2.1 The College is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion or belief, sexual orientation, maternity/ pregnancy, marital status, responsibilities for dependants, age, disability or offending background.
- 2.2 The College undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.
- 2.3 The College can only ask an individual about convictions and cautions that are not protected.
- 2.4 This procedure is available to all DBS applicants.
- 2.5 It is a requirement that all registered bodies must treat DBS applicants who have a criminal record fairly and do not discriminate because of a conviction or other information revealed.
- 2.6 The College can only ask an individual to provide details of convictions and cautions that the College is legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended).
- 2.7 The College actively promotes 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.
- 2.8 The College selects all candidates for interview based on their skills, qualifications and experience.
- 2.9 An application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an

application for a DBS certificate will be submitted in the event of the individual being offered the position.

- 2.10 The College ensures that all those who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.
- 2.11 The College also ensures that they have received appropriate legislation guidance relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.
- 2.12 The College, at interview, or in a separate discussion, ensures that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
- 2.13 The College makes every subject of a criminal record check submitted to DBS aware of the existence of the DBS code of practice and makes a copy available on request.
- 2.14 The College undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

3 Guidance on risk assessment for the employment of ex-offenders

3.1 Automatic barring from employment

3.1.1 Under the Protection of Children Act 1999 and the Criminal Justice and Courts Services Act 2000 it is unlawful for the college to employ persons, regardless of any mitigating circumstances, who will be engaged in regulated activity and will have regular contact with children or may be providing personal care to vulnerable adult students; and who are included on the list maintained by the DBS of people judged to be unsuitable to work with children or vulnerable adults where appropriate. Unsuitability includes but is not limited to previous convictions.

3.1.2 Therefore, the college will not employ persons who are barred from working with children or where appropriate vulnerable adults for the reasons detailed above.

3.1.3 It is the college's normal policy to consider it a high risk to employ persons, who may have regular contact with children or vulnerable adults if they have been convicted or charged at any time of the following offences against both children or adults:

- murder
- manslaughter
- rape
- other serious sexual offences
- grievous bodily harm

- and/or other serious acts of violence
- serious class A drug related offences
- robbery/burglary/theft
- deception/fraud.

4 Guidance for decision-making

- 4.1 Apart from cases covered by paragraph 3.1 having a criminal record must not automatically bar a person from employment. Employers are required to consider whether 'the conviction or other matter revealed is relevant to the position in question'. Employers must look at both the job and the person and weigh up whether there is a risk to the service user(s) against possible safeguards and precautions. The foremost duty is the safety of our children and vulnerable adults. Guidance can be sought from the Human Resources team.
- 4.2 The Risk Assessment document (Appendix 1) is used to guide decision makers and to ensure consistency of decision making. The Risk Assessment will be completed by the Recruiting Manager and HR Adviser and a decision will be made by the Senior Management Team and Head of HR. The prospective employee may be requested to attend a meeting before a final decision is taken to further discuss the details of the Risk Assessment and the nature of the offences.
- 4.3 When a decision has been made the prospective employee will be informed of the outcome. Where an offer of employment is confirmed the Risk Assessment will be stored on the employees HR folder during the course of their employment with the college and destroyed in line with standard data protection procedures once they have left the college.
- 4.4 The following examples, whilst not exhaustive, can be used as a guide for conducting the risk assessment:
- Sexual offences against a child – offer of employment should not be made.
 - Other sexual offences - the circumstances, age of the conviction, the type of job they are to be doing and the specific duties and the client group they are working with. If any doubt an offer of employment should not be made.
 - Recent serious violent crimes and supply of drugs, or a pattern of possession which is recent would usually result in an offer of employment not being made.
 - One off possession of cannabis, especially if some years ago - offer of employment could be made.
 - Any convictions for theft, fraud, criminal damage etc. are taken more seriously if the person has access to money, equipment or property. An offer of employment could be made dependent on the circumstances and the age of the conviction.

- Several drink driving and other driving offences where driving/escorting children or vulnerable adults is a requirement of the job – offer of employment could be made.
- One-off drink driving and other driving offence where driving/escorting children or vulnerable adults is a requirement of the job and where the appointing officer is happy there is no longer an issue - offer of employment could be made.
- One off minor violence or petty criminal offences which can be explained (for example relating to when an individual was a young person and where they can demonstrate a significant period of good character since the incident(s) took place. In these cases, employment is usually offered but will depend on what the job is, the age at which the offence(s) took place and the person's attitude towards the offence(s).

Linked Policies

Recruitment Policy

DBS Procedure

Secure Handling of DBS Information Procedure

Location and Access to the Procedure

This is available from the staff intranet and may be out of date if printed.

Date approved: February 2020

Approved by: Executive Team

Review date: February 2021

Responsible Manager: Head of HR Operations

Executive Lead: Deputy Chief Operating Officer

Accessible to Students: No

Appendix 1 - DBS CHECK RISK ASSESSMENT

This form can be used to assist the College in assessing and recording the risks of allowing someone to commence work where a DBS certificate shows relevant convictions or other relevant information or before a DBS (Disclosure and Barring Service) check is received.

The completion of this risk assessment form is the responsibility of the appointing Manager or Line Manager as appropriate. It must be authorised by the Lead Signatory **before** the person can commence work or continue working with children or vulnerable adults.

The completed risk assessment form must be placed on the individual's personnel file within HR and made available to Audit, Safeguarding and other inspections.

In **exceptional circumstances**, staff who work with children and vulnerable adults may work without a clear enhanced DBS certificate if they are closely supervised (within sight and sound of someone with a clear DBS check).

This will normally only be permissible when not to allow them to work would disrupt the care of children and vulnerable adults; e.g. where there is a regulatory requirement to have a ratio of staff to number of children or vulnerable adults. People may only work in these circumstances when the following applies:

- The appointment is necessary to allow the service provision to continue.
- In the case of children, the person has an enhanced DBS certificate issued within the last year by another body and the person provides the original enhanced DBS certificate to the appointing manager as evidence.
- An enhanced, DBS check has been applied for by the College.
- The person has no unsupervised contact with children or vulnerable adults.
- They have no access to sensitive records, particularly information about individual children or vulnerable adults.
- This risk assessment and risk management plan has been completed and signed off by the Lead Signatory.

Due to the high risks involved appointees to work in one to one situation or in residential care or similar environments must not start work until the fresh DBS certificate has been received.



Offence or Incident 2:
Date of offence or incident:
<p>We need to know who was involved, when it occurred, what occurred, where the incident or offence was committed and why it was committed. It is also necessary to explain how you, the applicant, now feel about the incident or offence</p>
Offence or Incident 3:
Date of offence or incident:
<p>We need to know who was involved, when it occurred, what occurred, where the incident or offence was committed and why it was committed. It is also necessary to explain how you, the applicant, now feel about the incident or offence</p>

Declaration by Applicant

I certify that the information I have provided on this document is true and complete. I understand that to knowingly make a false statement or omit information will result in my job or volunteering application being unsuccessful or, if employed, in my facing possible dismissal or other disciplinary action.

Signature:		Print:	
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PART 2 – HR Advisor to complete

A. ASSESSING THE RISKS

Question	Applicable (Please delete as appropriate)	Comments
Did the applicant declare the matters on the DBS Application form and/or the OCC Application form?	If 'No' state reason	
Does the individual agree that the information detailed on the DBS Certificate is correct?	If 'No' what do they think is incorrect and why?	
Were any offences work-related or committed within the context of a work setting?	If 'Yes' give details	
Were any offences committed within the last 2 years?	If 'Yes' explain context in which each offence occurred e.g. where, how, why and details of any victims. (Continue overleaf if necessary)	
What is the individual's attitude to the offence/s now?	e.g. regret/remorse/justified/denial	



Question	Applicable (Please delete as appropriate)	Comments
Would they do anything differently now?	If 'Yes' specify what	
Has the individual's circumstances changed since the conviction/s e.g. location/friends/partner/education?	If 'Yes' specify what	
Are there any mitigating circumstances? e.g. immaturity, traumatic life event	If 'Yes' specify what	
Do the matters disclosed form any pattern e.g. repeat offences or repeat motivation (anger/financial/drugs/alcohol)	If 'Yes' specify	
Can the applicant demonstrate any efforts not to re-offend? e.g. Rehabilitation course, Anger Management course, help for alcohol/drug abuse.	If 'Yes' specify (NB – completing Community Service is a punishment not a rehabilitation programme)	
Does the post have any direct contact with the public and if so how vulnerable are they?	If 'Yes' give details	



Question	Applicable (Please delete as appropriate)	Comments
Can safeguards be implemented to reduce/remove any risk e.g. no unsupervised contact?	If 'Yes' specify what	
What supervision is available and how readily?	Give details	

Any further information
Is there any other information relevant to this Risk Assessment regarding the candidate, the work itself or the location/environment where the activities will take place?

Level of Risk: Please complete the level of risk posed by appointing/employing the individual in this job. Give reasons.	
High Risk	
Medium Risk	
Low Risk	
Can protective measures be put in place to render the risk low?	

Outline of the protective measures **Risk Management Plan** e.g. curtailment of access to children/information; additional supervision; temporary changes of work location; temporary diversion of low risk tasks or training.

Risk Assessment completed by:

Signed Manager		Date	
Printed Manager			

Risk Assessment Authorised by;

Signed HR Advisor		Date	
Printed HR Advisor			
Signed Lead Signatory		Date	
Printed Lead Signatory			

Authorised by Lead Signatory
Is this person suitable to start work before the DBS is returned or to continue working under the conditions proposed above?
Comments: (Reasons for decision)