

## Disclosure and Barring Service (DBS) Policy

**Please be aware that this printed version of the Policy may NOT be the latest version. Staff are reminded that they should always refer to the Intranet for the latest version.**

<b>Purpose of Agreement</b>	This policy outlines the measures which should be taken to ensure that the DBS disclosure process is thorough, fair and consistent with relevant legislation, best practice guidelines and stipulations as set out by the Department of Health and the Disclosure and Barring Service.
<b>Document Type</b>	<input checked="" type="checkbox"/> Policy <input type="checkbox"/> SOP <input type="checkbox"/> Guideline
<b>Reference Number</b>	Solent NHST/Policy/ HR02
<b>Version</b>	Version 3
<b>Name of Approving Committees/Groups</b>	Policy Steering Group Assurance Committee
<b>Operational Date</b>	June 2016
<b>Document Review Date</b>	June 2019
<b>Document Sponsor (Name &amp; Job Title)</b>	Chief People Officer
<b>Document Manager (Name &amp; Job Title)</b>	Associate Director of HR Senior Pay and Remuneration Manager
<b>Document developed in consultation with</b>	Joint Consultative Committee Policy Steering Group
<b>Intranet Location</b>	Business Zone / Policies, SOPs and Clinical Guidelines
<b>Website Location</b>	Publication Scheme / Policies and Procedures
<b>Keywords (for website/intranet uploading)</b>	DBS, Disclosure and Barring, Employment Checks, CRB, Pre Employment Checks

## Review Log

Include details of when the document was last reviewed.

Version Number	Review Date	Name of reviewer	Ratification Process	Reason for amendments
1	Feb 2014	H Vowden	Assurance Group, JCC	Policy re-write following legislative changes
2	Oct 2014	H Vowden	Assurance Group, JCC	Changes made to incorporate Safeguarding at paragraph 3.12
3	Mar 2016	L Bicknell Sarah Martin	Assurance Group, JCC	Policy re-write and changes made to groups of staff who will be subject to a renewal DBS check.

## **Summary of Policy**

This policy gives a background to the legislative framework under which the Trust must work when considering if a Disclosure and Barring Service (DBS) disclosure can be obtained.

It defines the responsibilities of Directors, Managers and staff under this policy (Section 3).

It outlines the different levels of check that can be undertaken, when and who is eligible for each level of disclosure (Section 4, 5 and Appendix B).

The policy explains the Trust position on portability and re-checking of disclosures (Section 7).

This version incorporates the:

- Rehabilitation of Offenders Act (Section 6)
- Procedural changes that will be introduced when e-DBS is implemented (Section 9).
- Disclosure disputes procedures (Section 10)
- Audits by the DBS (Section 11)
- Legislative requirement to make referrals to the DBS when there are safeguarding issues with staff (Section 12 and Appendix C).
- Storage and handling of DBS disclosure certificates (Section 13)
- Process for obtaining a DBS Disclosure (Section 14)

## Disclosure and Barring Service (DBS) Policy

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**SOLENT NHS TRUST**  
**Disclosure and Barring Service Policy**

**1. INTRODUCTION AND PURPOSE**

1.1 Solent NHS Trust recognises the importance of pre-employment, disclosure checks on newly appointed employees in accordance with the following legislation:

- Criminal Justice and Court Services Act (Part II) (2000)
- Protection of Children Act (1999)
- Police Act (Part V) (1997)
- Mental Health Act (1983)
- Rehabilitation of Offenders Act 1974 (Exception's Order) 1975
- Police Act 1992 (Criminal Records) Regulations 2002 as amended
- Data Protection Act (1998)
- Safeguarding Vulnerable groups Act (2006)
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

1.2 The Trust aims to promote Equality of opportunity for all candidates with the necessary requirements for the post and therefore welcomes applications from candidates of a diverse background.

1.3 It is committed to ensuring the highest possible standards of recruitment practice designed to safeguard the children and vulnerable adults within its care.

1.4 Criminal records will only be taken into account for recruitment purposes when a conviction is relevant, so having spent or unspent convictions, cautions, reprimands or final warning on a criminal record will not necessarily prevent:

- Successful candidates from taking up employment with the Trust.
- Existing employees from continuing their employment with the Trust.

1.5 In determining whether disclosure of a criminal record will lead to the withdrawal of an offer of employment, or may lead to termination of employment, consideration will be given to the nature, circumstances and background to the offences committed.

1.6 Employment is a determinant of health and social wellbeing and being a good corporate citizen includes responsibility as an employer to protect our patients, employees and the community as a whole. Having an effective DBS policy and procedure in place contributes to this being achieved.

1.7 This policy outlines the measures which should be taken to ensure that the DBS checking process is thorough, fair and consistent with relevant legislation, best practice guidelines and stipulations as set out by the Department of Health and the DBS service. It provides guidance to recruiting managers for responding to the information contained within DBS disclosure notices and stipulates the requirements for storage, handling and disposal of this information.

**2. SCOPE & DEFINITIONS**

2.1 This policy applies directly to employed staff including bank staff and volunteers in roles where a DBS check is appropriate. It excludes agency staff, agency locums and independent contractors who are covered in section 5.

2.2 A list of definitions are enclosed at Appendix A

### **3. ROLES AND RESPONSIBILITIES**

#### **3.1 *Chief Executive Officer***

The Chief Executive officer has overarching responsibility for ensuring that the contents of this policy are applied consistently and fairly across the Trust.

#### **3.2 *Trust Board***

The Board is responsible for ensuring that the policy is applied throughout the Trust through its Chief Executive, Directors, Managers and Employees. The board will review the effectiveness of the Policy, in consultation with staff side representatives. Responsibilities may be delegated to the Workforce Sub-Committee.

#### **3.3 *Director of Human Resources and Organisational Development (OD)***

The Director of Human Resources and OD is the named officer responsible for ensuring the content of this policy is applied fairly and consistently across the Trust.

#### **3.4 *Operations Directors, Associate Directors and Heads of Service***

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

#### **3.5 *Service Leads, Line Managers and Recruiting Managers***

Service Leads are responsible for providing assurance that this policy is implemented during the recruitment process for their service(s)/division. Service Leads are also responsible for overseeing the dissemination and implementation of this policy across their service at any time when auditing of DBS checks may impact on Solent NHS Trust employees. Line Managers and Recruiting Managers are responsible for ensuring that all new staff are recruited appropriately for their service in line with this policy.

Recruiting managers must ensure that any information they receive regarding applicants convictions during the recruitment process remains confidential.

#### **3.6 *Human Resources Department***

The HR Department is responsible for undertaking checks on behalf of the Trust, and providing accurate, timely advice to managers / employees to ensure the policy is appropriately applied across the Trust.

#### **3.7 *Employees***

Employees are responsible for taking due consideration of this policy when they apply for transfer or promotion, or in the event they are subject to a conviction whilst in employment.

They must declare any convictions they may have to the Trust and alert their manager if they receive a new conviction or if they become subject to any Police investigation.

#### **4. LEVEL OF DISCLOSURE AND ELIGIBILITY**

4.1 Before the Trust considers asking a person 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 The recruiting manager is responsible for identifying if the position requires a DBS disclosure and, should a check be required to determine which level of disclosure is necessary for the position. Appendix B gives a flowchart on the level of disclosure appropriate to the position. If they are unsure whether a DBS disclosure is required they should contact their HR Support Services Team for further clarification.

4.3 There are three levels of DBS disclosure available from the Disclosure and Barring Service in England:

- Standard disclosure
- Enhanced disclosure
- Enhanced disclosure with children's and/or adults barred list check(s).

4.4 In Scotland a further level of disclosure is available called a basic disclosure. As this only shows unspent convictions it will only be used for positions where a fit and proper person check is required (Directors and Non-Executive Directors), who do not satisfy the criteria for a higher level disclosure.

4.5 Where a position is eligible for a check the Trust must make it clear to the applicant that any offer of employment will be subject to a satisfactory DBS disclosure and that any offer of employment may be withdrawn if they knowingly withhold information, or provide false or misleading information.

4.6 Existing staff may be subject to disciplinary action and possible dismissal if they knowingly fail to disclose relevant information in relation to their DBS disclosure or barred list status (See section 4.10). However, as previously stated in paragraph 1.4 possession of a criminal conviction does not automatically make an applicant, or current employee, unsuitable for employment in the Trust.

#### **4.7 *Executive Directors, Non-Executive Directors and Trust Governors***

4.7.1 The Trust will require a basic level disclosure, for these positions which can only be obtained through Disclosure Scotland. This check would be undertaken as part of the recruitment process for these positions.

4.7.2 If an Executive Director due to the nature of their duties requires a standard or enhanced level disclosure to be undertaken this will be completed as an alternative.

#### **4.8 *Standard Disclosure***

4.8.1 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.

#### 4.9 ***Eligibility for Standard Disclosures***

- 4.9.1 A standard level DBS disclosure check is to be carried out on candidates whose position is included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975, i.e. a specific profession or where the type of work enables the person to have “access to persons in receipt of such services in the course of their normal duties”. “Access” only relates to where individuals have direct, physical contact with patients as part of their day to day activities; it does not include positions where there is no contact with patients. Please see appendix B.
- 4.9.2 Positions that purely involve having access to records are not covered under the terms of the Exceptions Order and therefore are not eligible for a DBS disclosure. For example staff whose only contact with patients is via the telephone, email or accessing patient information via manual or electronic format would not require a DBS disclosure.
- 4.9.3 The Trust is able to request standard DBS disclosure for some professions within the health sectors not considered as Regulated Activity. Examples of these are:
- Chartered accountant / certified accountant
  - Pharmacists & Registered Pharmacy Technicians
  - Any Health Professions which require registration to undertake their role

#### 4.10 ***Enhanced Level Disclosures***

- 4.10.1 This includes the same information as the standard disclosure but also includes additional information held by local police, where they consider it to be relevant to the post and where this is thought necessary in the interests of preventing or detecting crime. This will be addressed separately to the employer only. This information is referred to as “Approved Information” on the enhanced check certificate. This additional information must not be disclosed to the applicant or any other person who is not directly involved in the recruitment process.

#### 4.11 ***Eligibility for Enhanced Checks***

- 4.11.1 To be eligible for an enhanced level DBS check, the position must be included in both the Rehabilitation of Offenders Act (Exceptions Order) and in the Police Act 1997 (Criminal Records) Regulations 2002.
- 4.11.2 There are two levels of enhanced disclosure as follows:
- Enhanced disclosure
  - Enhanced disclosure including barred list check

#### 4.12 ***Enhanced disclosure (without barred list check)***

- 4.12.1 The enhanced level 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, specified activities with adults in receipt of health care or social care services.

#### 4.13 **Enhanced Disclosure with barred list check**

4.13.1 Individuals seeking work in a “regulated” activity (see definition below) must also be checked against the Children’s and/or Adults Barred lists. There is no longer a frequency test for a person to carry out the activities a certain number of times before they are engaging in regulated activity.

#### 4.13.2 **Regulated Activity**

Any time a person engages in the activities set out below, they are engaging in regulated activity.

**Adults:** any activity involving working or volunteering with adults that is of a specified nature, regardless of the frequency that this activity is undertaken and the setting:

- (i) Providing health care:
- (ii) Providing personal care including eating, drinking, toileting, washing, dressing, oral care, or care of the skin, hair or nails:
- (iii) Providing social work:
- (iv) Assistance with cash, bills and/or shopping:
- (v) Assistance in the conduct of a person’s own affairs
- (vi) Conveying (transporting adults to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving care). This includes hospital porters who transport patients because of their age, illness or disability to or from places where they have received or will be receiving health care, relevant personal care or relevant social work.

**Children:** any activity involving working or volunteering with children that is of a specified nature:

- (i) Unsupervised activities: teaching, training, instruction, care for or supervision of children, or providing advice/guidance on well-being, or driving a vehicle only for children
- (ii) Work for a limited range of establishments for example schools, children’s homes, residential childcare premises. (Not work by supervised volunteers)
- (iii) Providing personal care (e.g. washing/dressing) or health care by, or supervised by, a professional – working with children under (i) or (iii) is regulated activity only if done frequently (i.e. once a week or more often, or on four or more days in a single 30 day period or overnight).

#### 4.14 **Route 2**

Route 2 checks require an organisation to make an appropriate external ID validation of the applicant. Route 2 will apply when an applicant is not able to provide photographic ID for the purpose of a DBS check. To comply with Route 2, the applicants will be required to provide five documents confirming their address which must then be validated by an external company.

### 5. **DBS DISCLOSURES FOR BANK STAFF, STUDENT PLACEMENTS, VOLUNTEERS AND INDIVIDUALS NOT EMPLOYED BY THE TRUST.**

#### 5.1 **Bank staff**

5.1.1 The NHS Employers document ‘How to Understand Employment Checks for Agency Staff’ issued in November 2011, gave details that bank staff should have a DBS check at least once a year. The annual check does not apply to those individuals who hold a substantive

post with the Trust. If however the employee leaves their substantive post or there is a break in service of three months or more prior to applying for a bank post, the Trust must obtain a fresh DBS disclosure.

5.1.2 Since June 2013 when the conditions for being eligible for a disclosure changed only bank staff who satisfy the conditions shown in paragraphs 4.10 and 4.12 will be subject to a DBS disclosure.

## 5.2 ***Student Placements***

5.2.1 For short term placements i.e. up to one month a criminal declaration form will be completed and the placement supervisor must ensure that the student is under supervision at all times.

5.2.2 For long term placement (one month and longer), the Educational institution is required to provide evidence of a DBS disclosure. Please note that it is the responsibility of the recruiting manager to ensure that this evidence is obtained.

## 5.3 ***Volunteers***

5.3.1 Where the role of the volunteer will bring them into contact with patients or service users, and they meet any of the requirements listed in paragraphs 4.9 to 4.12 a DBS disclosure must be obtained.

## 5.4 ***Arrangements of checking staff not employed by the Trust***

5.4.1 Agency staff, locums, independent contractors who meet any of the requirements listed in paragraphs 4.9 to 4.12 will be required to provide evidence of a recent (within 1 year) DBS disclosure. When employed through an agency, it is the agencies responsibility to supply evidence of a DBS disclosure, the information provided should be unique disclosure clearance number and the date of issue.

NOTE: It is the recruiting manager's responsibility to ensure that a contractor has a valid DBS check in place before they commence work for the Trust.

## 6. **REHABILITATION OF OFFENDERS ACT (1974)**

6.1 The Rehabilitation of Offenders Act provides for anyone who has been convicted of a criminal offence, and has been sentenced to less than two-and-a-half years in prison, to be regarded as rehabilitated after a specified period of time where no further convictions have been committed.

6.2 A rehabilitation period may vary from six months to ten years from the date of conviction. During this period the conviction is regarded as 'unspent' (current) and an individual is required to disclose this information to any prospective employer, or their current employer if the offence takes place during their term of employment.

6.3 Once this period of rehabilitation has passed, the conviction is regarded as 'spent' (old). In normal circumstances the convicted person does not have to reveal 'spent' convictions to a prospective employer when applying for a job. However some professions within the Health and Social Care sector are exempt from this approach by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

6.4 In the case of such excepted professions(see Appendix B), employers are entitled to know about previous criminal record information, whether spend or unspent (including

reprimands, cautions, final warnings) and to take this information into account when assessing an individual's suitability for the post.

## **7. FREQUENCY AND PORTABILITY OF DBS DISCLOSURES – RENEWING DISCLOSURES**

7.1 Internal applicants who are moving to a post which demands the same or lower level of disclosure will not require another disclosure check provided a satisfactory DBS was carried out within the last 3 years.

7.2 The Trust will carry out 3 yearly retrospective checks for the:

- Executive Lead for Safeguarding and Safeguarding Service staff who have access to sensitive information regarding children and vulnerable adults.
- Executive Directors and Non-Executive Directors who are required to be a Fit and Proper person
- Staff who are applying for the non-medical prescribing module
- Professionals who undertake statutory roles for the Organisation e.g. Care Quality Commission Lead, Registered Managers under the Health and Social Care Act 2008, Local Security Management Specialist.

7.3 The Trust reserves the right to carry out repeat checks on staff in line with safer recruitment guidelines.

7.4 It is the responsibility of all staff to inform the Trust if, at any time during their period of employment with the Trust, they are subject to any criminal record, cautions, reprimands, warnings or bind over's, or any changes to their existing DBS or clearance status, including any police investigations which may make the continuation of their present post looking after children or vulnerable adults unsuitable.

7.5 All candidates, when recruited, are given information stating if they make a false statement about convictions during the recruitment process this will be considered gross misconduct and could justify dismissal.

7.6 If it appears that an employee has withheld information, an investigation in accordance with the Disciplinary Policy may be deemed necessary.

## **8. UPDATE SERVICE**

8.1 At the point individuals are asked to complete a DBS form or within nineteen days of their DBS certificate being issued they are able to apply to have their DBS record kept up to date via the DBS Update Service. This enables them to move from role to role more quickly within the same working group (Nursing etc.). This service is subject to an annual fee (currently £13 at March 2016) which is payable by the individual.

## **9. ESR (ELECTRONIC SYSTEM RECORD) AND UPDATE SERVICE**

9.1 The ESR system is linked to the DBS Update Service. Subject to the individual's permission, DBS records for employees who have a subscription to the DBS update Service will automatically have their DBS record updated every 60 days. If anything changes in the record, the ESR system will notify the DBS Administrator in the HR Support Services team.

## **10. DISCLOSURE DISPUTES**

- 10.1 Individuals who apply for disclosure will have a right of appeal against any information disclosed on them, if they or the registered body dispute its accuracy. An appeal must be lodged directly with the DBS within 3 months of the date of issue of the certificate.
- 10.2 There are two types of dispute: a data entry dispute i.e. name, gender, place of birth etc. or a data source dispute: i.e. where either conviction details not relating to the applicant have been disclosed on the certificate or; where conviction details relating to the applicant have been disclosed but some elements of the conviction are incorrect or where the approval information is considered to be inaccurate or irrelevant.
- 10.3 In the event of a disclosure dispute, where the disputed information could result in the offer of employment being withdrawn, the Trust will be required to hold the post of the appointee, until the matter has been resolved. Where a disclosure has been disputed, the HR Department will store this information for a six month period from the date the dispute was resolved.

## **11. DISCLOSURE AND BARRING SERVICE AUDITS**

- 11.1 Assurance audits are used to determine the level of compliance of registered bodies focusing on identity validation and data quality. It takes the form of a self- assessment questionnaire that must be completed by the lead signatories. Where areas of non-compliance have been identified, they are addressed in a detailed report to the Lead signatory, and in some cases a compliance visit to the organisation may also take place for further examination or their internal processes.

## **12. REFERRALS TO THE DBS REGARDING SAFEGUARDING ISSUES – ESR AND THE DBS**

- 12.1 If the Trust dismisses or removes a person from regulated activity (or may have done so had they not left) because they have harmed or posed a risk of harm to a child or vulnerable adult, then we have a **LEGAL** duty to refer the person to the DBS.
- 12.2 In the first instance the line manager should seek advice from the Trust's Safeguarding Adult and/or children leads. Guidance can also be sought from the HR Business Partner team. The flowchart in Appendix C can be used as a prompt for managers when faced with a potential safeguarding issue.
- 12.3 The referral will only be made if any concerns raised have been substantiated by an internal disciplinary process as without evidence or substance to the claims allegations will be quickly closed down as there will be no foundation on which the DBS can proceed.
- 12.4 Advice can also be sought from the Chief Nurse (or their deputy in their absence) during this process. However, prior to the referral being submitted to the DBS, it is essential that the Chief Nurse signs off the referral forms.
- 12.5 Further Information on referral duties can be found on the DBS website [www.gov.uk/dba](http://www.gov.uk/dba).
- 12.6 ESR has the facility to send a referral notification to the DBS Update Service and if anyone is dismissed within the Trust, ESR will issue a notification to the named HR DBS Administrator in the Trust who will contact the relevant HR Business Partner to verify if the dismissal was due to a safeguarding issue.

12.7 Any such notification to the DBS would only be made after the Safeguarding Team and HR have reviewed and agreed that it does relate to a safeguarding concern and the decision has also been reviewed by the Chief Nurse.

12.8 Please note this notification is merely to highlight to the DBS that a referral will be made to the DBS by the Trust. All the appropriate forms to submit the referral to the DBS will still need to be completed.

### **13. STORAGE AND HANDLING OF DBS DISCLOSURE NOTICES**

13.1 A copy of the DBS Disclosure notice is no longer issued to the requesting organisation. When an individual presents an original copy of the DBS notice they are asked to provide authorisation that they are happy for the Trust to retain a copy of this notice on their HR file.

13.2 This information will only be disclosed to those people who are entitled to receive it and used for the specific purpose for which it was intended. Confirmation of the fact that the DBS check has been carried out on an individual will be recorded within the Electronic Staff Record system in order to provide assurance as necessary.

### **14. PROCESS OF OBTAINING A DBS CHECK**

14.1 Line managers are responsible for determining whether or not each of the posts within their respective service area(s) meet these criteria and, consequently, whether those people applying to work within these posts should be subject to a DBS check. The manager must indicate on the recruitment authorisation documentation whether or not a DBS check is required for the post being advertised and, if so, what level this should be i.e. standard or enhanced. In the event that a manager is not clear whether or not the post falls within the scope of this definition guidance should be sought from the HR Support Service team. Please see Appendix B.

14.2 At interview shortlisted candidate(s) will be asked to complete a Declaration form (Appendix D refers). If the job role requires a DBS check to be undertaken, this form requires the candidate to give full details of any previous criminal convictions or cautions they may have received plus information of any ongoing investigations or proceedings relating to them.

14.3 Managers will be asked to specify on the offer of employment form exactly which workforce category the applicant will fall into. This is because the Police will now use this broader definition of 'workforce' to assess the relevance of any information that they may consider for release, in place of 'position applied for':

- 'Child Workforce'. Use this for any position that involves working/volunteering with children.
- 'Adult Workforce'. Use this for any position that involves working/volunteering with adults.
- 'Child and Adult Workforce'. Use this for any position that involves working/volunteering with both children and adults.
- 'Other Workforce'. Use this for any position that does not involve working/volunteering with Children or Adults e.g. security guard.

- 14.4 The preferred candidate will be sent a DBS Application Form for completion. This form must be completed by the job applicant and returned to the HR team who will then complete the relevant sections and sign the form to confirm that the Trust has seen valid proof of the individual's identity, an original copy of either the individual's:
- birth certificate,
  - passport,
  - photo card driving licence, and
  - a utility bill /bank statement less than 3 months old

One of which must confirm their current home address in accordance with DBS requirements.

Note when e-DBS is introduced the preferred candidate will be sent a link to the e-DBS system so that they may complete the DBS form on line. Once completed the HR team will receive notification that the e-form has been completed. On production of the identity documents shown above they will upload the documents verified.

- 14.5 The HR Team will log the form number, whether the individual has declared they have any unspent convictions and the date the form was sent to the DBS.
- 14.6 The DBS no longer issue a copy of the applicant's DBS certificate to the Trust and therefore, the Trust must see their original DBS certificate prior to them commencing work with the Trust. Failure to do so will delay or prevent their start date with the Trust. The new employee must contact their recruiting manager and arrange for the manager to see the original DBS certificate.
- 14.7. The manager will need to verify that they have seen the original and take a copy. It is imperative that the manager sends a copy of the completed DBS Verification Form (Appendix E) and a copy of the DBS return to the HR team for uploading to their ESR record.
- 14.8. However, if the manager has a concern with information contained on the DBS disclosure they should contact the HR team as soon as possible. Appendix F gives a flowchart of the process and options available once the Disclosure is returned
- 14.9 In exceptional circumstances, where a DBS disclosure is delayed, new recruits may be allowed to commence work within the Trust. Managers should complete a "Pending DBS Risk Assessment Form" (Appendix G). This form is subject to a full risk assessment being undertaken, all other pre-employment checks received satisfactory to the Trust and approval by the Operational Director and Associate Director of HR. On receipt of the delayed DBS disclosure the new employee must produce the original DBS form to their manager within 10 working days.
- 14.10 For existing employees where the Trust has requested a new DBS check it must see the new DBS certificate. The HR team will check when the DBS certificate has been issued by the DBS and will contact the individual requesting that a copy of their new DBS certificate be sent to the HR Team. The HR Team will then update the employee's ESR record and retain a copy on the employee's HR file. However, if there is an issue with information contained on the DBS certificate the HR team will contact the manager. An Employee or Applicants failure to return a copy of their certificate may jeopardise their employment with the Trust.
- 14.11 In the event of previously undisclosed information being reported, or in cases where the details contained within the DBS report differ from those which the employee has declared as part of the recruitment process, the line manager should contact their HR Co-ordinator initially, with a view to meeting with the potential recruit and the relevant HR Business

Partner at the earliest possible opportunity in order to discuss the circumstances surrounding the disclosure.

- 14.12 This discussion should focus on the aspects listed in Appendix H and full details should be recorded on this form.
- 14.13 Once the manager is satisfied that the employee has shared with them the full details surrounding the conviction the meeting should be adjourned in order to make a decision as to whether or not the applicant/employee is suitable to be considered for appointment to the particular post in question. Consideration should also be given as to the reason why the applicant/employee failed to disclose the conviction(s) on their application and whether this changes their suitability for employment.
- 14.14 This decision should be notified to the job applicant and the outcome must be confirmed in writing. A comprehensive record of the discussion, together with a copy of the letter confirming the outcome, must be retained on the HR file.
- 14.15 A fee is payable by the Trust for each check which is carried out on its behalf, although checks for voluntary workers are currently provided free of charge by the DBS. Subscriptions to the DBS update service is payable by the individual.

## **15. TRAINING**

- 15.1 Whilst there is no specific training identified in relation to this policy, the Trust recognises the importance of appropriate training for staff. Reference to this particular policy will be made in the context of recruitment and selection training. Line managers will be required to ensure their respective staff are made aware of this policy when this is cascaded through usual dissemination routes.

## **16. EQUALITY & DIVERSITY AND MENTAL CAPACITY ACT**

- 16.1 Solent NHS Trust is committed to treating people fairly and equitably regardless of their age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; or sexual orientation. An equality and human rights impact assessment has been carried out for this policy and no significant issues have been identified (Appendix I). This policy has also been assessed and meets the requirements of the Mental Capacity Act 2005.

## **17. SUCCESS CRITERIA / MONITORING COMPLIANCE AND THE EFFECTIVENESS OF THE DOCUMENT**

- 17.1 The success of this policy will be monitored by reference to statistics which identify awareness on the part of staff members in relation to the measures to be taken in cases of suspected abuse. Its effectiveness will be measured by reference to documentation arising from internal HR cases which identify compliance with the requirements of this policy. In addition the DBS will undertake to monitor compliance on data quality, ensuring that the position applied for is an exempted position as provided for in the Rehabilitation of Offenders Act 1974.

## **18. REVIEW**

- 18.1 This policy may be reviewed at any time at the request of either staff side or management, but will automatically be reviewed on a 3 yearly basis or as required following any amendments to national guidance.

## **19. REFERENCES AND LINKS TO OTHER DOCUMENTS**

19.1 This policy is underpinned by the following:

- Employing people with criminal records (CIPD, 2008)
- NHS Employment Standards revised July 2013

19.2 It should be read in conjunction with:

- Recruitment and Selection Policy
- Volunteers Policy
- Policy Relating to the Use and Management of Agency and Locum Workers
- Policy Relating to Obtaining and Providing Employee References
- Secondment Policy
- Fixed Term Workers Policy
- Safeguarding Adults at Risk Policy
- Safeguarding Children and Young People Policy
- Disciplinary Policy

**DEFINITIONS**

**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 (as defined in paragraph 4.10.4.1) that involves the individual working or volunteering with children or adults.

**Counter signatory** – an employee registered with and approved by the Disclosure and Barring Service as being suitable to request Disclosure and Barring Service Disclosures.

**Disclosure Certificate** – a certificate that provides criminal record information, depending upon the type of disclosure requested.

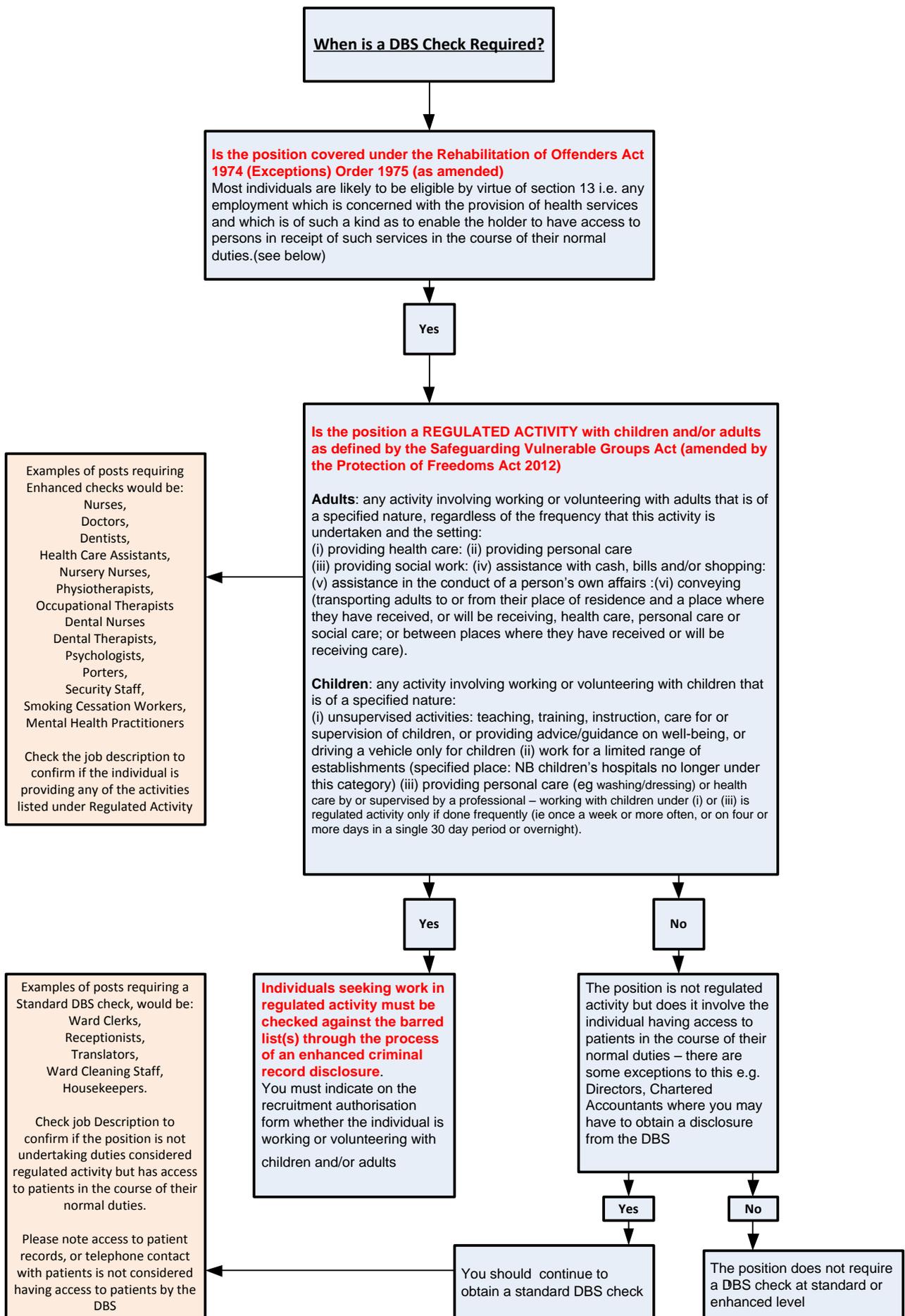
**Enhanced disclosure** – requests signed by a counter-signatory. These contain information that would be in a standard disclosure and in addition to other information held by local police forces on the Police National Computer (PNC) and judges to be relevant to the application e.g. details of impending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

An application under this section is accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question asked in the course of considering the applicant’s suitability for a position (whether paid or unpaid) that is of a kind specified in regulations made by the Secretary of State or involves regularly caring for, training, supervising or being in sole charge of persons aged under 18, or it involves regularly caring for, training, supervising or being in sole charge of persons aged under 18 or over (Police Act 1997, Section 115).

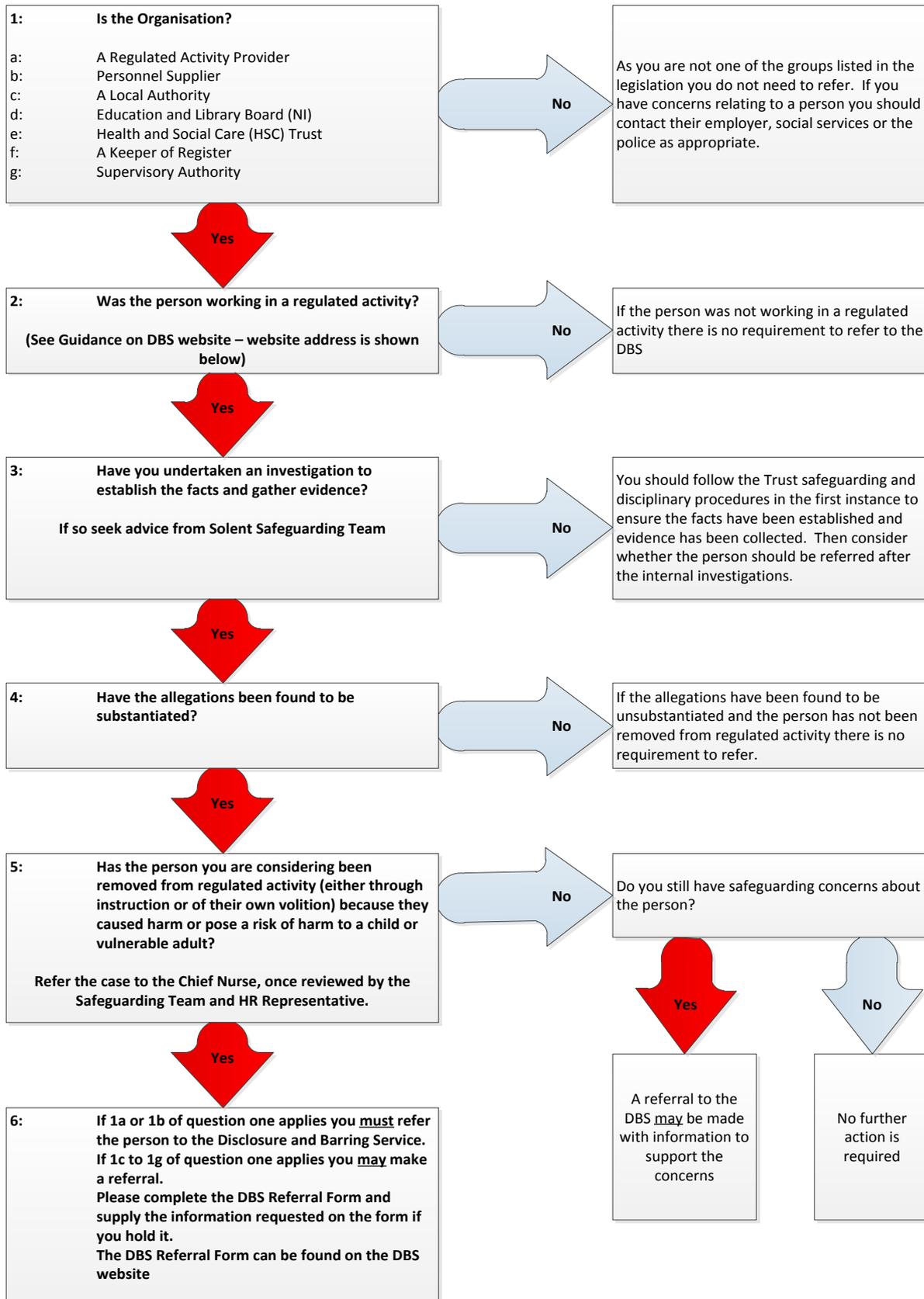
**Spent convictions** – convictions defined by the Rehabilitation of Offenders Act 1974 as being ‘spent’ after specified periods of time. Spent convictions do not need to be brought to the attention of the Trust unless the work or post is covered by the Rehabilitation of Offenders 1974 Exemptions Order.

**Standard disclosure** – Requests signed by a counter-signatory. 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.

**Umbrella Body** – is a registered body willing to act as an intermediary between a non-registered body and the DBS or one that offers an ‘umbrella service’ by processing DBS disclosure application forms.



**Disclosure & Barring Service Referral Process for Solent NHS Trust**



DBS Website: <https://www.gov.uk/db>

## DBS Declaration Form

**DECLARATIONS:**

Please complete this sheet and take it with you to your interview. Under the terms of the 1998 Data Protection Act the information you provide will be treated confidentially and will not be divulged to any third parties without your specific consent. Please answer these questions by ticking the relevant box. *The Trust would like to assure you that declaring convictions will not necessarily preclude you from being offered the post as each case is treated on its own merits. However if you do not declare a conviction that you have, even if is spent, then it is likely to affect your chances of employment in the Trust.*

**CRIMINAL CONVICTIONS - all applicants.**

Applicants for posts in the NHS are exempt from the Rehabilitation of Offenders act 1974. You are required to declare prosecutions or convictions, including those considered “spent” under the act. Failure to disclose this information could result in dismissal.

**Have you ever been charged with or convicted of a criminal offence, been bound over or cautioned, reprimanded or given a final warning, or are you currently the subject of any police investigation, which might lead to a conviction, an order binding you over or a caution in the UK or any other country.**

YES  NO

If **YES**, please provide details of the criminal offence, order binding you over or caution, reprimand or final warning, or details of any current proceedings which might lead to a conviction, an order binding you over or a caution, reprimand or final warning

Please include the approximate date, the offence, the authority and the country, which dealt with the offence.

**DISMISSAL BY REASON OF MISCONDUCT – all applicants**

Have you ever been dismissed by reason of misconduct from any previous employment, office or other position?

YES  NO

Please provide details

**PROFESIONAL QUALIFICATIONS OR MEMBERSHIP – where applicable**

Professional Body:

Date Obtained:

Qualifications or Grade of Membership:

Registration Number:

Expiry Date:

Are you currently the subject of a fitness to practice investigation or proceedings by a licensing or regulatory body relating to health / social care professionals in the UK or in any other country

YES  NO

Have you ever been disqualified from the practice of a profession, been removed from the register or had conditions made on your registration by the fitness to practice committee of a licensing or regulatory body in the UK or any other country:

YES  NO

Please provide details to any questions you have answered yes:

**SIGNATURE – all applicants**

I hereby declare that all the information I have given is complete and true. I will inform Solent NHS if, prior to taking up any position offered to me by the Trust, I am dismissed by reason of misconduct from any position, I am charged with a criminal offence or the subject of a fitness to practice investigation, in the UK or any other country, which is not mentioned above.

I give my permission for Solent NHS Trust to carry out a status check if I subscribe to the DBS Update Service and will provide Solent with the relevant information which will allow them to carry out this check.

**Signature:**

**Print Name:**

**Date:**

**SOLENT NHS TRUST  
DBS CHECK VERIFICATION FORM**

Name of Individual:

Name of Individual:  
(Where appropriate)

**Please complete the relevant section**

**Section A - New Employee and Existing Employees – No Risk Identified**

I hereby confirm that I have seen the original DBS Certificate provided by the above named individual and that the DBS certificate reflects the information that was provided by the individual when asked to declare any unspent convictions on their application form/declaration form.

Any declared unspent convictions have been risk assessed and the service confirms that there are no risks associated with these unspent convictions.

Signed:

Dated:

**Please attach a copy of the original DBS Certificate to this form and send to HR Services as indicated below as soon as possible**

**Section B - New Employee and Existing Employees - Risk Identified**

I hereby confirm that I have seen the original DBS Certificate provided by the above named individual and that the DBS certificate does not reflect the information that was provided by the individual when asked to declare any unspent convictions on their application form/declaration form.

I understand that any undeclared unspent convictions will need to be risk assessed in conjunction with the HRBP for the service and that the individual cannot commence employment until this assessment has been undertaken.

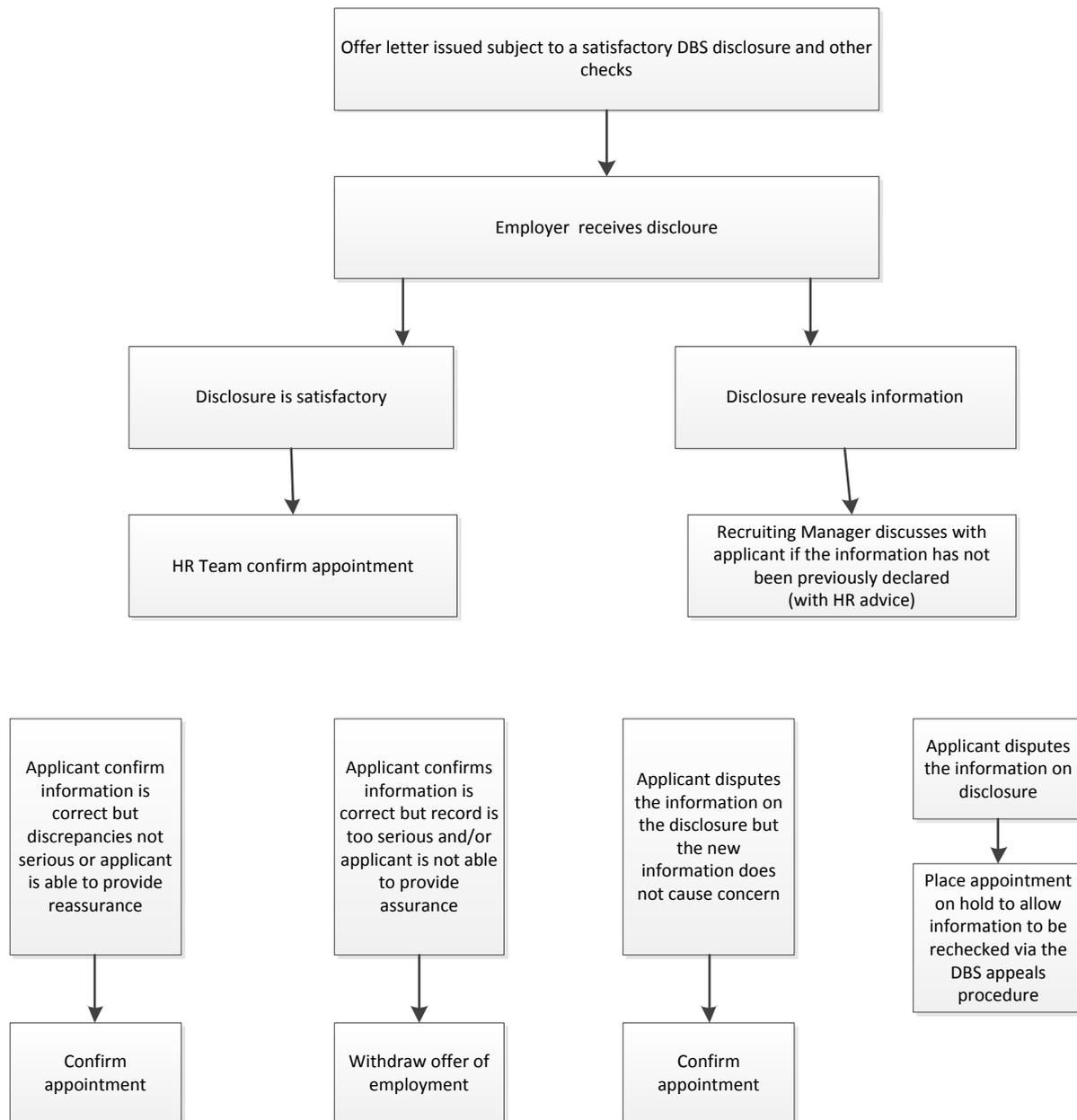
Signed:

Dated:

**Please attach a copy of the original DBS Certificate to this form and send to your named HR Services Co-ordinator as soon as you have seen the original DBS Certificate or email to:**

[snhs.solentHRServices@nhs.net](mailto:snhs.solentHRServices@nhs.net)

Flowchart for dealing with disclosures



**PENDING DBS (formerly CRB) RISK ASSESSMENT FORM – GUIDANCE NOTES**

In the vast majority of cases, all pre-employment checks will have been completed prior to a formal offer of employment being made. However, in exceptional circumstances, where the DBS disclosure is delayed, new recruits may be allowed to commence work within the Trust provided the following requirements are met:

- all other pre-employment checks, including reference and professional registration etc. have been completed and found to be satisfactory;
- the specific risks associated with the new recruit starting work prior to receipt of their DBS have been identified and assessed;
- measures to be put in place to mitigate this risk have been identified; and
- monitoring arrangements to cover the period from the employee's commencement until DBS clearance is confirmed have been identified.

These requirements should be documented by the recruiting manager on the attached form and authorised by the relevant Operational Director for the Service/Corporate AD. This form should then be forwarded to the Associate Director (HR) for authorisation once complete and the form will then be retained on employee's HR file within the HR Department.

## PENDING DBS RISK ASSESSMENT FORM

Post Title:	
Department:	
Service:	
Job Reference:	
Name of Candidate:	
<b>Requirements:</b>	<b>Details:</b>
<b>Satisfactory pre-employment checks (except DBS) complete:</b>	<p><i>Please note that this DBS form should not be completed until all other pre-employment checks, including reference and professional registration etc. have been completed and found to be satisfactory.</i></p> <p>Please confirm that all other checks have been completed and found to be satisfactory</p> <p>Yes    No</p>
<b>Has the applicant declared any unspent criminal convictions/ cautions on their application/ declaration form or DBS application form?</b>	
<b>Potential risks associated with new starter commencing employment prior to receipt of the DBS disclosure:</b>	<p>For example: Access to children; access to vulnerable adults; access to patient-related information; access to staff records; access to money or stock items; access to medicines; potential for staff member to be abused or assaulted and, hence, the potential for them to retaliate. <i>(These are examples only, please delete/ amend as necessary)</i></p>

<b>Requirements:</b>	<b>Details:</b>
<b>Measures to be put in place to mitigate these risks:</b>	For example: No lone working will be undertaken until satisfactory DBS is received; Supervision with all aspects of the job at all times; Comprehensive induction and training; Daily one to one sessions. Communicating the risks. <i>(These are examples only, please delete/ amend as necessary)</i>
<b>Monitoring arrangements (including what, how, who, when, etc.)</b>	For Example: Daily catch up and note taking with Senior Staff (mention the grade of staff doing the mentoring); Induction; Regular one to one's (maybe once a week until satisfactory clearance received); Communication with other staff daily to get feedback. <i>(These are examples only, please delete/ amend as necessary)</i>

Recruiting Manager name:

Signature:

Date:

Associate Director name:

Signature:

Date:

Associate Director HR:

Signature:

Date:

**Record of Discussion Relating to Undisclosed Criminal Convictions/Cautions**

<b>Post Title:</b>	
<b>Service/Department:</b>	
<b>Name of Candidate:</b>	

<b>Requirements:</b>	<b>Details:</b>
Nature of the offence:	
Age at which it was committed:	
Time lapse since the offence was committed:	
Relevance to the post in question:	
Whether the applicant has a pattern of offending behaviour:	
Whether the applicant's circumstances have changed since the offending behaviour:	
Circumstances surrounding the offence and the explanation(s) offered by the convicted individual	
<b>Outcome (delete as appropriate):</b>	<b>Offer Employment*</b> <span style="margin-left: 150px;"><b>Reject Application*</b></span>
<b>Recruiting Manager name:</b>	<b>Signed:</b> <span style="margin-left: 150px;"><b>Date:</b></span>

*This form should be retained on the recruitment file together with a copy of the letter sent to the applicant confirming the outcome of the discussion.*

## Impact Assessment Template

Step 1 – Scoping; identify the policies aims	Answer		
1. What are the main aims and objectives of the policy?	To outline the measures which should be taken to ensure that the DBS checking process is thorough, fair and consistent with relevant legislation, best practice guidelines and stipulations as set out by the Department of Health and the Disclosure and Barring Service		
2. Who will be affected by it?	Staff members, members of the public and those working within partner organisations as applicable		
3. What are the existing performance indicators/measures for this? What are the outcomes you want to achieve?	HR data is subject to monitoring and review to ensure there is no discrimination within the process.		
4. What information do you already have on the equality impact of this document?	Previous information gathered as a result of the existence of former policies within the organisation.		
5. Are there demographic changes or trends locally to be considered?	No		
6. What other information do you need?	None		
Step 2 - Assessing the Impact; consider the data and research	Yes	No	Answer (Evidence)
1. Could the policy discriminate unlawfully against any group?		x	This policy is designed to ensure equity of treatment and adherence to legal requirements.
2. Can any group benefit or be excluded?		x	All groups would be treated equally in accordance with the stipulations of the policy.
3. Can any group be denied fair & equal access to or treatment as a result of this policy?		x	All groups would be treated equally in accordance with the stipulations of the policy.
4. Can this actively promote good relations with and between different groups?	x		All groups are treated equally and in accordance with best practice guidelines.
5. Have you carried out any consultation internally/externally with relevant individual groups?		x	None required
6. Have you used a variety of different methods of consultation/involvement?		x	None required
Mental capacity Act implications			
78. Will this policy require a decision to be made by or about a service user? (Refer to the Mental Capacity Act policy for further information)		x	Does not impact upon patients directly.

If there is no negative impact – end the Impact Assessment here.