

## Disclosure and Barring Service (DBS) Policy

**Please be aware that this printed version of the Policy may NOT be the latest version. Employees 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.
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Amend No	Issued	Subject	Action Date
1	Feb 2014	New policy	
2	Oct 14	Safeguarding incorporated at paragraph 3.12	Oct 2014
3	Mar 2016	Policy rewrite	Mar 2016
4	Oct 2019	<ul style="list-style-type: none"> <li>• Summary updated</li> <li>• Text changed for HR to PS (HR) throughout policy.</li> <li>• Director of People and OD amended to Chief People officer</li> <li>• Staff changed to employees /applicants throughout policy</li> <li>• Paragraph 2 scope wording updated.</li> <li>• Paragraph 3.7.3 and 4 – Sensitive application process added and staff working in Schools and prisons referenced.</li> <li>• Paragraph 4.3 amended to include Basic Disclosures</li> <li>• Paragraph 4.6 amended in relation to check levels</li> <li>• Paragraph 4.9.3 updated to include Security Management Specialists</li> <li>• Paragraph 5.5 added</li> <li>• Paragraph 7.5 wording amended to use the word withdrawal of offer</li> <li>• Paragraph 8.1 amended to include staff who are expected to sign up to the update service</li> <li>• Paragraph mentioning DBS Audits removed</li> <li>• Paragraph 12 amended and 12.2 inserted</li> <li>• Paragraph 13 amended</li> <li>• Paragraph 16 updated to new wording</li> <li>• Paragraph 19 policy names updated</li> <li>• Appendix A - F updated</li> </ul>	Oct 2019

**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 S Martin	Assurance Group, JCC	Policy re-write and changes made to groups of employees who will be subject to a renewal DBS check.
4	Sep 2019	L Bicknell	JCC, Workforce and Organisational Development Committee	Update as a result of e-DBS and clarification on re-checks

## **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 employees 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)
- Disclosure disputes procedures (Section 10)
- Legislative requirement to make referrals to the DBS when there are safeguarding issues with an employee (Section 11 and Appendix C).
- Storage and handling of DBS disclosure certificates (Section 12)
- Process for obtaining a DBS Disclosure (Section 13 and Appendix D)

## 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
- Care Act 2014
- Working Together 2018

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 to locum, bank, permanent and fixed term contract employees (including apprentices) who hold a contract of employment or engagement with the Trust, and secondees (including students), volunteers (including Associate Hospital Managers), Non-

Executive Directors, and those undertaking research working within Solent NHS Trust, in line with Solent NHS Trust's Equality, Diversity and Human Rights Policy. It also applies to external contractors, Agency workers, and other workers who are assigned to Solent NHS Trust.

2.2 A list of definitions are enclosed at Appendix A

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

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

3.1.1 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***

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

#### **3.3 *Chief People Officer***

3.3.1 The Chief People Officer is the named officer responsible for ensuring the content of this policy is applied fairly and consistently across the Trust.

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

3.4.1 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***

3.5.1 Service Leads, Line Managers and Recruiting Managers are responsible for:

- providing assurance that this policy is implemented during the recruitment process for their service(s)
- overseeing the dissemination and implementation of this policy across their service
- ensuring that all new employees are recruited appropriately for their service in line with this policy
- notifying the PS(HR) team if any of their employee's regularly work in schools or prisons as part of their normal duties
- 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
- advising applicants who are required to sign up to the update service of this
- keep any information they receive regarding applicants convictions confidential

#### **3.6 *People Services (HR) Team***

3.6.1 The People Services (HR) Team 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 and Applicants***

- 3.7.1 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.
- 3.7.2 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.
- 3.7.3 Clinical employees working within Schools, Prisons or the Safeguarding team will be expected to sign up to the DBS update service. See paragraph 8.
- 3.7.4 If an employee or applicant 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) . By contacting the sensitive applications team before submitting an application they will be advised of the process to be followed, so that their previous name or gender will not be disclosed to the Trust.

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

- 4.1 Before the Trust considers asking an applicant or employee 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 (see Appendix B).
- 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 PS (HR) Team for further clarification.
- 4.3 There are four levels of DBS disclosure available from the Disclosure and Barring Service in England:
- Basic disclosure
  - Standard disclosure
  - Enhanced disclosure
  - Enhanced disclosure with childrens and/or adults barred list check(s).
- 4.4 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.
- 4.5 Existing employees 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.

### 4.6 ***Executive Directors, and Non-Executive Directors***

4.6.1 Under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 board directors and board members who have overall responsibility for the quality and safety of care must be a fit and proper person. This means that in certain circumstances some directors are required to register as a manager in order for the Trust to provide some services, for example Chief Operating Officers. Other directors for example the Chief Finance Officer, Chief Medical Officer, and Chief Nurse, due to the nature of their duties require a standard or enhanced level disclosure to be undertaken.

4.6.2 If a director or non-executive director does not meet the above criteria the Trust will require a basic level disclosure, for these positions.

#### 4.7 ***Basic Disclosure***

4.7.1 Basic disclosures which individuals can apply for directly contains details of convictions, cautions and conditional cautions considered to be unspent (current) under the terms of the Rehabilitation of Offenders Act 1974

#### 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 employees 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
- Security Management Specialist from 26/02/15
- 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 Childrens 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***

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

4.13.2.2 **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) providing assistance with cash, bills and/or shopping
- (v) providing 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

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

- (i) teaching, training, instruction, care for or supervision of children, or providing advice/guidance on well-being, of children

- (ii) Work for a limited range of establishments for example schools, childrens 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**

- 4.14.1 Route 2 will apply when an applicant is not able to provide photographic ID as specified by the DBS for the purpose of a check. Route 2 checks require an organisation to make an appropriate external ID validation of the applicant. 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 EMPLOYEES, STUDENT PLACEMENTS, VOLUNTEERS AND INDIVIDUALS NOT EMPLOYED BY THE TRUST.**

#### 5.1 **Bank employees**

- 5.1.1 The NHS Employers document 'How to Understand Employment Checks for Agency Employees issued in November 2011, gave details that bank employees should have a DBS.
- 5.1.2 Since June 2013 when the conditions for being eligible for a disclosure changed so only bank employees who satisfy the conditions shown in paragraphs 4.9 to 4.12 will be subject to a DBS disclosure on appointment. Re-checks will only be made for bank workers who meet the criteria in paragraph 7.

#### 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 placements (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 on appointment.

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

- 5.4.1 Agency workers and, 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 undertake the DBS disclosure, in accordance with the NHS Framework. On request the Agency will provide the unique disclosure clearance number and the date of issue.
- 5.4.2 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.

## 5.5 **Collaborative Bank**

- 5.5.1 For anyone employed via the collaborative bank, evidence of a DBS undertaken by one employer will be accepted as evidence for all other partners in the collaborative as long as they are working at the same level and evidence of a DBS being undertaken is provided by the original employer. If a higher level check is required the partner in the collaborative requiring the higher level check will be responsible for undertaking this check.

## 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 On appointment the Trust will undertake a standard or enhanced or enhanced with barred list check for those employees who are eligible to receive a check at this level. 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 is held on file
  - clinical post from a non-clinical post will be assessed to determine if a DBS check is required
- 7.2 Whilst there is no legal requirement to review DBS checks the Trust will carry out 3 yearly retrospective checks for the:
- Executive Lead for Safeguarding and clinical Safeguarding Service 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
  - Employees 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.
  - Clinical employees who are required to work in schools or prisons as a regular part of their role

- 7.3 The Trust reserves the right to carry out ad-hoc checks on employees in line with safer recruitment guidelines.
- 7.4 It is the responsibility of all employee's including bank workers 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 overs, 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 may result in the withdrawal of the formal offer.
- 7.6 If it appears that an employee has withheld information, an investigation in accordance with the HR Investigation Policy may be deemed necessary.

## **8. UPDATE SERVICE**

- 8.1 At the point employees and applicants complete an on-line DBS form; they will be given the opportunity to subscribe to the update service which keeps their DBS record 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 normally payable by the individual.
- 8.2 Employees and applicants who meet the criteria in paragraph 7.2 will be asked to apply for the update service and will be given information on how they recover the additional cost via the e-expenses system.

## **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 PS (HR) team.
- 9.2 The type of update undertaken under the update service must be appropriate for the role employee is undertaking within the Trust. In some cases after undertaking an on-line status check the employee may be asked to obtain a new DBS.

## **10. DISCLOSURE DISPUTES**

- 10.1 Individuals who apply for a disclosure will have a right of appeal to the DBS 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 PS (HR) Department will store this information for a six month period from the date the dispute was resolved.

## **11. REFERRALS TO THE DBS REGARDING SAFEGUARDING ISSUES – ESR AND THE DBS (APPENDIX C)**

- 11.1 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 an adult at risk of harm or abuse, then we have a **LEGAL** duty to refer the person to the DBS.
- 11.2 In the first instance the line manager should seek advice from the Trust's Safeguarding team who will make an onward referral to the LADO or SAMA as appropriate. Guidance can also be sought from the HR Consultancy team. The flowchart in Appendix C can be used as a prompt for managers when faced with a potential safeguarding issue.
- 11.3 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.
- 11.4 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.
- 11.5 Further Information on referral duties can be found on the DBS website [www.gov.uk/dbs](http://www.gov.uk/dbs).
- 11.6 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 PS (HR) DBS Administrator in the Trust who will contact the relevant PS (HR) Consultant to verify if the dismissal was due to a safeguarding issue.
- 11.7 Any such notification to the DBS would only be made after the Safeguarding Team and PS (HR) have reviewed and agreed that it does relate to a safeguarding concern and the decision has also been reviewed by the Chief Nurse.
- 11.8 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.

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

- 12.1 The Trust does not receive a copy of the DBS Disclosure notice but email confirmation of successful completion of the check is received. If there is an issue with the DBS check see Appendix D. Confirmation that the DBS check has been carried out on an individual will be recorded within the Electronic Staff Record for the employee in order to provide assurance.
- 12.2 For Directors and Executive Directors where a copy of the DBS is required to be held for Fit and Proper Person checks, they will be asked to provide a copy of their certificate so that it can be held on their electronic personal file within the PS (HR) team.

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

- 13.1 A process map of the procedure to be followed to undertake a DBS check is included at Appendix D.

## **14. TRAINING**

- 14.1 Whilst there is no specific training identified in relation to this policy, the Trust recognises the importance of appropriate training for employees. 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 employees are made aware of this policy when this is cascaded through usual dissemination routes.

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

- 15.1 In line with Trust policy, equality and human rights impact assessment has been completed and no significant issues have been identified. It is understood that no employee will receive less favourable treatment on the grounds of disability, age, sex, race, religion or belief, gender reassignment, pregnancy or maternity, marriage or civil partnership, working patterns or Trade Union membership or non-membership in relation to the application of this policy. The equality and human rights impact assessment is included at Appendix F. This policy has also been assessed and meets the requirements of the Mental Capacity Act 2005.

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

- 16.1 The success of this policy will be monitored by reference to statistics which identify awareness on the part of employee's 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 PS (HR) cases which identify compliance with the requirements of this policy.

## **17. REVIEW**

- 17.1 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.

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

- 18.1 This policy is underpinned by the following:
- Employing people with criminal records (CIPD, 2008)
  - NHS Employment Standards revised July 2019
- 18.2 It should be read in conjunction with:
- Recruitment and Selection Policy
  - Equality Diversity and Human Rights 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 Children, Young People and Adults at Risk Policy
  - HR Investigation Policy
  - Disciplinary Policy
  - Collaborative Bank SOP (to be drafted)

**DEFINITIONS****PS (HR) - People Services (Human Resources)**

**DBS** – Disclosure and Barring Service

**Barred List** – There are two barred lists administered by the Disclosure and Barring Service (DBS) (the Childrens 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.

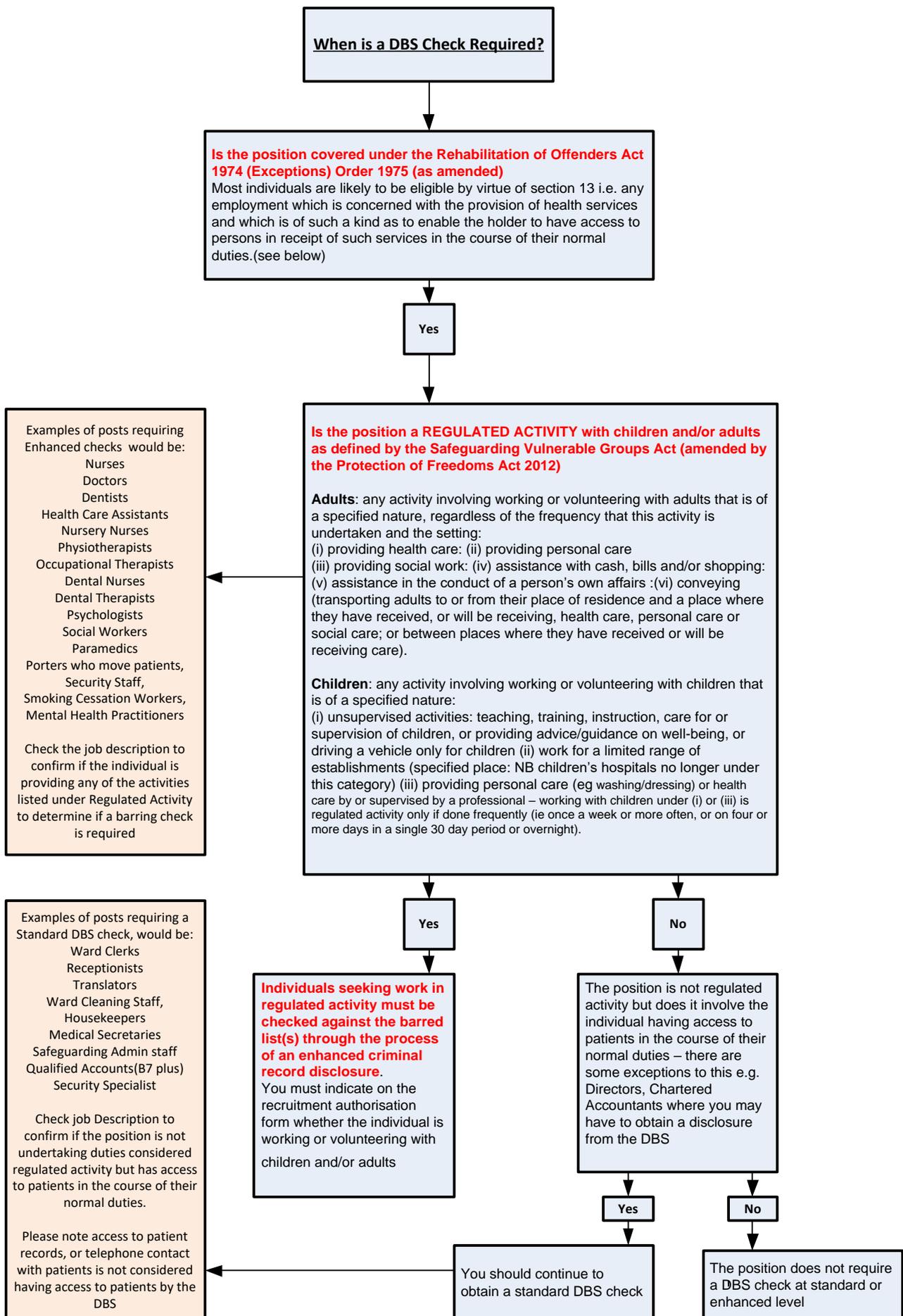
**Disclosure Certificate** – a certificate that provides criminal record information, depending upon the type of disclosure requested.

**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.

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).

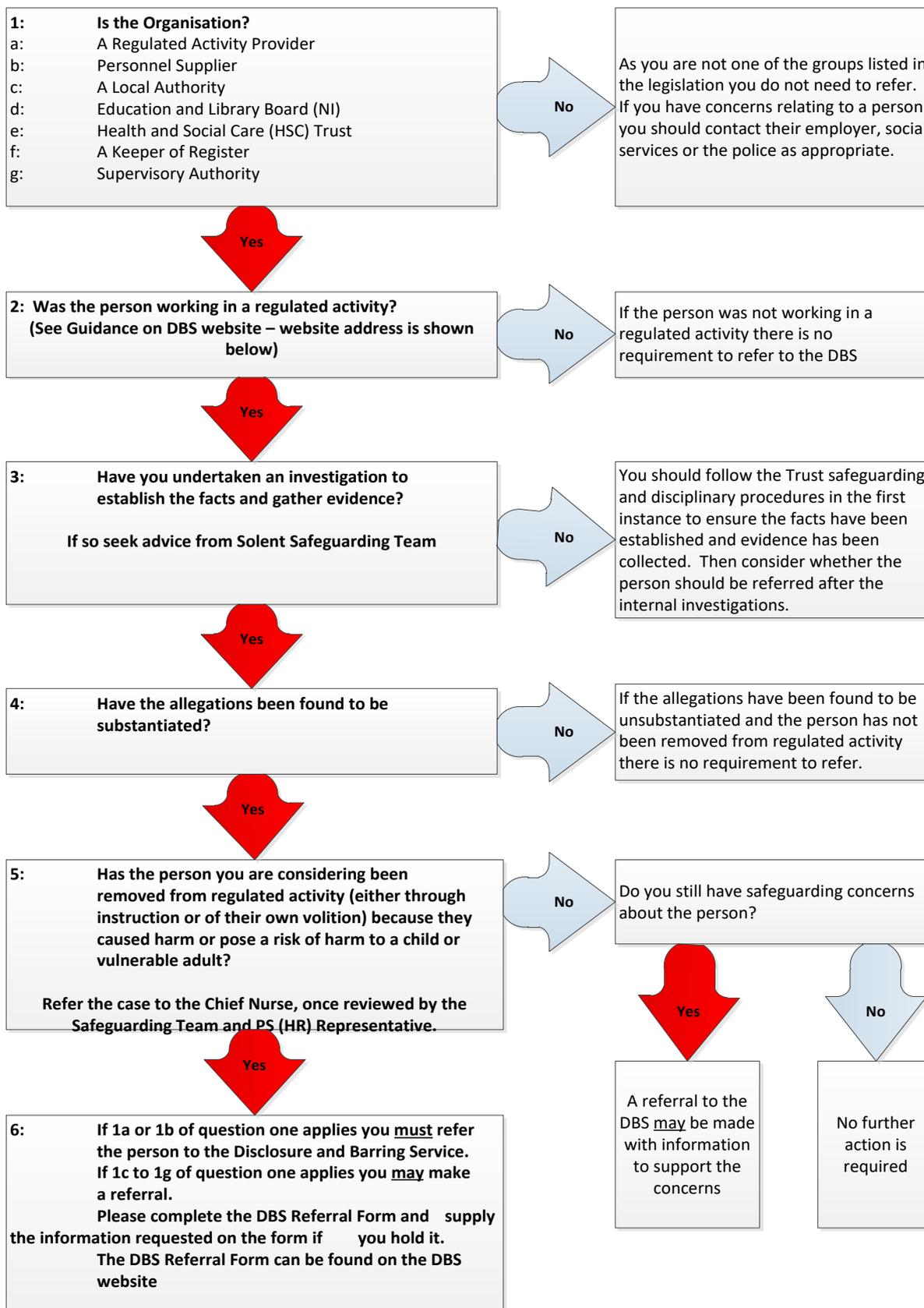
**Spent convictions** – convictions defined by the Rehabilitation of Offenders Act 1974 as being 'spent' after specified periods of time. Spent convictions do not need to be brought to the attention of the Trust unless the work or post is covered by the Rehabilitation of Offenders 1974 Exemptions Order.

**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.



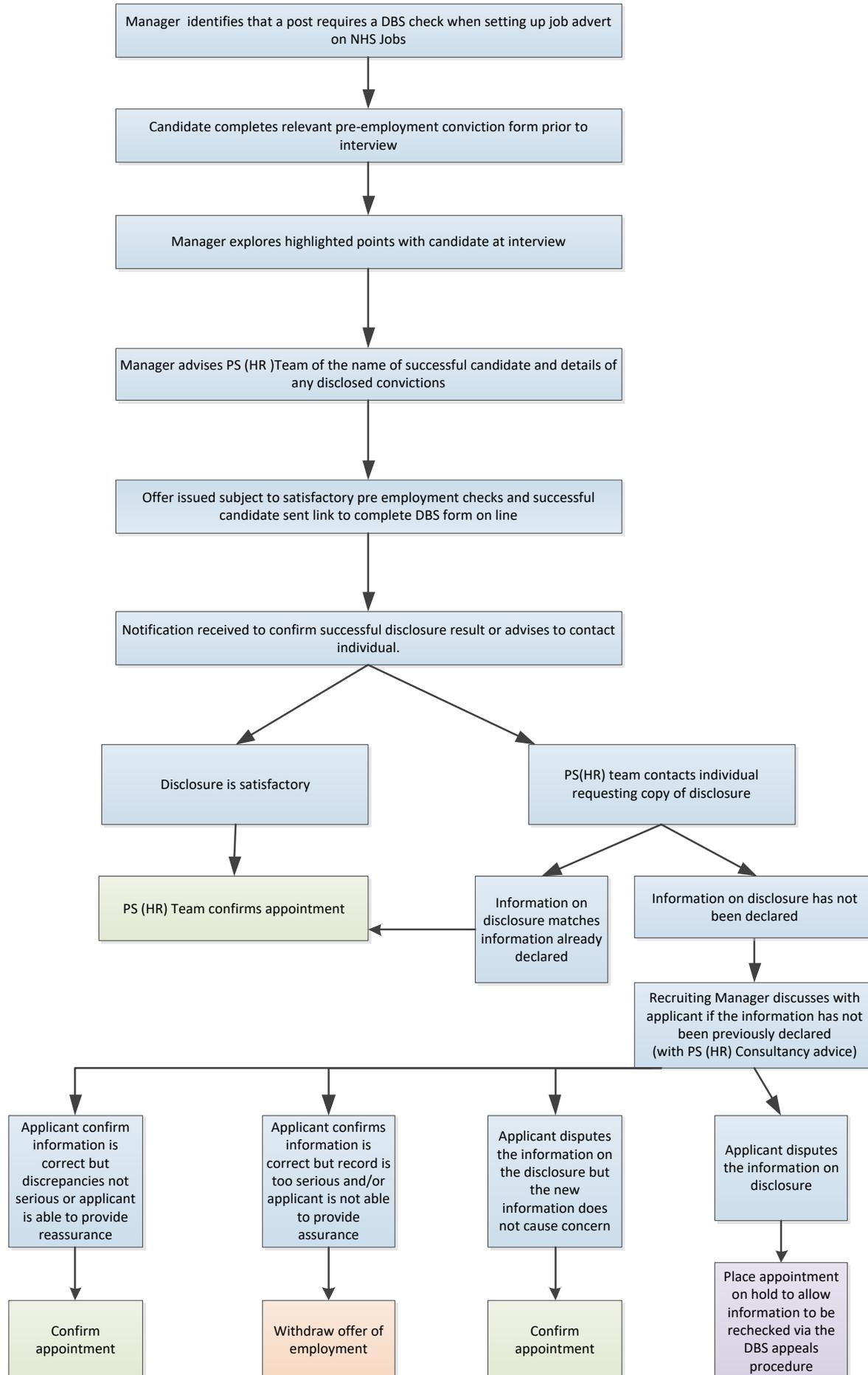
For Directors and Non-Executive Directors please see paragraph 4.6.1

**DISCLOSURE & BARRING SERVICE REFERRAL PROCESS FOR SOLENT NHS TRUST**



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

**FLOWCHART FOR ACTIONING DISCLOSURES**



**POINT TO BE COVERED WHEN MANAGERS ARE HOLDING DISCUSSIONS ABOUT POSITIVE DISCLOSURES**

1. If the disclosure has already been made and taken into account no further action will need to be considered, unless the individual is on the childrens or adults barred list where they have applied to work in regulated activity.
2. Managers should only consider convictions and cautions that are specifically relevant to the position being appointed to.
3. They should then consider whether the crime would pose any potential opportunities or risks whilst delivering the role.
4. For convictions not expected or declared that are relevant to the role further consideration will need to be made to ascertain whether employment can continue to be offered.
5. Interview the applicant
6. Explain the reason for the interview
7. Consider how relevant the offence is to the role
8. The age of the applicant at the time of the offence
9. How long has it been since the offence occurred
10. The context surrounding the offence
11. Consider if the applicants circumstances have changed since the offence was committed
12. The severity of the offence
13. Allow the applicant time to ask further questions
14. Ensure the applicant is given a named contact who they will be able to contact with any further questions or useful information that might not have been discussed.
15. Agree timeframe for a response, if it cannot be made immediately.

## Equality Impact Assessment Template

<b>Step 1 – Scoping; identify the policies aims</b>	<b>Answer</b>		
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?	Employees, applicants, 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 all employees and applicants are treated fairly under the legislation, and the DBS have specific application processes for sensitive cases.		
5. Are there demographic changes or trends locally to be considered?	No		
6. What other information do you need?	None		
<b>Step 2 - Assessing the Impact; consider the data and research</b>	<b>Yes</b>	<b>No</b>	<b>Answer (Evidence)</b>
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 and legislation.
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
<b>Mental capacity Act implications</b>			
7. 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.
<b>External considerations</b>			
8. What external factors have been considered in the development of this policy	x		DBS legislation, NHS Requirements, Atlantic Data requirements
9. Are there any external implication in relation to this policy?		x	The Trust is required to follow the legislation and this policy facilitates this compliance.
10. Which external groups may be affected positively or adversely as a consequence of this policy being implemented		x	This policy will prevent discrimination to individuals who are ex-offenders

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