

DISCLOSURE AND BARRING POLICY

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1. Introduction

- 1.1 NHS Lewisham CCG may request a criminal record check processed through the Disclosure and Barring Service as part of its recruitment process.
- 1.2 For certain roles the check will also include information held on the DBS's children and adults barred lists, together with any information held locally by police forces that is reasonably considered to be relevant to the post applied for.
- 1.3 These checks are to assist the CCG in making safer recruitment and licensing decisions in line with guidance by NHS Employers and the Department of Health.
- 1.4 The CCG is dedicated to promoting equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from a wide range of candidates, including those with criminal records. Having a criminal record will not necessarily prevent an individual from working with the CCG. This will depend on the nature of the individual's position with the CCG and the circumstances and background of any offences.
- 1.5 **The CCG must not routinely carry out DBS checks; it is illegal to do so.**
- 1.6 This policy and procedure describes:
 - the different types of Disclosure
 - what level of Disclosure is required for different posts
 - where to find out more information
 - the help and support that NHS Employers can provide.

2. Definitions

- DBS - Disclosure and Barring Service
- Disclosure means the contents of a DBS Certificate.
- Exceptions Order means the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.
- Police Act Regulations means the Police Act 1997 (Criminal Records) Regulations 2002 (SI 2002/233)

3. Scope

- 3.1 This policy covers all staff who are directly employed by Lewisham CCG, permanently or temporarily, and also employed by other organisations who are offered secondments with the CCG. This policy also covers those who are hired on a short-term temporary basis via employment agencies.
- 3.2 Disclosures contain personally identifiable information and as such HR staff must be aware of the confidentiality and disclosure policy.

4. Roles and responsibilities

- 4.1 The CCG HR Lead has accountability for ensuring systems are in place to implement this policy.
- 4.2 The CCG HR Lead is responsible for ensuring the implementation of this policy within the CCG.
- 4.3 The Recruiting Manager will assess the role against the need for a criminal records check against the criteria contained in sections 6.2 (Standard disclosure) and 7.2 (Enhanced disclosure) below.
- 4.4 The HR resourcing team will be responsible for ensuring the criminal records check is undertaken and for ensuring that the Disclosure is acted upon appropriately.

5. Levels of disclosure and eligibility

- 5.1 DBS checks can only be obtained for individuals who are at least 16 years of age and any counter-signatory to an application must be at least 18 years of age.
- 5.2 There are two levels of disclosure to be provided by certificate:
 - 5.2.1 Standard disclosure
 - 5.2.2 Enhanced disclosure in the form of either an ordinary Enhanced disclosure or an Enhanced with Barred List Checks disclosure

6. Standard disclosure

- 6.1 Standard DBS certificates can be applied for only in respect roles included in the Exceptions Order.
- 6.2 They fall into five broad groups:
 - 6.2.1 Professions (such as medics, lawyers, accountants, vets, chemists and opticians).
 - 6.2.2 Those employed to uphold the law (such as judges and officers of the court)
 - 6.2.3 Certain regulated occupations (such as financial services, those in charge of certain types of nursing homes, taxi drivers and firearms dealers).
 - 6.2.4 Those who work with children, provide care services to vulnerable adults or who provide health services.
 - 6.2.5 Those whose work means they could pose a risk to national security (such as air traffic controllers and certain Crown employees).
- 6.3 A standard DBS certificate will contain details of the individual's:
 - 6.3.1 Convictions, both spent and unspent.
 - 6.3.2 Cautions, both spent and unspent.
 - 6.3.3 Police reprimands and warnings

7. Enhanced disclosure

- 7.1 Enhanced DBS certificates can be applied for only in respect of the excepted posts that are included in both the Exceptions Order and the Police Act Regulations.
- 7.2 For example, enhanced disclosures are appropriate in respect of certain positions that involve work with children and vulnerable adults. An enhanced certificate is available for anyone working in a “regulated activity” as defined in the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012. Consideration must be given to whether any role undertaken by an individual(s) will be or is an excepted role for which an enhanced DBS check can be applied for.
- 7.3 An enhanced DBS certificate will contain details of an individual's:
 - 8.3.1 Convictions: spent and unspent.
 - 8.3.2 Cautions: spent and unspent.
 - 8.3.3 Police reprimands and warnings.
 - 8.3.4 Relevant police information
 - 8.3.5 Where appropriate to the post being applied for, any information stored about the person on statutory lists.

8. Offers of employment

- 8.1 All offers of employment will be made subject to satisfactory clearances, which include a satisfactory DBS Disclosure, where this has been sought.
- 8.2 Most successful applicants will not be permitted to commence working for the CCG until satisfactory clearances including, where sought, a DBS disclosure, have been received. *[Any exceptions to this requirement will be subject to a risk assessment by the individual's manager and will be communicated to the individual at the time employment has been offered. In such circumstances, the continuation of employment will still be subject to receiving a satisfactory DBS disclosure].*
- 8.3 An offer of employment may be withdrawn and/or employment may be terminated if the DBS disclosure results are not satisfactory. An unsuccessful applicant will be informed of this by the HR resourcing team and confirmation will follow in writing. Unsuccessful applicants will be entitled to appeal this decision.

9. Recruitment procedure

- 9.1 All posts advertised by the CCG will include a requirement that they are subject to a satisfactory DBS disclosure. The majority of vacancies are applied for online. Applicants are made aware that if they are applying for a post involving access to persons in receipt of health services, the offer of employment is subject to a satisfactory disclosure from the DBS.
- 9.2 Where disclosure is to form part of the recruitment process, the CCG will encourage all applicants called for interview to provide details of their criminal record at an early stage.
- 9.3 A failure to reveal information relating to any conviction could lead to withdrawal of an offer of employment and/or termination of employment.
- 9.4 Should applicants need to disclose information to the CCG, they are requested to do this in a sealed envelope at the time of application. At no point will this information be shared with any other person except the HR resourcing team.

10. Receiving an unsatisfactory DBS disclosure

- 10.1 On receipt of a positive DBS disclosure, the 'DBS disclosure panel' (see section 11) will consider the information against the job role for which the applicant has applied and will consider what appropriate action should be taken.
- 10.2 Unsatisfactory disclosure may lead to the withdrawal of a job offer or to termination of employment.

11. DBS disclosure panel

- 11.1 A DBS Disclosure Panel will only and always meet when an unsatisfactory disclosure is received and will consist of the recruiting manager, the CCG HR Lead and HR Business Partner. The Panel will determine whether or not the applicant, based on the information received via the DBS disclosure process, presents a risk of potential harm to vulnerable patients and/or children. The Panel's decision will be communicated to the HR resourcing team who will take appropriate action.

12. Convictions during employment

- 12.1 The employment contract requires all employees to notify their manager of any charges, convictions or pending prosecutions brought against them for any criminal charges or offences, whether connected to their employment or not.
- 12.2 **Employees are also required to inform their manager of any circumstances or convictions, subsequent to the acceptance of the employment contract, which may affect their employment with the CCG. This is an ongoing duty of disclosure and continues throughout the employee's employment with the CCG.** The CCG will not routinely renew DBS checks for its employees.
- 12.3 On receipt of such information the CCG may elect to carry out a DBS check and will take such further action as is required – including termination of employment where appropriate.

13. Storage of disclosures

- 13.1 Disclosure information will be kept securely, in lockable, non-portable storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties. This will be held by the resourcing team at the CSU providing the recruitment service for the CCG.
- 13.2 Disclosure will only be passed to those who are authorised to receive it in the course of their duties. The CCG will maintain a list of all those to whom DBS disclosure information is revealed as it is a criminal offence to pass disclosure information to those who are not entitled to see it.
- 13.3 Once the retention period has elapsed, DBS disclosure information will be immediately destroyed by shredding. While awaiting destruction a DBS disclosure will be not kept in any insecure receptacle such as waste bin or confidential waste sack.
- 13.4 Disclosures will not be copied in any way. The CCG will keep a record of the date of issue of the DBS disclosure and the name of the subject and the type of DBS disclosure requested, the position for which the Disclosure was requested the unique reference number of the DBS disclosure and the details of the recruitment decision taken.

14. Equality Statement

We are committed to a policy of equality in all our employment practices in accordance with the Equality Act 2010 and Human Rights Act 1998 which consolidates existing equality legislation relating to the protected characteristics and strive to eliminate unfair discrimination, harassment, bullying and victimisation. NHS Lewisham CCG will not unlawfully, unfairly or unreasonably discriminate or treat individuals less favourably on the grounds of age, disability, gender reassignment, marriage & civil partnerships, pregnancy & maternity, race, religion or belief, sex and sexual orientation.

Appendix 1: DBS Clearances – Quick Guide

It is illegal to run a DBS check unnecessarily. Do not be tempted to undertake one “to be on the safe side”

All NHS Jobs applications ask the question to every applicant around **unspent** convictions. This is perfectly acceptable.

For roles requiring a DBS check the HR resourcing team add questions around **spent** convictions but must be careful which roles these are applied to.

The Rehabilitation of Offenders Act 1974 (including the exemptions to the Act) must be adhered to.

The following roles fall under the exemptions to the Act, therefore they are eligible for an enhanced DBS check:

1. Direct patient contact. Fairly unusual in the CSU/CCG environment e.g. CHC Nurse Assessors.
2. Safeguarding/Quality & Nursing roles, e.g. Designated Nurse, Chief Nurse
3. Chartered and Certified Accountants (i.e. this qualification is an essential requirement).
For the above three types of role the recruitment team will automatically request a DBS clearance.

Any other requests from recruiting managers for a DBS check which do not fall within the exemptions to the Act must be put in writing to the recruitment team. Any legal liabilities will be at the recruiting organisation’s risk.

All DBS checks provide information relating to an individual’s criminal history in the UK.

For further information please use the link below:

<https://www.gov.uk/disclosure-barring-service-check>

The DBS has a reciprocal agreement with a number of countries within the EU to share information about criminal offences with Member States and these are included on the Police National Computer. However, there is no single international arrangement for sharing this type of information hence the continued recommendation for trusts to obtain a police check with the country of origin when recruiting individuals from overseas, in addition to obtaining a check through the DBS. Advice around this is easily found on the gov.uk website, as below:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Appendix 2: Withdrawal of employment offer

Home address

Date

STRICTLY PRIVATE AND CONFIDENTIAL ADDRESSEE ONLY

Dear >.....

Re: (**enter Title of role for which verbal/written offer has been made**)

Further to my letter of (enter date of offer letter), and my telephone call of (**enter date of telephone call to verbally inform that offer has been withdrawn**) I regret to inform you that the CCG's offer for the above role has been withdrawn.

As you are aware this post was subject to satisfactory clearance from the Disclosure and Barring Service. Given that most DBS disclosure results are not received until offers of employment are made to preferred applicants, all written offers of employment are always made subject to satisfactory clearances, which includes a satisfactory DBS disclosure where this has been sought. You will be aware from your own copy of the DBS disclosure Certificate that the result contains information in relation to a (**enter conviction/warning/offence/reprimand**)

In these instances, [**The CCG engages a DBS disclosure panel which consists of ROLES**]. It is the role of the Panel to establish the suitability of applications and to determine whether or not the applicant, based on the information received via the DBS disclosure process, presents a risk or potential harm to vulnerable patients and/or children. This Panel has decided that the offer of employment application cannot proceed on the basis of the information provided to them.

Yours sincerely

HR Business Partner

Appendix 3: Equality Impact Assessment

This is a checklist to ensure relevant equality and equity aspects of proposals have been addressed either in the main body of the document or in a separate equality & equity impact assessment (EEIA)/ equality analysis. It is not a substitute for an EEIA which is required unless it can be shown that a proposal has no capacity to influence equality. The checklist is to enable the policy lead and the relevant committee to see whether an EEIA is required and to give assurance that the proposals will be legal, fair and equitable.

The word proposal is a generic term for any policy, procedure or strategy that requires assessment.

	Challenge questions	Yes/No	What positive or negative impact do you assess there may be?
1.	Does the proposal affect one group more or less favourably than another on the basis of:		
	▪ Race	No	
	▪ Pregnancy and Maternity	No	
	▪ Sex	No	
	▪ Gender and Gender Re-Assignment	No	
	▪ Marriage or Civil Partnership	No	
	▪ Religion or belief	No	
	▪ Sexual orientation (including lesbian, gay bisexual and transgender people)	No	
	▪ Age	No	
	▪ Disability (including learning disabilities, physical disability, sensory impairment and mental health problems)	No	
2.	Will the proposal have an impact on lifestyle? (e.g. diet and nutrition, exercise, physical activity, substance use, risk taking behaviour, education and learning)	No	
3.	Will the proposal have an impact on social environment? (e.g. social status, employment (whether paid or not), social/family support, stress, income)	No	
4.	Will the proposal have an impact on physical environment? (e.g. living conditions, working conditions, pollution or climate change, accidental injury, public safety, transmission of infectious disease)	No	

5.	Will the proposal affect access to or experience of services? (e.g. Health Care, Transport, Social Services, Housing Services, Education)	No	
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