

## DISCLOSURE BARRING SERVICE (DBS) POLICY AND PROCEDURE

Policy ID	HR30
Version	V1.0
Responsible Executive Director	Chief Officer
Author	Becky Brewer
Last review date:	June 2017
Next review date:	June 2020
Date agreed by Rem Comm Committee	30 <sup>th</sup> June 2017

### Version History

V.	Date	Status and/ or amendments
V1.0	June 16	First draft
V1.1	May 17	EQIA completed

## EQUALITY STATEMENT

NHS Surrey Downs Clinical Commissioning Group (Surrey Downs CCG) aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the Human Rights Act 1998 and promotes equal opportunities for all. This document has been assessed to ensure that no-one receives less favourable treatment on grounds of their gender, sexual orientation, marital status, race, religion, age, ethnic origin, nationality, or disability. Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the person requesting has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

Surrey Downs CCG embraces the six staff pledges in the NHS Constitution. This policy is consistent with these. The pledges can be found at:

<https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england#staff-your-rights-and-nhs-pledges-to-you>

## EQUALITY ANALYSIS

This policy has been subject to an Equality Analysis, the outcome of which is recorded below.

		Yes, No or N/A	Comments
1.	Does the document/guidance affect one group less or more favourably than another on the basis of:		
	<b>Gender</b> (Men and Women)	No	
	<b>Race</b> (All Racial Groups)	No	
	<b>Disability</b> (Mental, Physical and Carers of Disabled people)	No	
	<b>Religion or Belief</b>	No	
	<b>Sexual Orientation</b> (Heterosexual, Homosexual and Bisexual)	No	

	<b>Pregnancy and Maternity</b>	No	
	<b>Marital Status (Married and Civil Partnerships)</b>	No	
	<b>Transgender</b>	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	N/A	
4.	Is the impact of the document/guidance likely to be negative?	No	
5.	If so, can the impact be avoided?	N/A	
6.	What alternative is there to achieving the document/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	N/A	

For advice in respect of answering the above questions, please contact the Corporate Office, Surrey Downs CCG. If you have identified a potential discriminatory impact of this procedural document, please contact as above.

Names and Organisation of Individuals who carried out the Assessment	Date of the Assessment
<i>Becky Brewer</i>	<i>24<sup>th</sup> May 2017</i>
<i>Pollymarch Mather</i>	

# DISCLOSURE BARRING SERVICE (DBS) POLICY AND PROCEDURE

## 1. Purpose and Scope

- 1.1 This policy applies to the appointment of all employees, paid and unpaid, including volunteers, bank staff, staff on honorary contracts and others not covered by the term 'employee'.
- 1.2 It is designed to assist in ensuring that all persons working for Surrey Downs CCG are trustworthy and reliable and are not subject to any offences, which are a risk to service users. This policy takes account of current legislation relating to employment, rehabilitation of offenders, safeguarding children and vulnerable adults, and Department of Health guidelines.

## 2. The Disclosure & Barring Service

- 2.1 On the 1st December 2012 the Criminal Records Bureau (CRB) changed to become the Disclosure & Barring Service (DBS). The primary role of the DBS is to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups including children. The DBS was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).
- 2.2 The barring side of the DBS provides expert caseworkers who process referrals about individuals or those who have harmed or pose a risk of harm to children and/or vulnerable groups. They make decisions about who should be placed on the children's barred list and/or adults barred list and prevented by law from working with children or vulnerable groups.
- 2.3 The checking service allows employers to access the criminal record history of people working, or seeking to work in certain positions, especially those that involve working with children or adults in specific situations.

## 3. Key Issues

- 3.1 Part V of the Police Act 1997 makes criminal records checks available for positions that are identified as exempt under the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (as amended). Not all NHS staff will require a DBS check, but such checks are mandatory for all staff who have access to persons in receipt of health services in the course of their normal duties. The trigger for a check and the level of check is based on a

risk assessment against the roles and duties of the position being offered and the type of contact the individual will have with vulnerable groups.

- 3.2 No staff will commence in post until completion of the full DBS process, where applicable. Exceptional circumstances may be agreed and approved by the Executive Team. A previous DBS certificate can be used to expedite a start date subject to the principles set out in section 9; however a new DBS check must have been applied for by the CCG.
- 3.3 A declaration of unspent criminal convictions, cautions, reprimands and warnings will be requested from all applicants on the NHS Jobs application form. In the case of posts that are exempt from the Rehabilitation of Offenders Act, this will also include convictions that are otherwise spent and applicants are not entitled to withhold information about convictions.
- 3.4 It is important to point out the possession of a criminal conviction does not automatically make an application unsuitable for employment in the NHS. However, the DBS holds the power to bar people who have committed indictable offences from working or engaging in regulated activity with children and/or vulnerable adults.
- 3.5 All employees are required to report any police allegations, convictions, cautions, reprimands or warnings that occur during the course of their employment, whether at home or abroad to their line manager within 5 working days of the event, or as soon as reasonable practicable. Failure to do so will be treated as a disciplinary offence and may result in dismissal. Line Managers are responsible for discussing any reported incidents with HR to identify if any action is required.
- 3.6 Failure by an employee to provide accurate and truthful information at the time of applying for the position will be considered as a disciplinary matter, which could result in dismissal or withdrawal of an offer of employment.
- 3.7 NHS Employers guidance confirms that there is no legal requirement to carry out retrospective (periodic) CRB / DBS checks on employees. A new DBS check would be undertaken where a concern is brought to the CCG's attention by either a member of the public, the police authorities, their line manager or where the individual themselves has alerted the CCG to an issue under 3.5 above.
- 3.8 The CCG reserves the right to carry out discretionary spot checks on individuals at any time. Approximately 10% of DBS' will be spot checked on an annual basis.

#### 4. Determination of Level of Disclosure

- 4.1 The recruiting manager will determine whether a DBS check is required for the post ratified by HR and the appropriate level upon completion of section of the appointment form.
- 4.2 The Disclosure and Barring Service (DBS) offers two types of criminal record check.

***Standard DBS check contain details of an individual's convictions, cautions, reprimands or warnings recorded on police central records and includes both 'spent' and 'unspent' convictions. These are shown on a criminal records check.***

***\*When to use a Standard DBS*** – Where an individual has direct, physical contact with patients as part of their day to day activities. Or, if an individual has an overall budget responsibility for public funds and their job role requires them to be a qualified accountant i.e AACCA/ACMA.

***Enhanced DBS check contains the same details as a standard check, together with any information held locally by police forces that it is reasonably considered might be relevant to the post applied for.***

***\*When to use an Enhanced DBS*** – Where an individual has direct and unsupervised contact with children and vulnerable adults as part of their day to day activities.

#### 5. Opportunity to Disclose

- 5.1 Information obtained through the recruitment and selection stage is designed to prevent unsuitable people from gaining access to vulnerable groups, while at the same time respecting human rights and privacy issues and complying with the requirements of the Data Protection Act. Candidates are requested to disclose any criminal convictions, warnings and reprimands at various stages of the recruitment and selection
- 5.2 On the application form: The monitoring section of the application form will ask candidates to disclose information. This section of the application is only accessed by HR and is not disclosed to the recruiting manager.
- 5.3 Self-declaration forms must be handled, stored and destroyed in the same way as DBS check information and should not be kept on file any longer than necessary.
- 5.4 Where a vacancy meets the criteria for a check, the advert will clearly state that any offer of employment will be subject to a DBS check being carried out. A disclosure will only be applied for once a decision to offer the post has been taken and a conditional offer made. Prospective employees will

be advised that as the position being applied for is exempt from the Rehabilitation of Offenders Act 1974 they are required to provide a self-declaration providing details of any criminal records and information about both spent (old) and unspent (current) convictions as part of the application process and any information given will be verified by obtaining the DBS disclosure.

- 5.5 Where the position does not meet the criteria for a DBS check, but may still be regarded as a 'position of trust', prospective employees will be required to complete a self-declaration providing information about unspent (current) convictions only as part of the application process. Consideration will also be given as to whether a Basic Disclosure should be obtained.

## **6. Procedure for DBS Applications**

- 6.1 Once a post has been identified as requiring a DBS check and the appropriate level has been assessed as outlined above, the HR department will identify if the prospective employee requires a new DBS check in accordance with paragraph 9.7 below. A self-declaration of criminal convictions form and an online link for the DBS application will be sent along with the provisional offer of employment to complete and return.
- 6.2 The individual must return the self-declaration form and supporting documentation in person to ensure that the documents are checked with the individual present to verify their identity.
- 6.3 A member of the HR team will check documentation against a list of DBS requirements. A list of approved forms of ID is available from HR. Photocopies of the documents are retained on the personal file. The application form online is checked by a counter-signatory for approval and confirmation of which level of check required – standard or enhanced.
- 6.4 The procedure followed must ensure confidentiality and compliance with the Data Protection Act 1998.

## **7. Disclosure reports – Use, Storage & Destruction**

- 7.1 The DBS certificate will only be sent to the applicant, even if it contains any criminal record information. Therefore the applicant may be requested to contact the HR department to bring in the original certificate for checking and copying. The applicant's permission must be obtained to copy the certificate and they will be asked to sign a DBS consent form.
- 7.2 Where a disclosure indicates no criminal history, this will be recorded on the ESR (Electronic Staff Record) system, together with the date received and the date of the disclosure report. The recruiting manager will be informed

that the applicant/employee has been cleared to commence in post (subject to all other pre-employment checks).

- 7.3 The copy of the DBS certificate and self-declaration of Criminal Conviction form will be stored by month, held securely in lockable, storage cabinet with access strictly controlled and limited to persons who need to have access to this information in the course of their duties.
- 7.4 Once a decision has been made as to whether to appoint, the DBS Certificate and self-declaration of Criminal Conviction form will be kept for no longer than six months from appointment, and six months from where the applicant has been unsuccessful, to allow for the consideration and resolution of any disputes or complaints. After this time the DBS information will be shredded and destroyed.
- 7.5 A record of the following will be kept on the ESR system:
- The issue date of the DBS certificate
  - The level of check requested, including any checks against one or both of the barred lists
  - The unique reference number of the certificate.
  - The DBS check outcome, e.g. post to be offered, offer withdrawn etc.

## **8. Positive Disclosures**

- 8.1 The DBS certificate will reveal if the individual has a criminal record, including details of convictions, cautions, reprimands or final warnings. The DBS certificate will only provide the basic facts such as the name and date of offence(s) and, if applicable, details of any sentence(s). It will not put them into context.
- 8.2 Information obtained through DBS checks can help managers make an informed decision on whether or not to appoint a prospective employee. The decision rests with the CCG as to whether to employ a person whose DBS check reveals a conviction or other relevant information. The information provided should be carefully considered in the light of all the relevant circumstances and judged on a case-by-case basis.
- 8.3 If a disclosure indicates a conviction, caution or other record, the disclosure will be recorded and stored as above. The HR department will make checks to ascertain whether the issues reported had been declared on either the application form, at interview or on the self-declaration form.
- 8.4 If the issues on the disclosure certificate has not be previously declared, the recruiting manager will be informed and will be required to contact the candidate to ascertain why they failed to disclose this information, as this will normally result in the offer of employment being withdrawn. The

recruiting manager will discuss the candidate's explanation for failing to make the declaration with a member of the HR team. In exceptional circumstances and following discussions with the appropriate head of service may be taken to accept the candidate's explanation for failure to disclose.

- 8.5 If the individual identifies on the application form any sanction relating to fraud (cautions, convictions etc.) or any other dishonest acts the DBS must be brought to the attention of the Executive Management Team.
- 8.6 The procedure for dealing with positive disclosure is detailed in the form titled 'process for dealing with positive disclosure'. This process applies irrespective of whether a candidate currently holds a post with the CCG.

## **9. DBS Update Service – Portable DBS checks.**

- 9.1 This is a voluntary applicant-led system where they can subscribe themselves when their new certificate arrives and pay an annual subscription fee directly to the DBS. If an applicant is registered with the Update Service an online check can be made by the CCG which will negate the requirement for a new application. The applicant still has to provide the CCG with the original certificate for copying and will be required to sign a consent form. (There is no official expiry date for a criminal record check issued by the Disclosure and Barring Service (DBS). Any information revealed on a DBS certificate will be accurate at the time the certificate was issued.)
- 9.2 If the applicant has not registered with update service and it has been identified that a post requires a DBS check, a new disclosure must be applied for by the CCG. A disclosure must be received before the candidate is able to commence employment in a regulated activity.
- 9.3 It may be possible to use a previous DBS check to allow a candidate to commence in post pending the receipt of the CCG's disclosure. This will depend on the date the DBS check was completed, if any positive declarations were made and the level of the previous check (i.e. standard / enhanced) must be the same as required for this position. The DBS check certificate must be less than 12 months old if obtained from another NHS Organisation and less than 6 months old if non NHS. A reference from the requesting organisation must also be obtained to confirm employment.
- 9.4 Where a positive disclosure is made, the CCG will require the receipt of a new DBS check before the candidate is able to commence employment in a regulated activity.

- 9.5 In all cases all other pre-employment checks including the completion of a self-declaration of criminal convictions form must also be received before the candidate is able to commence employment in a regulated activity.
- 9.6 A new DBS check is not always required where an existing member of staff moves jobs within the CCG and their roles and responsibilities and level of contact with that vulnerable group has not significantly changed. If a DBS check has been made by the CCG within the last 3 years, and the level of the check and vulnerable group has not changed, then a new DBS check will not be required. If there has been a break of service for more than three months between leaving the old position and taking up the new position a new DBS check will be required. In all cases a self-declaration form must still be completed.
- 9.7 In very exceptional circumstances, the CCG may make a risk-based decision to appoint applicants before the outcome of a DBS check is received, but this must only be where there is an urgent need to appoint because of an identified risk to patient safety or welfare, or where the individual is required to undertake induction training. In any such cases, an appropriate DBS check must have been applied for and appropriate safeguards must be in place to manage that individual, such as restricted access to vulnerable adults, until the disclosure has been obtained. Approval must be sought from the Executive Management Team.

## **10 Review**

- 10.1 This policy will be monitored on an on-going basis and will be reviewed every three years and/or in light of any NHS Employers guidance or legislative changes.

Form references within the policy can be found in the HR department.

- Self-Declaration of criminal conviction Form [DBS Self -Declaration Form.docx](#)
- Consent Form for portable DBS check [DBS Consent Form for Portable DBS Checks.docx](#)
- Consent form for positive DBS certificates [DBS Consent Form for Positive DBS certificates.docx](#)
- Process for dealing with positive disclosures [Process for dealing with positive disclosures.docx](#)
- Positive disclosure sign off form [Managers sign off for Positive DBS certificates.docx](#)