

# Disclosure and Barring Checks Policy - Staff

March 2013

## 1. Introduction

The Disclosure and Barring Checks Policy for staff aims to ensure the University fulfills its responsibilities and obligations for the safeguarding of children, young people and adults with whom University staff and students are in contact as part of their work and also for the assurance of the individual, external agencies and the University itself.

The University is registered with the Disclosure and Barring Services (DBS) and is required to obtain a disclosure for staff undertaking certain activities and roles within or on behalf of the University. The University is committed to the fair treatment of staff and potential staff and has therefore adopted a policy on the recruitment of ex-offenders.

## 2. University Position

For the majority of University posts a DBS disclosure is not required. This policy sets out those roles where a disclosure is or may be required depending on the level and nature of the contact with vulnerable individuals, or for another reason. Even where a post involves contact with children or adults who are vulnerable, it will not always be deemed necessary for a DBS check to be carried out. A disclosure may be required for some posts for other reasons e.g. security staff. Whilst it is important that the University fulfils its obligations for safeguarding vulnerable groups, it is equally important that it complies with legislation relating to the rehabilitation of offenders.

The University will remain mindful of its duty of care and other legal obligations such as those it owes under the Health and Safety at Work Act 1974, the Data Protection Act 1998, the Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012) and the Equality Act 2010.

The legal requirements are of limited application within the University itself and do not apply to much of its core activity. They are relevant, however, to certain activities undertaken by some staff in the course of their work and some students in the course of their studies or other activities both within the University and in external agencies. Thus, in many cases the University will be undertaking a check on behalf of an external agency or partner which in some cases are coming under increasing requirements or expectations to redouble their efforts to ensure the safety of children and adults in their care.

The Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012) sets out the definition of regulated activity – please see appendix 1.

While the University is under an obligation to obtain disclosures from the DBS for some staff and students, it is important to achieve a balance based on the assessment of the risk involved in particular roles and activities being carried out and recognising the legal limits on the range of positions for which checks may be sought.

## 3. Relevant Roles and Positions

There are a number of ways in which staff and students have contact with children and/or vulnerable adults in the course of their work, study or other activities. These are set out in Appendix 2 together with guidance on the requirement or not for disclosure and barring checks and the level of those checks. It also covers those other positions for which a check is considered appropriate.

The DBS provides two levels of disclosure, 'standard' and 'enhanced', which apply to different roles and activities. Staff also may have contact with children and/or vulnerable adults and a decision will need to be taken on whether the barred list should be checked.

Checks will be renewed on a three-yearly basis. However, all staff for whom a check is required are obliged to inform the University of any change in their criminal record that might affect their role in the University.

The University will not apply for disclosure and barring checks for staff where the requirement for a check is not connected with their University role.

Managers and Human Resources will need to be aware of and alert to the implications for staff progressing or moving between roles within the University and in allocating new duties to existing staff which require checks being carried out.

#### **4. Process**

Human Resources will be responsible for obtaining DBS disclosures for staff. In the main this will be incorporated into the recruitment and selection process for those positions for which a disclosure is required. It will be made clear in the further particulars for the position that a check will be required. If a DBS check is required candidates are given guidance on completing the application form and what documentation needs to be provided. Staff trained in identity checking will check the completed applications and relevant documentation in preparation for the countersignatory to sign off. If there is a delay in receiving the disclosure form from the DBS, the member of staff may commence work so long as they sign a self disclosure form and the manager conducts a risk assessment and ensures suitable supervision is in place.

It is the responsibility of the Dean/Head of Service to carry out an initial assessment and to inform Human Resources whether a check is required for an advertised post. Guidance is provided in Appendix 1 to ascertain if a check is required.

There will be occasions when existing staff will be required to apply for a disclosure – for instance when they progress or move between positions; are allocated new duties, or undertake research involving contact with children or vulnerable adults. Deans and Heads of Services need to be mindful of this possibility and of the issues it might raise. They should always consult and refer the matter to Human Resources in these circumstances.

The policy statement on handling of DBS disclosures will be followed to ensure compliance in relation to storage and handling, retention and disposal of DBS checks.

If a disclosure is returned with information contained within, a senior member of HR will liaise with the Lead Countersignatory for the University and a senior manager within the Faculty or Service to decide what steps to take by following the procedure for considering DBS disclosures. Having a criminal record will not necessarily bar an individual from working within the university, the principles of the DBS - recruitment of ex offenders policy statement will be followed in such circumstances.

#### **5. Portability**

The DBS's current guidance on 'portability' of disclosures (i.e. the use of a disclosure for another purpose, or the use of a disclosure carried out by another organisation) will be followed. However, if there is any concern about the validity of a disclosure, a new check must be requested.

#### **6. Payments**

The University will currently pay the fee for disclosures for new and existing staff where their work within the University requires a criminal record check.

No fee is payable to the DBS for those working in a voluntary capacity which involves spending unpaid time on an activity that aims to benefit a third party. This does not apply when the work enables someone to gain work experience towards a course or qualification meaning that they will personally benefit, in such cases a fee is payable.

#### **7. Lead countersignatory/countersignatories**

The Deputy Vice-Chancellor (Resources) is the University's lead countersignatory. She/he will ensure that there are sufficient countersignatories in place, and in appropriate areas of the University, to support the operation of this policy. She/he will also ensure that countersignatories are briefed and trained in order to carry out their responsibilities.

Further advice and relevant documents (e.g. safeguarding policy; policy on the recruitment of ex-offenders; and the handling of DBS disclosure) are available from the HR web pages disclosure and barring disclosures.

# Appendix 1 - Guidance for senior managers on staff roles requiring a DBS check

HR works with and advises Executive Deans and Heads of Services and Departments to identify at the point of appointment those posts involving a regulated activity and which require DBS disclosure. Additional advice is also available from the University's DBS Lead Countersignatory.

Questions to be asked to help identify whether an individual does require a DBS disclosure:

- 1 Does the post include activity in one of those areas already identified in Appendix 2 of the disclosure and barring checks policy?
- 2 Does the post include working with children/vulnerable groups/individuals either within the University or in another setting?

Is it a regular part of the post, and is it repeated with the same group or individual?

Would the contact be on an unsupervised, one to one basis?

Is there no other responsible adult present?

If you have answered yes to the questions above, please contact HR to ascertain what level of DBS check is required.

## **New definition of regulated activity (from September 2012)**

If activities fall within the regulated activities as defined below then an enhanced DBS check can be requested and the barred list for working with adults or children on the DBS form should also be checked:

### **Regulated activities relating to adults**

Activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time e.g. healthcare or social work. The focus is on the activities required by the adult and not on the setting in which the activity is received, nor the person characteristics or circumstances of the adult receiving the activities. There is no requirement for a person to do the activities a number of times before they are engaging in regulated activity.

### **Regulated activity relating to children**

- i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice / guidance on well-being, or drive a vehicle only for children.
- ii) Work for a limited range of establishments ('specified places'), with opportunity for contact, for example schools, children's homes, childcare premises (but not work by supervised volunteers).  
Work under (i) or (ii) is Regulated Activity only if done regularly. Regular means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period (or in some cases, overnight).
- iii) Relevant personal care, for example washing or dressing; or health care by or supervised by a professional, even if done once.
- iv) Registered child minding; and foster-carers.

<sup>1</sup> Regulated Activity:

## Appendix 2 - DBS Checks for Staff

There is an increasing expectation from some external partners, in some cases led by government and other pressures, for University staff visiting in the course of their work to have been DBS checked

**Department of Education** - Academic staff who go into placement situations to supervise or mentor students, will usually be required to apply for an enhanced disclosure – roles include Associate Lecturers, and some technicians.

**Faculty of Health and Life Sciences** - All staff visiting students in placement situations involving children and adults who are deemed vulnerable e.g. health care or social work will be DBS checked (enhanced disclosure).

**Staff engaged in research or knowledge exchange activities** where there is contact with children and/or vulnerable adults and the nature of that contact might fall within the definition of regulated activity. The need for a check should be identified by the researcher and manager, Research Ethics Committees may make recommendations regarding DBS checks for projects they review.

**Student Services department:** Staff working on an individual basis primarily with students who might fall within the definition of regulated activity for adults or children may require an enhanced disclosure depending on the nature of the role. E.g. counsellors, mentors, student support workers, needs assessors, staff in the wellbeing area.

Other SSD staff and student advisers who may, in the course of providing a service to all students, also meet individually with students who are classed as 'vulnerable adults' due to the activities they receive.

**Chaplaincy:** An enhanced disclosure will be obtained for chaplains employed by the University, on appointment and for representatives from faith groups who work on a one to one unsupervised basis with staff and/or students at the University.

**Student Ambassadors, Mentors and Tutors** and students participating in activities arranged by the Outreach Centre, the Admissions office, and Marketing and Communications. Those who are undertaking mentoring/tutoring/unsupervised contact will usually be checked at the enhanced level, whereas those who are involved only in activities such as guiding tours around the University will not usually be checked, though a risk assessment should be undertaken.

**Staff working in the Centre for Sport** whose main role is training, leading or coaching sessions with users of the Centre and the nature of whose contact with children and/or vulnerable adults falls within the definition of regulated activity will need an enhanced check

**Community Service Volunteers** e.g. reading buddies. May need to be checked depending on the nature of the activity they are volunteering for. The level of the check to be determined in consultation with the external agency concerned, depending on the nature of the activity.

Staff in faculties and services whose roles involve school (and some other organisations for young people or vulnerable adults) visits for example marketing or schools liaison

Staff involved with Summer Schools, visits from Schools, other similar events at the University

**Student Residences:** Student wardens are required to have an enhanced disclosure. Some other staff will be required to apply for a disclosure depending on their role in connection with external residential events, that may include staff from Facilities, IT Services and other services.

- Staff supervising University employees who are under 18 or students under 18 who are on University courses
- Individual members of academic staff who are 'named' tutor for students who are under the age of 18 years
- Staff supervising work placements for under 18s

and work on a one to one unsupervised basis are likely to require an enhanced check

## Appendix 3

The legislation that applies is as follows:

- **Under the Police Act 1997**, the University can seek disclosures from the DBS for individuals carrying out particular roles. It does not place an obligation on employers or voluntary organisations to use the disclosure service.
- **The Protection of Children Act 1999** creates in some cases a legal obligation to seek information about employees or volunteers in certain positions that is only available from the DBS and relating to the protection of children.
- **The Criminal Justice and Court Services Act 2000** establishes provision for the protection of children and vulnerable adults, and specifies 'regulated positions' for which disclosure and barring checks and assurances have to be undertaken.
- **The Rehabilitation of Offenders Act 1974 (Exceptions) Order** sets out those professions, occupations and posts for which questions relating to past convictions can be asked.
- **The Safeguarding Vulnerable Groups Act 2006** as amended by the **Protection of Freedoms Act 2012** which defines regulated activity as it relates to adults and children.