Herefordshire and Worcestershire Health and Care NHS Trust

Disclosure and Barring (DBS) Policy and Procedure

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Summary of Key Points

- The aim of this policy is to set out the requirements of Herefordshire and Worcestershire Health and Care NHS Trust (hereafter referred to as 'the Trust') on undertaking Disclosure and Barring (DBS) checks, including the use of DBS Update Service.

- The Trust is committed to ensuring that appropriate employment checks are undertaken to ensure staff and service user safety.

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Version History

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1.0	March 2025	Directors	Section 4.0 in terms of Board Members Section 4.1 amended in accordance with MDST requirements Section 6.14 in terms of responsibility for action to be followed for non-compliance
1.0	June 2025	Staff Side	Section 5 – clarifying responsibilities Section 6.1 in terms of timescales and allowing for extenuating circumstances Section 6.3 clarification of compliance with Rehabilitation of Offenders Act (Exceptions) 6.14.3 clarification on personal responsibility but allowing for extenuating circumstances
2.0	March 2026		Section 6.8 clarification of DBS costs. Section 6.16 clarification on the risk assessment process to be followed when there has been a change in DBS status during employment.

Version	Circulation date	Job title of person(s) or name of group circulated to	Brief summary of change
			This includes updating section 5.

1. INTRODUCTION

The aim of this policy is to set out the requirements of Herefordshire and Worcestershire Health and Care NHS Trust (hereafter referred to as 'the Trust') on undertaking Disclosure and Barring (DBS) checks, including the use of the DBS Update Service.

The Trust is committed to the safety, efficiency, and wellbeing of those it serves. This means ensuring that appropriate pre and post-employment checks are undertaken on its staff and other workers, to ensure service users and staff are protected. It also ensures that staff are subscribed to the DBS Update Service, where required.

This policy ensures promoting diversity in healthcare and our employment, as diversity and inclusion, as reflected in our core values, are for everyone. Equality, Diversity, Inclusion, and Human Rights are key to our goals and actions.

All appointments under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 require DBS checks. Pre-employment checks are mandated by the Secretary of State's Standards for Better Health for all NHS organisations. On 1 December 2012, the Criminal Records Bureau and Independent Safeguarding Authority merged to form the Disclosure and Barring Service (DBS). In 2014, the Trust adopted the DBS Update Service, enabling employers to receive automatic updates on an individual's DBS status.

The DBS regulations dictate who is eligible for a DBS check, based on the definition of regulated activity, it is not a Trust decision. The Trust utilises the NHS Employers eligibility checker to determine the eligibility for a check. See section 6.1 for more information.

The Trust will ensure that it adheres to the DBS Code of Practice, which requires organisations to use the Disclosure information fairly and:

- Not discriminate against candidates based on unrelated criminal offences.
- Ensure data security.
- Comply with the recommendations for the retention of records.
- Comply with reasonable requests from the DBS to undertake assurance checks. A copy of the Code of Practice is available on the DBS website www.gov.uk/dbs

2. PURPOSE OF DOCUMENT

This policy outlines the Trust's commitment to fair, consistent and equal treatment and provides guidance on the legal requirements for criminal record checks, including which posts are exempt from the Rehabilitation of Offenders Act 1974. It describes the responsibilities of Trust staff and outlines information around DBS checks, the Update Service and the Trust approach to this.

Key principles of the Trust's approach to DBS checks include:

- Fair and non-discriminatory treatment of disclosure information.
- Processes and procedures to be followed by staff.
- Inclusion of the DBS processes in pre-employment checks for eligible positions.
- Assessment of disclosure information's relevance to employment suitability.
- Compliance with equality, human rights, employment legislation, and DBS Code of Practice.

3. DEFINITIONS

Barring List - Contains details of individuals that have been banned from working with children or vulnerable adults due to past behaviour or offences.

DBS: Disclosure and Barring Service.

DBS Update Service: The ongoing annual subscription to the DBS Update Service which keeps employers continually updated on DBS status of employees.

Decision Panel: Director of Nursing (or nominated deputy) and Deputy Director of People (or nominated deputy).

Higher Educational Institutions (HEIs) – Educational placements for the Trust. In terms of this policy. It is the responsibility of the HEI to ensure that appropriate DBS checks are carried out before the placement begins in the Trust and that there is governance process in place to assure the Trust of this. The DBS is not updated throughout the duration of the programme, and it is the responsibility of the learner to identify issues which may be in the realm of making a disclosure, which should be done to the University. Following this, a risk assessment will be developed to mitigate, and the placement will be stopped until this is agreed with the HEI.

Positive Disclosure: A DBS certificate with at least one conviction, caution, or reprimand on it.

Regulated Activity: DBS definition of regulated activity requires an enhanced level of DBS check with barred list check.

A regulated activity is defined under the Safeguarding Vulnerable Groups Act (2006) as amended by the protection of Freedoms Act (2006) as any activity involving working or volunteering with children and/or adults, which meets specific criteria. The criteria are different for Children and Adults. Further information can be found in the main section of this policy *'Levels of DBS Checking and Eligibility'.*

4. SCOPE

This policy applies to all current and potential staff, including medical and dental staff, who are applying for employment with the Trust in substantive or fixed term posts, and locum posts or secondments.

The purpose of this policy and associated guidance is to:

- Set out the requirements to undertake DBS checks.
- Set out the duties and responsibilities respective parties have in remaining compliant with policy and legislation prevent inappropriate and any illegal checks.
- Provide line managers with a framework and supplementary guidance in relation to DBS processes.
- Ensure consistency and fair treatment.

This policy has been written in line with the mandatory NHS Employment Check Standards for Disclosure and Barring Service checks.

Due to the nature of Trust business, Board members will be expected to have a minimum of a standard DBS check and join the Update service.

4.1 Doctors on Educationally Approved Rotational Training Schemes

Doctors on educationally approved rotational training schemes are considered as being in continuous employment, and therefore require a DBS check every three years, as opposed to each time they rotate to a new Trust.

Where the doctor will be working with children the Trust will need evidence that the DBS check was at the correct level with access to the Children's list. Where the post involves working with adults the Trust will need evidence that the check had been made against the Adult's list.

Where the doctor does not subscribe to the DBS Update Service the Trust will document that the original DBS certificate has been seen and is less than 3 years old to provide assurance clearances have been obtained within the last 3 years. Where assurance cannot be obtained, and the doctor does not subscribe to the DBS Update Service a new DBS check will be required, and the cost will be met by the Doctor

4.2 Volunteers

Where volunteers and participation partners have contact with vulnerable people in the course of their normal duties, the Trust will undertake the same checks as they would when employing paid staff. It is the responsibility of the Community Engagement Team to ensure these checks are undertaken but the DBS check itself will be actioned by the Recruitment Team, who are also available for advice and guidance on whether a check is needed and to what level. The Trust must ensure that volunteers are fully aware of policies and procedures governing the protection of vulnerable people and what they should do and to whom they can refer if they have any concerns.

4.3 Secondments

Secondment opportunities within the Trust must be advertised through the usual recruitment process and then DBS requirements will be assessed and met through the pre-employment checks undertaken by the Recruitment Team.

The substantive employer is responsible for carrying out DBS checks for any employee working at the Trust on secondment. Where an individual is not subscribed to the Update Service the substantive employer is expected to provide evidence of the DBS check to the Trust prior to the placement commencing.

The Trust is therefore responsible for maintaining DBS checks for its substantive staff who work under honorary contract elsewhere. The Trust will confirm the details of DBS checks held by the host organisation as part of the agreed working arrangements between our staff and other NHS Trusts and ensure that the check is at the correct level and barred list to meet the requirements of the secondment duties. The Recruiting Manager, with support from Human Resources, must ensure these checks and assurances have been made and adherence to the Trusts Secondment Policy.

4.4 Students

Approved Higher Educational Institutions (HEIs) undertake DBS checks for all learners and the commencement of their course. It is the responsibility of the HEI to

ensure that appropriate DBS checks are carried out before the placement begins in the Trust and that there is governance process in place to assure the Trust of this.

The DBS is not updated throughout the duration of the programme, and it is the responsibility of the learner to identify issues which may be in the realm of making a disclosure, which should be done to the University. Following this, a risk assessment will be developed to mitigate, and the placement will be stopped until this is agreed with the HEI.

This includes Medical Learner placement and T Level placements.

4.5 Apprentices

Staff undertaking apprenticeships may need a DBS to undertake their training or placements; many of these staff groups may in any event need a DBS for their existing post within the Trust. In certain circumstances, they may need a change to their existing DBS (e.g. to include Children and Adult workforce, or from Standard to Enhanced). Where this is the case, this should be explored as part of the recruitment process to the apprenticeship (which may be external, internal or via expression of interest) and the usual processes should be followed.

4.6 Honorary Contract

The Recruiting Manager is responsible for ensuring that DBS status, where needed has been established before the honorary contract commences. The Trust's Honorary Contract Protocol must be followed in these circumstances.

4.7 Staff Members Transferred Under TUPE Regulations (2006)

Where an employee is transferred into the Trust under Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006 and they are in a role requiring a DBS, they will require a new DBS check to be undertaken and check their right to work. The measures letter will also include the requirement to join the DBS Update Service. Where an employee is already registered with the DBS Update Service, they will be required to give consent to the Trust to register an interest in the statement.

4.8 Transgender Applicants

DBS provide a confidential checking service for transgender applicants who do not want to reveal details of their previous identity to a potential employer sensitive@dbs.gsi.gov.uk

4.9 Agency & Contractors (including IR35)

The Manager making these arrangements is responsible for ensuring they liaise with the Recruitment Team to ascertain whether a DBS check is required for the role being carried out and if so at what level. The Manager will then need to ensure that the Agency / Provider provides assurance this level of DBS check is in place for the contractor. If the Trust needs to undertake the DBS check themselves the Manager should co-ordinate this with the Recruitment Team.

Staff members on long term absence

The principles of this policy still apply to staff members who are on long term absence such as maternity, career breaks or long term absence, this is not an exhaustive list. Where there are exceptional circumstances, Service Leads can approve that action is suspended until their return to work, such cases should be discussed with the People Partner.

5. RESPONSIBILITIES AND DUTIES

The **Chief Executive/Trust Board** are responsible for policy oversight, and ensuring appropriate processes are followed, and that actions are in place to guarantee legal compliance.

Service Delivery Unit (SDU) Leads/Heads of Service are responsible for ensuring appropriate action is taken by Line Managers should an employee not comply with their responsibilities under this Policy as outlined under the DBS Lapses section 6.14.2.

The **Recruitment Team** are responsible for:

- ensuring that DBS checks are undertaken in accordance with the requirements of; this Policy, the DBS Code of Practice and the NHS Employment Check Standards, and that new starters successfully subscribe to the Update Service.
- advising on which level of check and barred list are applicable for the role.
- ensuring appropriate records are kept on the Electronic Staff Record (ESR) for new starters including internal staff moves.
- gaining consent from individuals for the Trust to register an interest in their DBS status with the Update Service.
- highlighting and immediately reporting to the appropriate Line Manager and People Partner, any changes on staff checks that are identified by the automatic checking system (ESR/DBS interface).
- Ensuring disclosed information is treated fairly and without discrimination in line with this policy

- Ensuring disclosed information is retained in accordance with DBS Regulations.

The **Medical Directorate Support Team (MDST)** and **Medical Staffing Managers** have the same responsibilities outlined within this policy for medical staff as the Recruitment team has for non-medical staff. When this policy refers to Recruitment Team if it is concerning a Medical & Dental appointment for it should be interpreted as the MDST.

The **Human Resources Department** are responsible for:

- providing support and guidance on the implementation of this Policy where issues or concerns are raised, either during the recruitment process or during a staff members' employment.
- this includes providing advice to Line Managers when in receipt of a positive disclosure or Alerts received through the DBS Update Service and supporting risk assessments. Ensuring action is taken in accordance with this policy.
- Ensuring disclosed information is treated fairly and without discrimination in line with this policy.

Recruiting Managers are responsible for ensuring they:

- inform the Recruitment Team of any position being advertised involving working with children or adults.
- are familiar with their responsibilities under this Policy.
- are familiar with their responsibilities when receiving a positive disclosure
- ask potential staff member relevant questions about declared previous convictions at interview, as outlined in the Trust's Recruitment and Selection Guidelines.
- disclosed information is treated fairly and without discrimination in line with this policy.

Line Managers are responsible for ensuring that:

- disclosed information is treated fairly and without discrimination in line with Trust guidance, and to be aware of their staff member's responsibility to disclose information under their terms and conditions of employment.
- are familiar with their responsibilities when in receipt of an Alert through the DBS Update Service and these are actioned fully in accordance with this policy
- action is taken when a staff member fails to either comply with their responsibilities under this policy or provide their disclosure certificate when reasonably requested to do so.
- ensures action is taken with regards to lapses in DBS update service for their team members in accordance with this policy, including recording this period as unauthorised unpaid absence.

Staff Side Representatives are responsible for providing fair and consistent advice to their members and support the implementation of this policy.

All Staff of the Trust have a responsibility to abide by this policy; failure to do so may result in formal action being taken.

Should an arrest, charge, cautioning or conviction of any criminal offence happen during employment, then they are contractually required to notify their Line Manager of the circumstances as soon as possible (within 24 hours). This includes notification of any pending court appearance, bind-overs, absolute and conditional discharges. Failure to do so will result in formal action being taken under the Trust's Disciplinary Policy and may result in dismissal, however, the nature of the offence itself may also result in disciplinary action being taken by the Trust.

6. POLICY, PROCESSES AND PROCEDURES

6.1 Criminal convictions / cautions during course of employment

The Healthcare environment involves working with vulnerable adults and children and you are therefore obliged to disclose any convictions or cautions you may have.

Under the Rehabilitation of Offenders Act 1974 you are not entitled to withhold information about convictions or cautions which otherwise might be considered 'spent'. Failure to disclose such convictions or cautions is serious and will be treated as gross misconduct.

If, during your employment you are arrested, cautioned or convicted of a criminal offence, you must declare this to your Line Manager (within 24 hours) with sufficient detail in order that your Line Manager to complete the necessary risk assessment. You will be expected to co-operate fully in the risk assessment process as detailed in section 6.16. If it is not reasonably practical to notify within this timescale then this will be assessed on a case by case basis taking into account any extenuating circumstances. The completed risk assessment will be reviewed by the Trust's Decision panel *(as detailed 3. Definitions)* and if it is considered that there is a risk to patients, work colleagues, the Trust or the public, consideration will be given to whether it is appropriate to invoke the Trust's Disciplinary Policy and Procedure which will consider suspension and potential disciplinary action.

Failure to disclose arrests, cautions or convictions will be treated as misconduct and in some cases, gross misconduct and the Trust reserves the right to terminate your employment with or without notice, or payment in lieu.

If the arrest, caution or conviction causes, or in the Trust's opinion is likely to cause, significant embarrassment for the Trust or detrimentally affect its reputation, it will be dealt with under the Trust's Disciplinary Policy and Procedure.

Any failure to disclose arrests, cautions convictions or known investigations by your regulatory body will be treated as gross misconduct.

6.2 Eligibility to Check and Levels of DBS Checking

6.2.1 Eligibility to Check

The need for a check and determining the necessary level of disclosure is determined by the activities and the type of access to patients and service users the employee will have as part of their role as determined by the DBS regulations. This is not a Trust decision.

Eligibility for Standard, Enhanced, and Enhanced with Barred Lists DBS checks is prescribed in legislation. The Trust should only request a DBS check on an individual when they are legally allowed to do so – they must be entitled by law to ask an individual to reveal their full criminal history. This is known as asking 'an exempted question'. An exempted question applies when the individual will be working in specific occupations, for certain licences and specified positions. These are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

Persistent misuse of the DBS checking system can lead to an organisation being barred from Disclosure checking services. Therefore, advice around eligibility can be sought through accessing the Eligibility Check Tool and support from the Recruitment Team.

If more guidance is required, the eligibility tool on the DBS website will be used https://www.gov.uk/find-out-dbs-check or more information in DBS leaflet Eligibility for healthcare roles - GOV.UK (www.gov.uk)

The minimum age at which someone can be asked to apply for a criminal record check is 16 years old.

Below are the levels of DBS Checks, dependant on the nature of the role.

6.2.2 Standard Level DBS Check

A Standard DBS check is suitable for certain roles, for example qualified accountant roles. The certificate will contain details of both spent and unspent convictions, cautions, reprimands, and warnings that are held on the Police National Computer, which are not subject to filtering. A standard level of check does not check against either of the barred lists and should not be applied for when an employee is working in a 'regulated activity'.

More information can be found here; Standards_eligibility_guide__002_.pdf (publishing.service.gov.uk)

6.2.3 Enhanced Level DBS Check

An Enhanced DBS check is suitable for people working with children or adults in certain circumstances such as those in receipt of healthcare or personal care working in a regulated activity.

The certificate will contain the same details as a standard certificate and, if the role is eligible, an employer can also request that one or both DBS barred lists are checked. An enhanced check will not automatically do this it has to be specifically requested. The certificate may also contain non-conviction information supplied by relevant police forces if it is deemed relevant and ought to be contained in the certificate.

6.2.4 Enhanced Level DBS Check with Barred List(s)

An Enhanced with Barred Lists DBS check is also suitable for people working with children or adults in certain circumstances such as those in receipt of healthcare or personal care in a regulated activity. An Enhanced with Barred Lists certificate will contain the same information as an Enhanced DBS certificate but will also include a check of one or both Barred Lists.

DBS definition of regulated activity applies to the enhanced with barred list check. However, there may be some roles where someone is carrying out activities with children not often enough for regulated activity and could be eligible for an enhanced check only without barred lists. This wouldn't apply to healthcare or personal care as this only needs to be done once to be classed as regulated activity. More information can be obtained from: https://www.gov.uk/government/organisations/disclosure-and-barring-service/about

6.3 Assigning DBS requirements to Trust roles

It is illegal to carry out a DBS check on any post that does not meet the requirements under the Rehabilitation of Offenders Act (Exceptions) Order and to do so could make the Trust liable for legal action.

Whether a DBS is required, and if so to which level, is determined by the position code assigned on ESR. The position code is set up by the People Systems & Compliance Team in accordance with DBS regulations.

Where a DBS is required the Recruitment Team will apply the level stipulated on the position code to the successful applicant.

Whether a DBS is required and if so to what level will be confirmed to the Recruiting Manager at the start of the appointment process by the Recruitment Team. If the

Manager disputes this, they can request this to be reviewed by the Director of Nursing Team.

6.4 Procedure for Appointments from an Expressions of Interest Protocol

Where the role requires a DBS check. It is the responsibility of the Recruiting Manager to ensure that the DBS status of the successful candidate is verified with the Recruitment Team before the outcome is actioned.

For full details and actions that must be taken refer the Trust's Expression of Interest Protocol available on the intranet.

6.5 Procedure for appointment of Existing Staff *(Internal Staff Move)*

Should an employee voluntarily apply for another post within the Trust, through an NHS Jobs application process, their DBS status will be reviewed to ensure it meets the new role requirements by the Recruitment Team. This will be conducted during the pre-employment check stage, including subscription to the DBS Update service. If this results in a new DBS check being required the Recruitment Team will advise and ensure this action is taken.

Employees undertaking roles that require a DBS check will be required to maintain continuous subscription to the DBS Update Service and grant permission to the Trust to view this information; these will be part of the conditions of employment.

The DBS Update Service will automatically and periodically interface with ESR and advise People Systems & Compliance Team if there are any changes in status. When changes in status have been identified please refer to section 6.14.4 for further details.

The recruitment process principles in the next section will still apply for internal staff moves although not all stages may be needed.

6.6 Procedure for appointment of External Staff *(not currently employed by the Trust)*

Candidates who are required to have a DBS check should not commence in post without the check being completed to ensure safe recruitment and adherence with NHS Employers Pre-Employment Check standards.

In exceptional circumstances where a DBS check is significantly holding up the appointment process; a DBS Self-Assessment can be undertaken to determine if commencement can take place prior to receipt of the DBS certificate. This can only be used if the candidate advises that the DBS certificate will be clear. If the

candidate believes the DBS certificate will be positive, the certificate must be received and verified before commencement can be considered.

It is illegal for employers to knowingly hire someone barred from a regulated activity (refer to Section 3 definition). It is an offence for a barred person to work or seek to work in a regulated activity within a sector from which they are barred. Guidance must be sought from the DBS should a prospective employee appear on the Barred List.

If a role does not require a DBS check the applicant will be asked to sign a declaration confirming they have no conditional cautions and convictions that would impact on their ability to undertake the role safely and without risk to the Trust, during the pre-employment check process.

- **Application stage**: During the application stage candidates will be advised if the role is subject to a DBS check. Applicants can declare on an NHS jobs application their status of; any unspent convictions or cautions, convictions that are not protected and given the opportunity to provide further information if they wish to.

  Voluntary sharing of relevant criminal conviction or caution information by an applicant during recruitment processes, aiding fair assessment and informed decision making is encouraged for transparency and compliance with DBS checks.

- **Shortlisting stage**: Once shortlisting has been completed, Recruiting Managers will see a flag on the NHS Jobs system if a candidate has declared a conviction. However, this information should not be taken into consideration in terms of suitability during the selection process.

- **Interview stage**: At interviews, Managers are encouraged to ask candidates if they are comfortable to share information regarding their declaration to the panel. If the candidate is not comfortable or refuses to provide information, this should not be pursued further. This information should not be taken into consideration on suitability during the selection process.

- **Offer Stage**: Applicant(s) successful at interview, for a role which is eligible for a DBS check in line with DBS regulations, will be required to complete an online DBS application.

  All offers of employment into positions requiring a DBS check are made conditionally and subject to the receipt of a satisfactory DBS disclosure and joining the DBS Update Service **prior** to commencement.

6.7 DBS Application Process

- The applicant will be requested to apply for a DBS check at the conditional offer stage.

  When a DBS application is made, the applicant is required to provide details of their current registered name and previous names. This will then ensure this data is connected on the Police National Computer to ensure that any criminal activity for an individual is connected for alert and notification purposes. This will also apply to any alerts received from the DBS Update Service.

  The Recruitment Team will verify and submit this application assigning the suitable level of check and applicable barred list(s), in accordance with DBS Regulations.

- The DBS will process the application and issue a certificate directly to the individual. The DBS will also notify the Trust a DBS certificate has been issued to the applicant.

- The applicant will be contacted by the Recruitment Team and asked to forward a copy of the certificate to them.

- The applicant will be reminded to subscribe to the DBS Update Service.

  There is a specific time window, and the DBS certificate must be dated within the last 30 days to be able to join the update service so prompt action is required.

  Failure to subscribe to the Update Service within this timeframe will require another DBS check to be undertaken and the applicant will need to fund the additional costs.

On receipt of the DBS certificate, it will be verified by the Recruitment Team:

- Verification will be conducted in accordance with section *'Disclosure Certificates Verification 6.9'.*

- If the certificate is satisfactory the offer of employment can be progressed if all other pre-employment checks have been completed satisfactorily, **and** the applicant has joined the DBS Update Service.

- If a 'positive' disclosure is received (potentially unsatisfactory) a full assessment of a criminal record must be undertaken to ensure a fair and consistent approach by the Recruiting Manager (see Assessing The

Relevance of Criminal Records section and section 'Statement of Employing Ex-offenders' of this policy).

The conditional offer will not be progressed further until all the appropriate information has been received/considered, the applicant has joined the update service and all other necessary pre-employment checks have been completed satisfactorily.

6.8 DBS Costs:

- For **external candidates**, the cost of the DBS check will be deducted from their salary.

- For **internal staff moves**, the cost of the DBS check will be paid by the Trust

- Annual subscription fees to the DBS Update Service will be paid by ALL.
  The only **exception** will be for a small group of existing staff who are on contracts that were issued prior to 1st October 2014;

  - For these staff and those who have agreed to join the update service the Trust will pay the update service fee on an ongoing basis, until such time as they voluntarily move to another post within the Trust.

  - For these staff and those who have not joined the update service the Trust will pay for and undertake a 3 yearly rolling DBS check, until such time as they voluntarily move to another post within the Trust.

- For **employees** who have; allowed their DBS Update service subscription to lapse received through an Alert, or another source, indicating their DBS status has changed, this will require a new DBS certificate being obtained, . The cost of the new certificate will be met by the employee and deducted from their salary.

See section 6.14 'The DBS Update Service' for more details.

6.9 Disclosure Certificates Verification

Certificates are issued directly to the prospective employee or employee by the DBS and the Trust are notified that the certificate is being issued.

The Recruitment Team will then ask to see the DBS certificate and will record the following key details in ESR:

- The individual's name and certificate issue date.

- The level of the check requested, including any checks against one or both barred lists.
- The position for which the certificate was requested.
- The unique reference number of the certificate.

Where an employee or prospective employee fails to provide sight of the certificate, when reasonably requested to do so, then any offer of employment may be withdrawn. In the case of an existing employee they may be removed from their existing post, pay suspended and formal action taken under the Disciplinary Policy, which may result in dismissal.

6.10 Portability

Disclosure certificates issued for a post with another organisation are not necessarily accepted by the Trust for recruitment purposes (exceptions to this are doctors in training programme, those undertaken by HEI).

Portability will only be acceptable in cases whereby a prospective staff member is subscribed to the Update Service, and they have given consent for the Trust to register an interest in their statement, and the current DBS certificate meets the required level for the post with the Trust.

6.11 For candidates who are not residing in the UK

As part of the pre-employment checks, overseas candidates that are offered a post with the Trust are required to provide a valid Police Check from any country (except the UK) they have lived in for 12 months or more. A translated copy must be provided where the certificate is not issued in English.

Once the candidate arrives in the UK and attends a face-to-face ID meeting, they are required to produce the original Police Check document.

A DBS check should then be obtained as soon as practical i.e., when the applicant can reasonably be expected to provide the necessary documentation required by the DBS for a check to be processed. This is normally within 3-6 months of commencement.

The Recruitment Team will co-ordinate and oversee that this is completed, in the cases of Medical and Dental appointments this responsibility will lie with MDST.

6.12 Withholding Information

Where no evidence of a satisfactory DBS Check can be obtained and/or the prospective employee is found to have knowingly withheld information, or provided

false or mis-leading information, then the conditional offer of employment will be withdrawn, or for existing employees this will result in formal disciplinary action.

The Disclosure service will provide details of any convictions, even those which may be considered spent for other purposes. Therefore, candidates should not withhold such information from their application for employment.

For posts which are not subject to a criminal record check any withholding of information about a criminal record could result in dismissal or disciplinary action in the event of employment.

The Trust will only withdraw an offer of employment where it is concluded that a candidate is genuinely unsuitable for the post following a thorough risk assessment process.

6.13 Confidentiality and data protection

The Trust will comply with the DBS Code of Practice, Data Protection Act and Section 124 of the Police Act. The DBS code is in place to ensure that the Trust meets its obligations when receiving the sensitive information available to them, that the information will be used fairly, that sensitive personal information disclosed by the DBS is handled and stored appropriately and is kept for only as long as necessary.

6.14 The DBS Update Service

6.14.1 DBS Update Service Subscription

For roles requiring a DBS check, employees/applicants must subscribe to the DBS Update Service and maintain their subscription throughout their employment with the Trust. They must also consent to the Trust registering an interest in their DBS statement.

The annual Update Service subscription fees are to be paid for by the individual, unless the staff member falls within the exception detailed in section 6.8.

6.14.2 DBS Update Service Subscription Lapses

Staff are required to maintain subscription to the DBS Update Service. Should subscription to the Update Service lapse a new DBS check will need to be undertaken, and a new subscription made to the Update Service, both to be paid for by the staff member, this includes any staff that falls within the exception of 6.8 who have volunteered to move to the update service. This will also apply during periods of annual, sick and maternity, paternity or parental leave. In such cases advice and guidance may be sought from your People Partner.

The Trust will be notified via the ESR interface regarding Update Service lapses in subscription. On receipt of such a notification, the staff member will be notified by the Recruitment Team and advised they must apply for a new DBS check **within 7 working days.** This must be adhered to as this is a contractual requirement. Once a new DBS certificate has been issued to the employee, they will then have **5 working days** to register with the DBS update service noting there is a specific time window for a DBS certificate to be registered with the Update Service which is 30 days from the date of issue.

Non-Compliance of above action not taken;

Compliance of this will be overseen by the People Partnering Team.

If either of the above timescales are not adhered to the matter will be escalated to People Partner and their Line Manager. The staff member will be contacted to reiterate what action needs be taken within specified timescales and what action will be taken if this is not complied with.

Escalation Timescales - The member of the staff will be given a further **5 working days** to make a DBS application.

Once the DBS certificate has been issued the staff member will be notified by People Partner that the certificate has been dispatched to their home address and provided with the certificate number then given **3 working days** to register with the DBS update service.

If action is not taken within these timeframes, either DBS application and/or registration with the update service, the relevant Director (or nominated Deputy) will be contacted by their People Partner representative for approval to proceed in the member of staff being place on <u>unpaid authorised absence</u> from the date of the timeframe expiry. This will mean that the staff member cannot work for the Trust in any capacity. These sanctions will remain in place until DBS update subscription has been evidenced. This will also apply to staff covered under section 6.8 if they do not engage with the application process for the rolling three year DBS check.

Cases of non-compliance will be flagged to the Manager by People Partner to ensure ESR is recorded as 'unpaid authorised absence' and the Manager will be required to oversee with the staff member the required DBS action is undertaken.

Such cases will be highlighted to Service Leads by People Partner to request to commence arrangements for this matter to be considered formally through the Disciplinary process due to failure to follow a reasonable management request which could lead to dismissal,. The employee will remain on 'unpaid authorised absence' during this period. These arrangements can be ceased if the staff member takes the necessary DBS action.

Should, at any point during this escalation period, the staff member actively engages in the DBS process; the unpaid authorised absence will cease from the date the Recruitment Team submit the DBS application for processing.

6.14.3 DBS Update Service Renewal Notifications

Staff will get reminded through ESR and directly by the DBS that their subscription is due to lapse.

Staff are reminded to ensure they update their debit card details with the Update Service to ensure the renewal can happen automatically.

Staff are encouraged to record the date the update is due to ensure lapses don't occur, as this is their personal responsibility, similar to professional registration and insurance policies,. In extenuating circumstances each case will be considered and judged on a case by case basis.

6.14.4 DBS status changes highlighted through Update Service Alert

If there is a change to an employee DBS status who is registered for the Update Service, the Trust will receive an alert notification from the interface between ESR and DBS Update Service of a change in DBS status. Such cases will be handled in accordance with section *'Assessing the Relevance Of Criminal Records From A Positive Disclosure (Risk Assessment)'* section 6.16 & 6.16.2 of this policy.

6.15 Statement On Employing Ex-Offenders

The Rehabilitation of Offenders Act 1974 helps rehabilitated ex-offenders back into work by allowing them not to declare criminal convictions and cautions to employers after a defined rehabilitation period has lapsed, and the convictions become "spent". During the rehabilitation period, convictions and cautions are referred to as being "unspent." Unspent convictions, cautions, reprimands, and final warnings must always be declared as defined by the Rehabilitation of Offenders Act 1974 (as amended by the Legal Aid, Sentencing and Punishment Act 2012).

To protect the vulnerable, the Rehabilitation of Offenders Act 1974 and (Exceptions) Order 1975 (as amended) exempts some professions within the health and care sectors from this approach. Many roles within the NHS are exempt from the Act.

Where the profession has been identified as being 'exempt', employers are legally permitted to consider all convictions, cautions or employers are legally permitted to consider all convictions, cautions or reprimands and final arnings that are not protected (or filtered out) by the provisions set out in the Exceptions Order.

Protected offences will never be disclosed as part of a standard or enhanced DBS check when certain conditions have been met.

The suitability for employment of an individual with a criminal record will vary depending on the nature of the job and the details of circumstances of any conviction. To facilitate this process, an individual's criminal record will be assessed

in relation to the tasks they will be required to perform and circumstances in which the work is to be carried out.

Having a criminal record does not automatically mean that an individual cannot work for the Trust. Recruiting Managers will need to make a fair, non-discriminatory assessment based on the individual's skills, experience, and suitability for the post. The decision always rests with the Trust as to whether to allow a person whose DBS check reveals a conviction, caution, or other information to be appointed into a position. The information obtained should be carefully considered and judged on a case-by-case basis.

6.16 Assessing The Relevance of Criminal Records from A Positive Disclosure *(Risk Assessment)*

The principles of risk assessment will apply equally to all types of appointments although the process will slightly vary. The process to be followed will be detailed on the relevant risk assessment form, which will be provided to you by a member of the Recruitment Team for completion when required.

The **only exception** is where the DBS Check indicates that the DBS has made a barring decision against one or both barred lists, in these circumstances it is illegal for the Trust to allow the individual to be engaged in a regulated activity from which they are barred.

In this case they may be placed on suspension and formal action taken under the Disciplinary Policy which may result in dismissal.

6.16.1 External New Starter

The Recruiting Manager will need to make a fair, non-discriminatory assessment based on the individual's skills, experience, and suitability for the post by carrying out a Risk Assessment and establish the following.

In reviewing information about a criminal record, the Trust will consider factors such as:

- Whether the conviction or other matter is relevant to the post applied for.
- The seriousness of any offence or other matter revealed.
- The length of time since the offence occurred.
- Whether there is a pattern of offending behaviour.
- Whether the candidates' circumstances have changed since the offence.
- The circumstances surrounding the offence and any explanations offered.

Decisions on whether offers of employment can be progressed on receipt of a positive disclosure will need to be carefully considered with all the points listed

above. This will be done by completion of the risk assessment in line with this policy, which includes discussing any matter revealed on the DBS certificate with the individual before withdrawing the conditional offer of employment.

Where the information received is regarding a historic caution which has no relevance to the post and forms no pattern of offending, these should be dealt with on an individual basis with Recruiting Managers, taking advice initially from the Human Resources team and following guidance provided in the risk assessment.

To ensure the decision is fair and candidates are not discriminated against the risk assessment process will involve various professionals. To ensure a reasonable decision is reached, the completed risk assessment will be considered by a Trust Decision Panel *(as detailed 3. Definitions)*.

The Criminal Record Support service provide expert advice and advocacy to people with criminal records, as well as expert advice, support and training to employers and organisations responsible for interpreting and managing this information Criminal Record Support Service | Nacro.

6.16.2 Existing Staff

The action taken will depend upon how the positive disclosure was identified;

- **Positive Disclosure identified through a new DBS check being undertaken**

  If a positive disclosure is received following a new DBS check being undertaken, this will be immediately alerted by the Recruitment Team to their current Line Manager as well as the potential Recruiting Manager.

  The Line Manager will need to consider this DBS status with support from People Partner representative and decide whether they are able to continue at work or restrictions need to be applied whilst a risk assessment is undertaken.

  The same risk assessment process will be followed as detailed in the previous section.

- **Alert from DBS Update Service**

  For employees who are already on the DBS Update Service and an alert is received via the ESR Interface indicating a change in DBS status. The Recruitment Team will receive the alerts and notify the Line Manager and provide advice of what further action needs to be taken. The relevant People Partner will also be copied into this notification who will provide support on the process to be followed.

The principles of this section will also apply if a positive disclosure is identified through any other means.

In such cases a new DBS check will need to be completed to confirm the actual change and the circumstances. The cost of the DBS certificate will be deducted from their salary. This information can only be obtained and verified by the issuing of a new DBS certificate.

However as a DBS check can take a few weeks to be completed, urgent action is needed so in the interim a risk assessment must be undertaken based on the information verbally provided by the employee.

In addition for cases where the employee is; registered with the Update Service, on an enhanced level disclosure with barred lists, the Recruitment Team will apply for an 'Early Confirmation' with the DBS to ensure that the change in DBS has not resulted in any barred list restrictions. This process can take up to 7 working days to be completed. This action does not prevent the need for a new DBS certificate to be obtained.

The risk assessment process to be followed will be detailed on the risk assessment form *(provided by the Recruitment Team)* this includes the requirement for consideration by the Trust's Decision Panel *(detailed in 3. Definitions)*.

When the new DBS certificate has been received the employee must show the **original** certificate to their Line Manager. The Line Manager must then review the previously completed risk assessment to ensure it remains valid and that the information on the DBS certificate matches the discussions held. The relevant People Partner will also be notified to provide support.

It is vital that the Recruitment Team are advised of the outcome of the whole risk assessment process to ensure that ESR DBS records are accurately recorded for compliance purposes.

Any non-compliance by the employee in any aspect of this risk assessment process, may be removed from their existing post, pay suspended and formal action taken under the Disciplinary Policy, which may result in dismissal.

6.16.3 Duty to Refer to DBS

The Trust also has a legal duty to refer to the DBS. It is an offence not to refer someone to the DBS in the following circumstances:

- They have permanently removed an employee from a regulated activity through dismissal or permanent transfer, or would have done so if the employee had not left, resigned, retired, or been made redundant; and
- They believe the employee has been cautioned or convicted of a relevant (automatic barring) offence.
- The employee has engaged in relevant conduct, through action or inaction (neglect) which has harmed or risked harm to a child or adult.
- The employee has satisfied the Harm Test thus posing a risk of harm to children/vulnerable adults, even if no specific harmful conduct has occurred.

The Director of Nursing or nominated deputy will be responsible for this action. This referral will take place once the Decision Panel *(as detailed 3. Definitions)*has been held to decide what action should be taken regarding a positive DBS disclosure.

7. MONITORING IMPLEMENTATION

This will be overseen by the Recruitment and Human Resources team. They will ensure;

- all records are up to date and any gaps in data are reviewed.
- This policy is adhered to.
- Continually review the position codes for accuracy of DBS requirements and levels for that post, at the point of advert to ensure ESR accurately reflects Trust DBS requirements for staff.

7.1. **For Existing Staff on the DBS Update Service**

The DBS Update Service subscriptions will be monitored by the Recruitment Team. The Trust will be notified via ESR when subscription has lapsed, and the Recruitment team will take the action detailed in this policy to ensure subscription is reinstated.

Employees will also receive notification directly from the DBS Update Service.

7.2. **For External new starters or Internal staff moves requiring a DBS check**

The Recruitment team will ensure that any appointments made through the Trust's recruitment process *(via Trust's Recruitment System)* have the right level of DBS check and barred list will be completed.

Once a satisfactory DBS check has been received, they will ensure the applicant joins the DBS Update Service and this is accurately recorded.

Offers of employment will not be progressed if this action is not taken.

7.3. **Appointments made outside of the recruitment process** *(not via NHS Jobs Adverts e.g. expression of interest)*

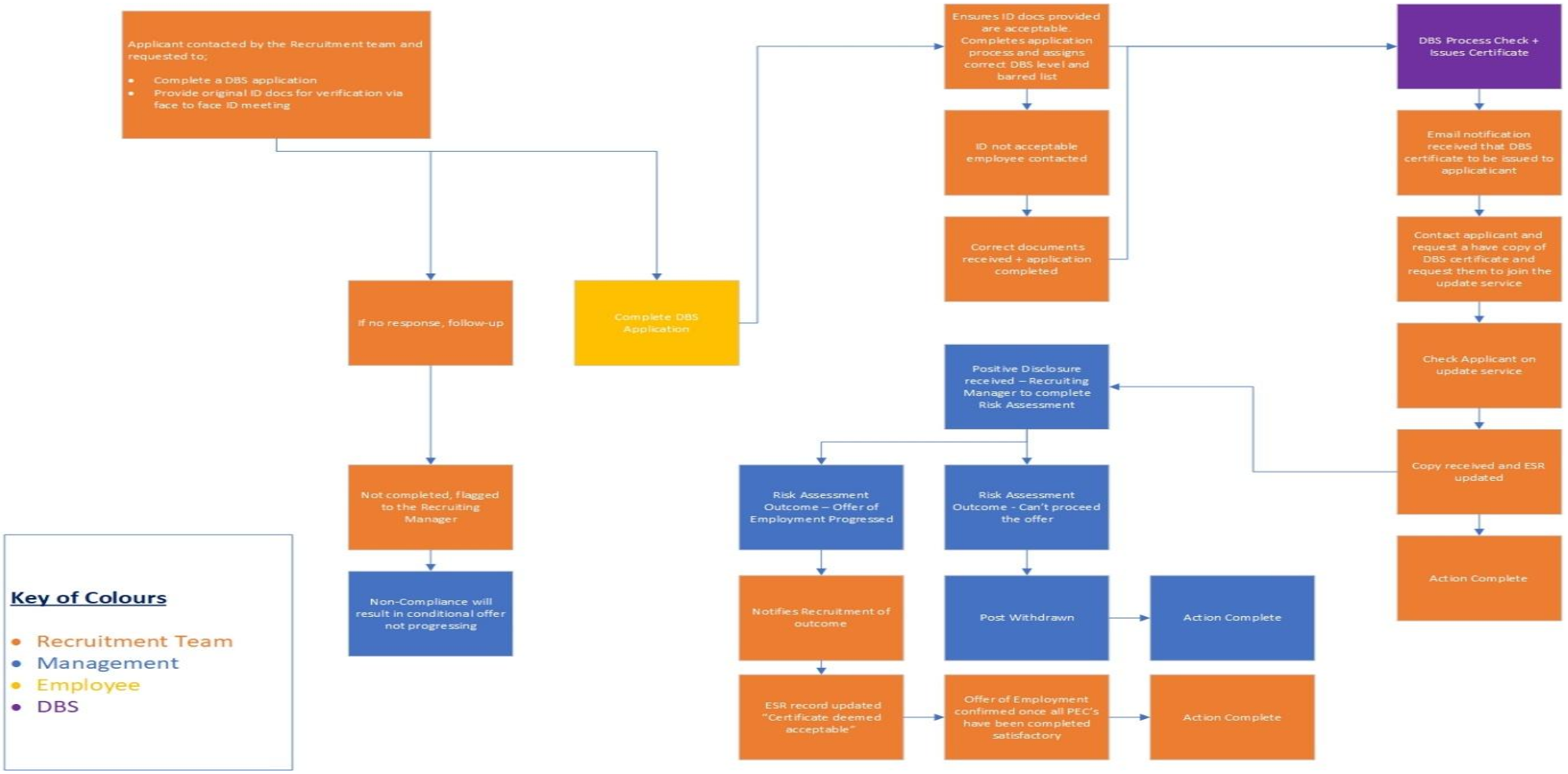
Managers will be responsible for reporting this appointment to the People Systems & Compliance Team who will advise on DBS status and requirements.

7.4 **Non-compliance by employees**

Any cases of non-compliance that fall within this policy will be overseen and monitored by People Partnering Team to ensure they are dealt with a resolved under this policy

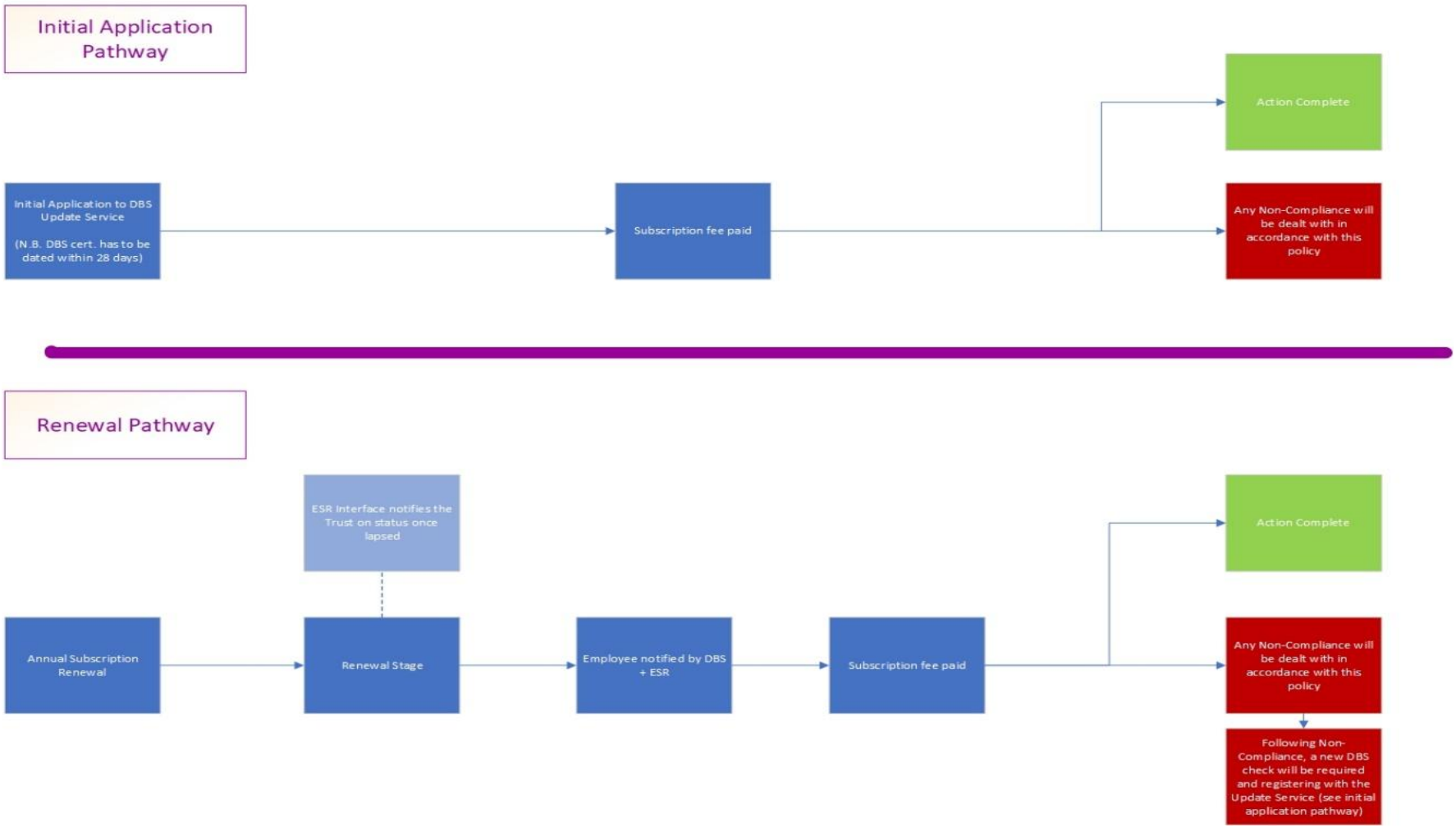
Appendix 1 – DBS Check Process

DBS Application Process for External New Starters & Internal Staff Moves



Appendix 2 – DBS Update Service

DBS Update Service



Appendix 3 – Equality Impact Assessment

Title of activity
DBS Policy

Section 1: Service area

County Wide Community Services	**Primary Care and Community Mental Health Service**	**Integrated Community Services**	**Specialist Mental Health and Learning Disabilities Services**	**Children Young People and Families**	**Corporate and Administrative Services (please specify which directorate)**
					X

Name of lead for activity	**Name**	**Job title**	**Email address**
Details of individual(s) completing this assessment, please include name, job title and email contact	Lucy Muller	Recruitment Team Manager	Lucy.muller@nhs.net
	Naomi Keeling	Deputy Director of People & OD	naomi.keeling@nhs.net
Date assessment completed	7th February 2025		

Section 2

Activity being assessed (e.g. policy/procedure, document, service redesign, policy, strategy etc.)	DBS Policy
What is/are the aim, purpose and/or intended outcomes of this activity?	This policy outlines the Trust's commitment to fair, consistent and equal treatment and provides guidance on the legal requirements for criminal record checks, including which posts are exempt from the Rehabilitation of Offenders Act 1974. It describes the responsibilities of Trust staff and outlines information around DBS checks, the Update Service and the Trust approach to this.

Who will be affected by the development & implementation of this activity? (Mark with an 'X' in the right-hand column)

Service user	X
Patient	X
Carers	X
Staff	Recruiting Managers, Line Managers and Staff
Communities	
Other (please state)	

This is a… (Mark with an 'X' in the right-hand column)

Review of an existing activity	x
New activity	
Planning to withdraw or reduce a service, activity or presence?	

What information and evidence have you reviewed to help inform this assessment? (Please name sources, e.g. demographic information for patients / services / staff groups affected, complaints etc.	NHS Employers NHS employers Pre Employment Check Standards DBS Regulations Appropriate Employment Law
Summary of engagement or consultation undertaken (e.g. who and how have you engaged with, or why do you believe this is not required)	The Trust's Equality, Diversity and Inclusion Team HR Team Deputy Director of People
Summary of relevant findings	Trust need for a policy to structure and guide the current practice in terms of DBS regulations and its application for new starters and existing staff who will work in a regulated activity.

Section 3

Please consider the potential impact of this activity (during development & implementation) on each of the equality groups outlined below. **Please tick one or more impact box**

below for each Equality Group and explain your rationale. Please note it is possible for the potential impact to be both positive and negative within the same equality group and this should be recorded. Remember to consider the impact on e.g. staff, public, patients, carers etc. in these equality groups.

Equality Group	**Potential positive impact**	**Potential neutral impact**	**Potential negative impact**	**Please explain your reasons for any potential positive, neutral or negative impact identified**
Age		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe recruitment of staff who will undertake a regulated activity. The principles of this policy apply regardless of age.
Armed forces (as per the Armed forces act 2021) The Armed Forces Act 2021 introduced a new requirement for some public bodies, including the NHS and local authorities, to pay due regard to the principles of the Covenant when carrying out specific public functions in the areas of housing, healthcare and education. Statutory guidance was laid in		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe recruitment of staff who will undertake a regulated activity. The principles of this policy apply equally to veterans from armed forces. In terms of the application will apply when prior to and on returning from deployment.

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
secondary legislation (the Armed Forces (Covenant) Regulations 2022) and was published on 8 November 2022.				
Disability		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe recruitment of staff who will undertake a regulated activity. The principles of this policy apply regardless of disability although adjustments will be made to support the DBS application process for disabled applicants when required.
Gender Reassignment Gender Identity and Gender expression		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe recruitment of staff who will undertake a regulated activity. The principles of this policy apply regardless of gender however the policy has a specific section of how DBS

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
				applications are made under these circumstances.
Marriage & Civil Partnerships		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe recruitment of staff who will undertake a regulated activity. The principles of this policy apply regardless of marital status.
Pregnancy & Maternity		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe recruitment of staff who will undertake a regulated activity. The principles of this policy apply equally however any members of staff who are absent from work due to maternity will not be required to take any action until their return to work.
Race including Traveling Communities		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
				recruitment of staff who will undertake a regulated activity. The principles of this policy apply regardless of race.
Religion & Belief		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe recruitment of staff who will undertake a regulated activity. The principles of this policy apply regardless of religion or belief.
Sex		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe recruitment of staff who will undertake a regulated activity. The principles of this policy apply regardless of sex.
Sexual Orientation		x		This policy ensures that the DBS requirements and regulations are applied equally to all staff and ensure safe recruitment of staff who will undertake a regulated activity.

Equality Group	Potential positive impact	Potential neutral impact	Potential negative impact	Please explain your reasons for any potential positive, neutral or negative impact identified
				The principles of this policy apply regardless of sexual orientation.
Other Vulnerable and Disadvantaged Groups (e.g. carers; care leavers; homeless; Social/Economic deprivation, travelling communities etc.)		x		N/a
Health Inequalities (reduce inequalities between patients with respect to the ability to access health services, and (b) reduce inequalities between patients with respect to the outcomes achieved for them by the provision of health services. NHS Act 2006 (as amended)		x		n/a

Section 4

What actions will you take to mitigate any potential negative impacts?

Risk identified	**Actions required to reduce / eliminate negative impact**	**Who will lead on the action?**	**Timeframe**
No potential negative impacts are known	Continual review of lessons learnt from claims, complaints and feedback and if negative impact found the policy will be amended accordingly.	Associate Director of HR	Within the policy review cycle, 3 years or sooner if required.
How will you monitor these actions?			Feedback from candidates, staff and managers.
When will you review this EIA? (e.g. in a service redesign, this EIA should be revisited regularly throughout the design & implementation)			The EIA will be reviewed as and when required or if regulations change within the normal policy review cycle.

Section 5 - Please read and agree to the following Equality Statement

1. Equality Statement

1.1. All public bodies have a statutory duty under the Equality Act 2010 to set out arrangements to assess and consult on how their policies and functions impact on the 9 protected characteristics: Age; Disability; Gender Reassignment; Marriage & Civil Partnership; Pregnancy & Maternity; Race; Religion & Belief; Sex; Sexual Orientation

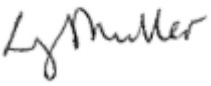
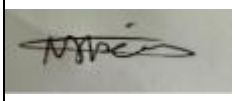
1.2. Our Organisations will challenge discrimination, promote equality, respect human rights, and aims to design and implement services, policies and measures that meet the diverse needs of our service, and population, ensuring that none are placed at a disadvantage over others.

1.3. All staff are expected to deliver services and provide services and care in a manner which respects the individuality of service users, patients, carer's etc., and as such treat them and members of the workforce respectfully, paying due regard to the 9 protected characteristics.

1.4 Our organisations are expected to use the appropriate interpreting, translating or preferred method of communication for those who have language and/or other communication needs. Practitioners will need to assess that the Flexible Working policy is fair and equitable for all groups covered under the Equality Act 2010 and that they are implementing the Accessible Information Standard and have considered health inequalities.

1.5. Herefordshire and Worcestershire Health and Care NHS Trust must meet its statutory duty to reduce inequalities of access and outcomes, as set out in the NHS Act 2006 (as amended). As a result, the Herefordshire and Worcestershire Health and Care NHS Trust aims to design and implement policy documents that seek to reduce any inequalities that already arise or may arise from any new policy. Therefore, Herefordshire and Worcestershire Health and Care NHS Trust will consciously consider the extent to which any policy reduces inequalities of access and outcomes.

1.6. Any change to a service will require a conscious effort from the author(s) of that change to actively consider the impact that this will have on any Protected group(s) and act due diligently. Where an impact on any of the Equality groups is realised after the implementation of the Project/Service, the commissioners and or Providers, who are implementing the said Project and or service will seek to minimise such an impact and simultaneously carry out a full review.

Signature of person leading & or completing the EIA	Lucy Muller, Recruitment Team Manager   Naomi Keeling Deputy Director of People and OD
Date signed	7th February 2025
Comments:	
Signature of SRO approving the EIA & Director of Strategy & Partnerships	Elaine Clough, Director of People & OD  

	Sue Harris, Director of Strategy and Partnerships
Date signed	1 July 2025
Comments:	

Human Rights Consideration:

NHS organisations must ensure that none of their services, policies, strategies or procedures infringes on the human rights of patients or staff. You should analyse your document using the questions provided to determine the impact on human rights. Using human rights principles of fairness, respect, equality, dignity and autonomy as flags or areas to consider is often useful in identifying whether human rights are a concern. Can you please answer the following Human Rights screening questions:

	Human Rights	Yes/No	Please explain
1	Will the policy/decision/service change or refusal to treat result in the death of a person?	No	
2	Will the service change/policy/decision lead to degrading or inhuman treatment?	No	
3	Will the service change/policy/decision limit a person's liberty?	No	
4	Will the service change/policy/decision interfere with a person's right to respect for private and family life?	No	
5	Will the service change/policy/decision result in unlawful discrimination?	No	
6	Will the service change/policy/decision limit a person's right to security?	No	
7	Will the service change/policy/decision breach the positive obligation to protect human rights?	No	
8	Will the service change/policy/decision limit a person's right to a fair trial (assessment, interview or investigation)?	No	
9	Will the service change/policy/decision interfere with a person's right to participate in life?	No	

If any Human Rights issues have been identified in this section, please get in touch with your Equality and Inclusion Lead who will advise further, and a full Human Rights Impact Assessment maybe required to be completed