

# KINGSTON UNIVERSITY

## DISCLOSURE AND BARRING SERVICE (DBS) PROCEDURE FOR STAFF

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## **DISCLOSURE AND BARRING SERVICE (DBS) PROCEDURE**

**Aim:** To outline how and when to apply for DBS checks for all staff within the University.

**Applies to:** All staff employed by the University (including Agency Staff, Staff Bureau and Hourly Paid Lecturers and Consultants)

### **1. Introduction:**

- 1.1 This procedure is designed to inform Managers of the University's legal responsibility to safeguard children and vulnerable groups and to ensure safe working practices apply. The University is required to revise and tighten our policies and procedures from time to time in relation to our recruitment and continued employment checks in line with legislative changes.
- 1.2 The Disclosure and Barring Service (DBS) was established when the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged in 2012.
- 1.3 The DBS helps employers make safer recruitment decisions. It also prevents unsuitable people from working or volunteering with vulnerable groups, including children, through its criminal record checking and barring functions. DBS checks may be made on individuals whose duties involve contact with children (under the age of 18) and adults who are considered vulnerable.
- 1.4 Access to criminal record information is via The Rehabilitation of Offenders Act 1974 (ROA), (Exceptions) Order 1975 (as amended in 2013). The Act lists those occupations, professions and positions considered to be exempt from the ROA provisions, whereby criminal record information can be requested. These provisions are designed to protect individuals from unnecessary disclosure of their spent conviction history.

### **2 Principles:**

- 2.1 The University is committed to safeguarding and protecting children and vulnerable groups and will comply with the DBS Code of Practice (please refer to the Code of Practice).
- 2.2 The purpose of this procedure is to provide guidance to managers and ensure a consistent and compliant process is applied to the recruitment and selection of staff. The majority of checks will be carried out at the appointment stage, as part of the recruitment process.

- 2.3 DBS checks have to be requested by or through a body registered with the Disclosure and Barring Service (DBS). The University currently holds registration and is able to request checks direct from the DBS, through the lead signatory or counter signatories.
- 2.4 Registered Bodies must treat applicants who have a criminal record fairly and must not discriminate because of a conviction or other information revealed.
- 2.5 The procedure will ensure a fair process is applied in line with the ROA and the University's Recruitment of Ex-offenders Policy. A copy of this Policy will be made available to all disclosure applicants at the outset of the recruitment process
- 2.6 The University is committed to promoting equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records.
- 2.7 The ministry of Justice states that organisations should not insist that a DBS check forms part of a recruitment exercise or bid when tendering for contracts, unless the services provided meet the criteria as defined in the exceptions to the Rehabilitation of Offenders Act 1974 as this would breach employment law. Faculties and departments should liaise with Kingston University's legal department regarding such issues.
- 2.8 DBS disclosure information should only be discussed on a need to know basis and confidentiality should be respected by parties at all times.
- 2.9 Recruiting Managers should not agree on a start date until clearance has been received. Only in exceptional circumstances and with agreement from HR, should members of staff commence work prior to receiving clearance and the recruiting manager will be required to undertake a risk assessment in line with the Recruitment of Ex-Offenders policy.
- 2.10 The majority of posts within the University will not require a DBS disclosure and those applicants will only be required to declare unspent criminal convictions. It is the individual applicant's responsibility to determine the status of any conviction, in line with the ROA.
- 2.11 The DBS only send certificates to the individual and no longer send DBS certificates to the employer. The individual will be required to bring the certificate to the recruitment team within two weeks of the issued date.
- 2.12 If the individual has signed up to the DBS update service then the university can check their status online, following the consent from the employee. All individuals who hold a post that requires DBS clearance will be checked every three years, unless otherwise required by law or a regulatory body.

All DBS checks on staff will be paid for by each Faculty/Department. The current cost of checks are as follows:

Standard DBS check - £26

Enhanced DBS check (no barred list check) - £44

Enhanced DBS check with barred list check (child, adult or both) - £44

- 2.13 The DBS has the right to conduct audits to check compliance with its procedures and codes and to provide advice on good practice. An audit could be conducted at any time and counter signatories must be prepared for their work to be examined and to be questioned about their procedures.
- 2.14 This guidance should be considered in line with the DBS Policy Document and the relevant Faculty/Departmental DBS Job Catalogue. The DBS Job Catalogue is a list of all faculty/departmental posts that require DBS clearance and provides the rationale for the disclosure.
- 2.15 Further advice can be sought from the Human Resources Department.

#### **Areas of Responsibility:**

- 2.16 The University Secretary's Department has overall responsibility for ensuring that the University maintains suitable arrangements for obtaining checks and for internally approving signatory nominations for staff to be registered with the DBS.
- 2.17 Deans and Heads of Department are responsible for overseeing the operation of the DBS check process within their management area. This will include ensuring that the faculty or department adheres to any requirements of the Disclosure and Barring Service (DBS) in relation to the obtaining, use or disposal of checks within their area.
- 2.18 All Faculties and Departments will be responsible for maintaining their own DBS catalogue, identifying all posts that require an up-to-date DBS check and the rationale for the check (ie the level of contact with children or Vulnerable Groups) in line with legislation and University procedure. This includes responsibility for the on-going reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or vulnerable groups has changed and, if necessary, to initiate a new DBS check.
- 2.19 The HR Department will be responsible for the procedure on the recruitment of ex-offenders and for ensuring that a copy is provided to all applicants where a DBS check is required DBS checks on staff will all be processed by the Human Resources Department under the management control of the HR Director
- 2.20 Individual employees will be responsible for providing a copy of the DBS certificate within two weeks of the certificate issue date.

### **3 MainSteps:**

#### **3.0 DBS Disclosure Checks**

3.1 The different types of DBS checks are outlined below and the flow charts in Appendix I - Eligibility for DBS Check, provide full information regarding when each type of DBS check is required. Appendix I also provides a full explanation of the 'frequently, intensively or overnight' and 'specified place' criteria.

#### **3.2 a) Standard DBS Checks**

Sometimes used for professions such as law and accountancy, which do not involve contact with vulnerable people.

b) **Enhanced DBS check for Regulated Activity - including checks against the children's and adults' barred lists**

This is the type of check we carry out when someone is undertaking 'Regulated Activity' from 10 September 2012 (see Appendix I - Diagrams 1 and 2). It checks whether the individual is barred from working with children or vulnerable adults. There will only be a limited number of posts eligible for barred list checks

c) **Enhanced DBS Check (no checks made against the Children's or Adults' Barred List)**

This is the type of check we use if an individual does not meet the 'new' definition of 'Regulated Activity' as defined in Appendix I - Diagrams 1 and 2, but still falls within the pre-September 2012 definition of 'Regulated Activity' as illustrated in Appendix I - Diagram 3).

3.3 To note:

- You cannot apply for a DBS check for someone who is under 16 years old.
- From 10 September 2012, a DBS check is no longer available for anyone undertaking 'controlled' activity. This means there is no longer eligibility for people with access to sensitive data to be DBS checked.

3.4 Individuals can now maintain a portable DBS check through the DBS update service (which requires an annual fee) where the same type and level of check is required. At the point of recruitment individuals will be asked whether they are a member of the update service. If so and with their permission the university can utilise their current certificate and carry out a free instant online check.

It is not normally necessary for existing staff to have such checks carried out unless the nature of their job changes to a significant extent bringing them into one of the "regulated activity" categories or, alternatively, to a position where an enhanced check (without a check against the barred lists) may be required. Please refer to Appendix I. Where it becomes clear that the role of a member of staff has changed, which necessitates a DBS check, such a check would need to be requested. The line manager should contact HR.

3.5 It should be noted that the DBS may only hold very limited, if any, information for persons who have a substantial record of overseas residence or who have little or no previous UK residence. This will include British Nationals with recent periods of overseas residence. A disclosure in such circumstances may be of limited value. Where an applicant is coming from Overseas or has lived in the United Kingdom for less than five years it may be necessary to make additional enquiries about the person's background. Current guidance on doing this can be found on the DBS website ([www.gov.uk/DBS](http://www.gov.uk/DBS) )

#### 4.0 **Process for requesting DBS Disclosures**

##### **Prior to Recruitment Stage:**

4.1 In the first instance, Managers should check their faculty/departmental DBS catalogue and liaise with their DBS lead contact to check whether the post has been authorised as requiring clearance This should be in line with the latest DBS guidance

on the HR staffspace pages. A nomination is required for each faculty/department who will manage and own the catalogue. In most cases, the DBS counter-signatory will be responsible for owning and managing the catalogue.

- 4.2 If the post is a newly created post, then the Recruiting Manager will need to establish whether a DBS check is required (by working through Appendix I) and ensure it is added to the Faculty/Departmental DBS catalogue and the job description.

#### **Placing an Advert/Advertising Stage:**

- 4.3 At the point of advertising, the Recruiting Manager should indicate the DBS check requirement (including type and level) when completing the on-line vacancy details form and ensure the job description is updated to include the requirement in the person specification under the essential criteria.
- 4.4 For all posts where a DBS check is required the online advertisement and the job description will state the requirement to complete a disclosure. Applicants should be notified of the requirement of the disclosure as soon as possible.
- 4.5 The HR department will check the online vacancy details form and cross reference with the job description before placing the advert.
- 4.6 The recruitment team will ensure applicants who will require a DBS check will be provided with a copy of the University's procedure on the Recruitment of Ex-offenders and have access to the DBS Code of Practice.
- 4.7 When applying online, all applicants (regardless of whether they need a DBS check) will need to declare if they have any unspent (current) criminal convictions. For posts that require a DBS check, applicants will also be required to declare any spent criminal convictions that are not protected as defined by the ROA. Where appropriate, applicants will need to disclose the details of those convictions to the HR Department, marked in a confidential envelope to the HR Director. HR will be responsible for assessing the information prior to the interview stage.

#### **Successful applicant stage:**

- 4.8 Appointed applicants will receive the DBS application form following the online offer letter and will be required to complete the form using the guidance provided. The applicant should book an appointment with the Recruitment Team as soon as possible as the offer of employment will be subject to a satisfactory DBS clearance. No start dates should be agreed with the successful applicant prior to clearance. (see point 4.13)
- 4.9 The recruitment team will check the identity of the person for whom a request is being submitted. In each case original documents must be presented by the applicant as photocopies are not acceptable. Documents to confirm identity will include those containing a photograph (the latest guidance can be found on the DBS website, [www.gov.uk/DBS](http://www.gov.uk/DBS)).
- 4.10 The recruitment team will check that the information supplied by the applicant is consistent with the information supplied on the application form. If the applicant claims to have changed his/her name by deed poll or any other mechanism, then evidence of that change must be requested (original documentation must be

produced). A previous DBS disclosure document will not be considered as evidence of identity.

- 4.11 The identity checks carried out by the recruitment team must be indicated on the DBS application form. It is essential that the DBS application form is completed correctly. If not, it will be returned to the University and the DBS will keep a record of such returns. Applications must be written in BLACK ink. (Insert link to guidance on completing the application form is available on StaffSpace/HR pages).
- 4.12 DBS checks on staff will all be processed by the Recruitment Team who will maintain a central register of all staff checked. The disclosure information will only be made available to the Faculty Dean/Head of Department/Recruiting Manager.
- 4.13 Recruiting Managers should not normally agree on a start date until clearance has been received. Only in exceptional circumstances and with agreement from HR, should members of staff commence work prior to receiving clearance. In line with the Recruitment of Ex-Offenders Policy, the Recruiting Manager will be required to complete a risk assessment to demonstrate safeguarding practices will apply in those exceptional circumstances where individuals start work prior to clearance. A copy of the risk assessment should be provided to HR for the recruitment file.
- 4.14 Once clearance has been received by the Individual and presented to the recruitment team, the team will notify the Recruiting Manager that all pre-employment checks have been completed and a start date can be agreed. In most cases, the Manager will be provided with the DBS disclosure date and number for their records.
- 4.15 When the appointment has been confirmed, the Recruitment Team will destroy all disclosure information with immediate effect in line with the handling and storage guidelines. The Recruitment Team will update the DBS spreadsheet to ensure accurate records are maintained.
- 4.16 It is the responsibility of any Recruitment Agency to provide all necessary pre-employment checks including a DBS Disclosure for all agency staff recruited into posts that require a DBS check. The Recruiting Manager/Recruitment department should ensure the evidence is provided by the agency and recorded. All temporary and hourly paid lecturers should be checked in the same way as full-time contractual staff.
- 4.17 It is the responsibility of faculties and departments to advise the Human Resources Department of existing posts where a DBS check becomes necessary as a result of new or changing duties bringing contact with vulnerable people. The Faculty or Department will be responsible for updating the DBS catalogue. The Human Resources Department will arrange for the appropriate check(s) to be carried out.

#### **Renewal Stage:**

- 4.18 Disclosures do not have a period of validity because a conviction or other matter could be recorded at any time. The disclosure is only a snapshot of the position at the time when the information was checked and therefore renewal checks will be completed for all posts requiring DBS clearance.
- 4.19 The renewal period for most posts within the University will be every three years, unless otherwise required by law or a regulatory body or if the post changes whereby a check is no longer required.

If the employee has subscribed to the DBS update service then there may be no requirement to apply for a new certificate as the University, with the employees consent can check the status online.

- 4.20 For renewals, the HR department will contact the individual and the line manager three months prior to the expiry date of the current check. The individual will be responsible for completing the DBS form with the recruitment team two months prior to the renewal to ensure clearance is received prior to the expiry date. The individual will be required to submit a copy of the DBS certificate to the recruitment team within two weeks of the certificate issue date.
- 4.21 The HR department will notify the line manager if an individual has failed to complete the renewal form in time. The line manager will be responsible for meeting with the individual to follow the matter up. The line manager may seek HR advice if required.

## **5. Managing DBS Disclosures with convictions include status checks**

- 5.1 A copy of the disclosure will only be sent to the Individual. The individual must send a copy of the certificate to the recruitment team within two weeks of the date of issue. The recruitment team will be responsible for checking the disclosure information when it is returned. If a conviction is highlighted, the recruitment team will pass to the relevant HR Advisor.
- 5.2 The HR Advisor should check the applicant's application form to check whether the conviction was disclosed at the outset of the recruitment process. Failure to reveal information that is directly relevant to the position could lead to the withdrawal of an offer of employment.
- 5.3 The HR Advisor will then discuss the situation with the Recruiting Manager and escalate if required.
- 5.4 The Manager should undertake a full risk assessment to demonstrate the decision making process. The Manager should assess the relevance of the conviction to the role and weigh up the risks associated with the University employing the applicant in that capacity.
- 5.5 The Manager should provide a copy of the risk assessment to HR as part of the recruitment file.
- 5.6 If convictions are disclosed prior to the DBS application, the HR Deputy Director will consider the information and discuss with the Recruiting Manager. Where appropriate, the Manager should make best use of discussing the nature of the convictions with the applicant as this information will form part of the evidence base of the risk assessment.
- 5.7 The Manager should ensure that an open and measured discussion takes place on the subject of any offences that might be relevant to the position.
- 5.8 The Manager should discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment. It is important to seek clarification on the details of the conviction.



- 5.9 The Manager should also seek advice from HR prior to meeting with the individual and prior to withdrawing any offer of employment.
- 5.10 Having a criminal record will not automatically bar applicants from a position that requires a DBS check. However, it may be a criminal offence to make an appointment for employment in certain areas. The Recruiting Manager should keep an open mind and consider the nature of the crime, the circumstances involved, the requirements of the job, the safeguards against offending at work and the potential impact on the University. (link to rehabilitation of offenders act).
- 5.12 If the applicant disputes the information contained within the disclosure then the matter should normally be resolved before making the decision to confirm the provisional offer.
- 5.13 The applicant can also contact the DBS disputes department to resolve such matters. Disputes must be raised within three months of receipt of the disclosure.
- 5.14 Where information is separately provided by the police the information must not be discussed with the applicant and must be kept confidential to the University. Any such cases should be referred to the University Secretary for advice on how the matter should be handled.

## **6 Referrals to the DBS**

- 6.1 Any Faculty or Department aware of a member of staff who is dismissed from the University due to harming a vulnerable adult or child must refer the matter to the University Secretary's Department who will inform the DBS

### **Further Information**

7. This procedure should be read in conjunction with:
- The DBS Code of Practice and Explanatory Guide
  - The Kingston University Policy on the Recruitment of Ex-Offenders
  - Staffspace/HR/DBS pages (need to develop as part of implementation)
  - Faculty/course policies for student courses
  - The website: [www.gov.uk/DBS](http://www.gov.uk/DBS)

The procedure will ensure a fair and consistent process is applied and in line with the Rehabilitation of Ex-Offenders Act 1974 (ROA), Exceptions Order 1975

### **Review**

This procedure will be reviewed periodically and in any event, formally reviewed after two years from the date of agreement.

### **References**

- Rehabilitation of Ex-Offenders Act 1974 (ROA), Exceptions Order 1975 (as amended in 2013)  
The Kingston University Procedure on the Recruitment of Ex-Offenders