

## Disclosure and Barring Scheme Policy and Procedure

Author	Head of HR
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\* Policies will be reviewed more frequently if legal changes or good practice require

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September 2016	HR Manager	Replacement policy for CRB and ISA Policy
September 2016	HR Manager	Tri-annual review and general update
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#### Related policies/documents:

Safeguarding policy;  
Staff Recruitment policy; and  
Recruitment of Ex-Offenders Policy

## **1. Policy Statement**

North Kent College is committed to providing a safe and secure environment in which all learners and employees are enabled to achieve the best they can from working or studying at the College.

## **2. Background and Scope**

North Kent College will ensure, through the appropriate use of DBS checks, that it does not employ or make use of the services of any person who has a criminal conviction or record of conduct that could present a safeguarding risk to the safety and well-being of North Kent College learners and employees.

The policy is inclusive of and compliant with the College's obligations under the Rehabilitation of Offenders Act 1974 (ROA).

The main purpose of the ROA is to ensure that a person who has been convicted of a criminal offence in the past and who has not re-offended in a specified period is, so far as possible, treated as if the offence and the conviction for it had never occurred. The ROA achieves this by enabling some convictions to become "spent", or ignored, after a period of time, so that the offender does not have to declare the conviction when applying for a job. In some instances, however, exemptions are made from the ROA, allowing the employer to ask candidates to declare all convictions, cautions, warnings and so on.

Work in a Further Education Establishment, where the normal duties of that work involve regular contact with children aged under 18 and vulnerable adults is exempt from the ROA. As such, all staff who work at the College (including agency workers, volunteers and work experience placements excepting Year 10 and 11 school work experience placements) and those over the age of 16 living with staff (in staff accommodation on the Hadlow College site), have regular access to learners under the age of 18, or people of any age who may be vulnerable for other reasons. Therefore, for these individuals the College will require a DBS check; with the majority of checks being at Enhanced Disclosure or an Enhanced Disclosure with Barred List Check level; as they are positions involving regular contact with, caring for, supervising, training or being in sole charge of those aged under 18, or people of any age who may be vulnerable for other reasons ("Regulated Activity").

Applicants to North Kent College are advised via the College job adverts and application form that their appointment will be subject to a satisfactory DBS check. A criminal record will not necessarily prevent an offer of employment, this will depend on the nature of the offence, how long ago the offence took place and the relevant background. Applicants are requested to confirm in their job application form whether they have been convicted or cautioned for a criminal offence in the past, that is not considered to be protected. If this is the case applicants are asked to provide further information under separate cover (and not via the online application form), in writing to the Human Resources Manager at North Kent College. This allows for any issues raised to be dealt with at the earliest stage possible.

The College uses an umbrella organisation, to undertake Disclosure and Barring Service Checks (“DBS”), previously known as the Criminal Records Bureau (“CRB”). The umbrella organisation is a registered body with the DBS and complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosure certificates and Disclosure certificate information. It also complies fully with its obligations under the General Data Protection Regulation (“GDPR”), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure certificate information.

A copy of the DBS’s Code of Practice is available to all candidates on request.

### **3. Policy**

In line with Keeping Children Safe in Education’s Safer Recruitment requirements, it is a condition of all offers of employment made by the College that a satisfactory DBS disclosure at the relevant level is obtained, or current DBS status viewed on the online DBS update service (if the applicant is a member). This requirement also applies to all casual, sessional, voluntary and agency staff. Should any prospective employee or learner to whom this applies refuse to complete a DBS Disclosure Application form within a reasonable timescale (i.e., two weeks of the offer of employment date) this will result in the withdrawal of the provisional offer.

The College will require an additional Prohibition check for anyone who is appointed to a teaching role of any kind, to ensure that they are not subject to a prohibition order issued by the Secretary of State for Education, using the Teaching Regulation Agency’s (TRA) employer access service.

All contractors and third-party organisations working on College sites will be assessed to determine the level of access to North Kent College learners and level of supervision on site before DBS disclosure requirements are specified in the contract. For example, external service contracts for minibus operation, security and cleaning will require their employees to have appropriate and satisfactory DBS clearance.

In the case of agency workers, the College will require employment agencies providing temporary staff to the organisation to adhere to the requirements of this policy and safer recruitment requirements, providing to the College details of all the required checks to the HR department prior to the individual starting work.

All employees are required to complete an annual self-declaration relating to criminal convictions incurred since their previous DBS check / annual self-declaration.

Should any employee be convicted of an offence after appointment and during their ongoing period of employment, or if the individual is the subject of a police investigation in the UK or abroad, it is their duty to declare this immediately to Human Resources (HR). The employee should not wait for the annual self-declaration process to provide this information, for the risk to be assessed as early as possible (see Appendix A). Failure to comply with these notification requirements may result in disciplinary action being taken.

#### 4. Procedure

Once a provisional offer of employment has been made, Human Resources will instruct the umbrella organisation to issue, to the individual, a link to access an online DBS application, at the relevant level for the role or circumstances. Once the online application has been completed by the individual, HR will verify the applicant's original identity documents in line with DBS guidance and once complete the College will sign off the online application. A request for a DBS check will then be progressed by the umbrella organisation.

The individual will receive a copy of their DBS which must be supplied to HR for verification within 1 week of receipt. On receipt of the Disclosure certificate, Human Resources will check for any recorded convictions, cautions, etc. The date and reference number of the certificate will be recorded in the College's Single Central Record (SCR) held within HR.

If an individual has previously joined the update service and gives their consent for their DBS status to be checked, they must provide the original paper DBS certificate which is registered with the update service. A new DBS application will not need to be completed, unless the online check reveals a change in status since the original DBS certificate was issued, or the level of check of the original certificate is not sufficient for the role applied for at the College.

If a Disclosure certificate shows recorded items such as convictions or cautions, Human Resources will pass the certificate together with the relevant paperwork to the Human Resources Manager or Head of HR for consideration. In all situations, where there are any offences relating to children or vulnerable adults, the Human Resources Manager or Head of HR will consult with the Deputy Executive Principal (Teaching, Learning & Improvement) or Deputy Chief Executive. Under no circumstances will an appointment be made if a person is on the Barred List (an Enhanced check for Regulated Activity).

The following will be considered when reaching a decision about employing an individual with a criminal conviction or caution:

- 4.1. whether the conviction or other matter is relevant to the position;
- 4.2. the seriousness of the offence or other matter;
- 4.3. the length of time since the offence or other matter occurred;
- 4.4. whether the applicant has a pattern of offending or other relevant behaviour;  
and
- 4.5. whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters.

The circumstances surrounding the offence, and the explanation(s) offered by the individual, will be discussed via a Safer Recruitment Interview, which is conducted by a member of the HR team with the relevant Department Lead. Where the decision is taken to employ an individual with a criminal conviction or caution, Human Resources

will place a record of the risk assessment (Appendix A) using the above criteria on their personal file. No appointment of an individual with criminal convictions or cautions relating to children or vulnerable adults can be confirmed without agreement at Deputy Executive Principal (Teaching, Learning & Improvement) or Deputy Chief Executive level.

Where the decision is taken not to appoint an applicant because of the information on their Disclosure, Human Resources will withdraw the conditional offer of employment.

## **5. Discussing Criminal Records**

If a candidate has provided details of their criminal record at the recruitment interview, it may be appropriate to discuss this at this stage.

Where an applicant's criminal record is not made available prior to interview and there are issues revealed through the DBS Disclosure, which need to be discussed, HR will meet with the applicant. Such a discussion will also be necessary when the Disclosure contradicts what the applicant has previously declared.

If an applicant disputes the information contained on a Disclosure, they can appeal to the DBS. If a mistake has been made a fresh Disclosure will be issued to the applicant. A final decision about the applicant's suitability for the job will not be made until the outcome of the appeal; providing this is within a reasonable timeframe in relation to recruiting to the vacant post and the business need.

The College cannot accept responsibility where a job offer has been withdrawn due to entry errors on the DBS return.

## **6. Overseas checks**

Newly appointed staff who have lived or worked outside the UK for six months or more within the last 5 years are required to undergo the same level of checks as all other staff as well as an overseas criminal records check or a 'Certificate of Good Character' or equivalent.

The applicant will be required to provide this evidence in line with government guidance for the relevant country, which will be provided to the applicant during the pre-employment checking process. The applicant will be responsible for paying any fee payable to the relevant embassy for these additional checks.

## **7. Portability**

The DBS Certificate carries no period of validity because Disclosures are designed for use immediately after issue for a particular post only and will be of most use the closer they are to the date of issue. Consequently, the College will not accept a previously issued Disclosure on its own merit.

If an applicant/employee subscribes to the update service offered by the DBS, whereby updates are automatically provided, the College may be able to use this

disclosure if it provides the level of information required will check their Disclosure documentation. After checking with the DBS via the update service, the College reserves the right to require a new disclosure.

## **8. Conditional Employment**

DBS checks can take several weeks to be processed, with the timeframe for completion (including delivery to the individual's home address) being outside of the College's control.

For operational reasons, there may be occasions where an employee or volunteer is urgently required to start work before the receipt of a satisfactory DBS Disclosure. Such cases will be dealt with on an individual basis and can only be authorised by the Head of HR and the Deputy Executive Principal (Teaching, Learning & Improvement) or Deputy Chief Executive, must be risk assessed in accordance with Appendix B and will be subject to the following conditions:

- 8.1. a satisfactory DBS to the correct level has previously been issued within the last 12 months and the original certificate is produced by the individual for inspection by HR (or within the previous three months the applicant has worked in a school in England in a position with regular contact with persons aged under 18, or another institution within the further education sector in England, or in a 16 to 19 academy, in a position which involved the provision of education and caring for, training, supervising or being solely in charge of persons aged under 18)
- 8.2. a separate Barred List Check is conducted by the College and returned clear prior to the agreement of a start date.
- 8.3. a prohibition check is conducted by the College and returned clear prior to the agreement of a start date
- 8.4. a new DBS application has been submitted sent to DBS for processing;
- 8.5. the individual has not declared convictions or cautions in the application process, which may cause concern;
- 8.6. satisfactory reference(s) from current/previous employer, which confirms no safeguarding issues, have been received.
- 8.7. all other pre-employment checks are complete and deemed satisfactory,

## **9. DBS Re-checks**

All employees are required to renew their DBS during their employment; on average this will be every three academic years.

If an employee declares a conviction or caution or this is identified during the re-checking process the same risk assessment process will be followed (Appendix A). However, if the conviction/caution is felt to be serious and incompatible with continuing to work within a Further Education environment, the College will follow its

disciplinary policy and procedures and a disciplinary hearing will be convened, where dismissal will be a potential outcome.

## **10. Staff and Family Living in Residential Accommodation at the Hadlow Site**

Staff and their family members who are over the age of sixteen and living in College accommodation will be required to hold a satisfactory DBS check, which will be undertaken in line with the process outlined above.

To ensure that the College knows who is living in College accommodation and that they have undergone the appropriate checks, staff and residents must complete the Hadlow College Staff Accommodation and Safeguarding Agreement and Annual Safeguarding Check form when moving into College accommodation and then on an annual basis thereafter.

Staff must inform the HR Department if their personal circumstances change and, in particular, if the change affects who is living with them in College accommodation.

Failure to provide accurate and up to date information could result in staff and/or residents being asked to vacate the accommodation.

Any non-staff resident living in College accommodation will be issued with a "College Resident" ID badge which must be worn when on the Hadlow campus, if outside the boundary of their home and/or areas open to the public.

The member of staff is responsible for anyone they invite to their home and their behaviour and for ensuring their compliance with College procedures.

## **11. Duty to refer**

The College is legally required to make a referral to the DBS when it believes a person has caused harm or poses a future risk of harm to children or vulnerable adults. The referral includes information about employees working in regulated activity with children or vulnerable adults that may be considered to deem them unsuitable to work with these groups and could have resulted in dismissal but not necessarily a criminal charge (or would have or may have if the person had not left or resigned).

Once a referral is made to the DBS the College will no longer have any input or control into this process. The process will be fully managed externally, by the DBS, with reference to any relevant external authorities, who will assess the information and proceed according to the DBS criteria and make decisions about who should be placed in the child barred list and/or adults barred list and are prevented by law from working with children or vulnerable groups.

## **12. Storage, Use and Disposal of DBS Information**

The College complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure Information. It also complies fully with its obligations under GDPR in this regard.

Disclosure certificate information is kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

In accordance with Section 124 of the Police Act 1997, Disclosure certificate information is only passed to those who are authorised to receive it in the course of their duties. The College maintains a record of all those to whom Disclosure certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Once a recruitment (or other relevant) decision has been made, in general, the College does not keep any electronic copy, photocopy or other image of the disclosure certificate. However, in circumstances where this is required, the disclosure certificate will not be kept for longer than is necessary. This is generally for a period of up to six months to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep the Disclosure certificate for longer than six months, the College will consult the DBS about this and will give full consideration to the Data Protection and Human Rights of the individual before doing so. Throughout any period of retention, the usual conditions regarding the safe storage and strictly controlled access will prevail.

Once the retention period has elapsed, the College will ensure that any Disclosure certificate information is immediately destroyed by secure means, i.e., by confidential shredding. While awaiting destruction, Disclosure certificate information will not be kept in any insecure receptacle (e.g., waste bin or confidential waste sack). The College will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure.

However, notwithstanding the above, the College will keep a record of the date of issue of a Disclosure certificate, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure certificate and the details of the recruitment decision taken.

## **13. Monitoring and Review of the Policy**

Human Resources will monitor the development and dissemination of good practice to ensure that the policy and procedure is achieving the formal requirements for disclosure and barring for individuals working within a regulated activity. It may be necessary to amend the policy or procedure in line with changing Government legislation.

#### **14. Equality and Diversity**

If any employee has difficulty at any stage of the procedure because of a disability, they should discuss the situation with their line manager or a member of Human Resources as soon as possible. Additional support or documentation can be supplied as required.

The College is committed to fairness and equality of treatment for all employees and will comply with the requirements of the Equality Act 2010 and the ACAS Code of Practice in the implementation of these procedures.

## Appendix A: DBS Risk Assessment Form for Employee's with Criminal Convictions

Section 1	
Name <i>and</i> age of applicant (or staff member)	
Job title <i>and</i> service length (if applicable)	
Section 2	
Relevant convictions/cautions on DBS, with dates and penalties	
Section 3	
Job role/level of student contact	
Did the individual tell NKC at application or interview stage (or prior to DBS re-check)?	
How old was the individual at the time of conviction/caution?	
How long ago was the most recent offence?	
Is there a pattern of ongoing offences?	
Did the offence include possession and/or selling of prohibited drugs?	
Was the offence sexual in nature?	
Was the offence violent, harassment or threatening?	
Did the offence involve theft or robbery?	
Did the offence involve drink/drug driving?	
Section 4	
Is the offence compatible with working at NKC in terms of contact with under 18s and vulnerable adults?	
Is the offence compatible with working at NKC in terms of being a representative of the College?	
Section 5	
<b>Decision</b>	
<b>Head of HR's Signature and Date</b>	
<b>Deputy Executive Principal (Teaching, Learning &amp; Improvement) or Deputy Chief Executive Signature and Date</b>	

## Appendix B: DBS Risk Assessment Form for Individuals awaiting Disclosure

Section 1	
Name <i>and</i> age of individual	
Proposed job title <i>and</i> department	
Section 2	
Has a satisfactory DBS to the correct level (which has previously been issued within the last 12 months) been produced by the individual for inspection by HR	
Has a separate Barred List check been conducted and returned clear?	
Have all other checks (including verification of identity and right to work in the UK, occupational health clearance and confirmation of stated qualifications) been completed and deemed satisfactory?	
Has the individual declared any convictions, cautions, etc. of concern during the application process?	
Has an application form for Disclosure been completed by the individual and sent to the DBS for processing?	
Are satisfactory reference(s) from the individual's current / previous employer, including confirmation that there are no safeguarding concerns, in place?	
Has the line manager provided written assurance to the HR Manager that, until a satisfactory DBS Disclosure is received, the individual will be appropriately supervised by another College employee (who has a satisfactory DBS Disclosure) and that adherence to this supervision arrangement will be monitored?	
Section 3	
<b>Decision</b>	
<b>Head of HR's Signature and Date</b>	
<b>Deputy Executive Principal (Teaching, Learning &amp; Improvement) or Deputy Chief Executive Signature and Date</b>	