

Disclosure and Barring Scheme Policy and Procedure

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* Policies will be reviewed more frequently if legal changes or good practice require

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Contents

| | | |
|-------------|--|---|
| 1. | Statement | 2 |
| 2. | Background | 2 |
| 3. | Scope | 3 |
| 4. | Policy | 3 |
| 5. | The Rehabilitation of Offenders Act 1974 (“ROA”)..... | 3 |
| 6. | Procedure | 4 |
| 7. | Discussing Criminal Records..... | 5 |
| 8. | Barring | 5 |
| 9. | Portability..... | 5 |
| 10. | Conditional Employment..... | 6 |
| 11. | Re-checks..... | 6 |
| 12. | Storage, Use and Disposal of DBS Information | 6 |
| 13. | Monitoring and Review of the Policy..... | 7 |
| 14. | Equality and Diversity | 7 |
| Appendix A: | | |
| | DBS Risk Assessment Form for Employee’s with Criminal Convictions..... | 8 |

Related policies/documents:

Safeguarding policy
Staff Recruitment 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

The CRB was introduced in April 2002 to provide a “one stop” service for access to criminal record checks for employment purposes. It replaced the previous system of local police record checks and List 99 (the register of people who are deemed unfit to work with children). This service is known as “Disclosure” and is now the only available method of carrying out criminal record checks. On 1 December 2012 The Criminal Records Bureau (“CRB”) merged with the Independent Safeguarding Authority (“ISA”) to become the Disclosure and Barring Service (“DBS”).

In June 2013 the DBS introduced the online update service which allows applicants to keep their DBS certificate up-to-date and for employers to check a certificate instantly. Applicants register to use the service (yearly registration costs £14 (2016)) by either using the reference number of a new DBS application or using a certificate issued within 19 days.

North Kent College 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 Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining with the safe handling, use, storage, retention and disposal of Disclosure information.

The policy is inclusive of and compliant with the College’s obligations under the Rehabilitation of Offenders Act 1974.

The 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 risk to the safety and well-being of North Kent College learners and employees.

There are two levels of DBS Disclosure. Standard Disclosures are intended to be used for positions that involve regular contact with those aged under 18 or people of any age who may be vulnerable for other reasons. Enhanced Disclosures are for posts involving regularly 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”). The Enhanced Disclosure involves an extra level of checking beyond that which is carried out for the Standard. Applications for a Disclosure are made by the College as a Registered Body, which countersigns and pays for the application. The individual receives a Disclosure Certificate at their home address and the Registered Body receives a copy; a record of receipt of this is kept on the individual’s computerised file.

3. Scope

All staff who work at the College have access to learners under the age of 18, or people of any age who may be vulnerable for others reasons. Therefore, the College requires all staff, agency workers, volunteers and work experience placements (excepting Year 10 and 11 school work experience placements) to have an Enhanced DBS Disclosure.

4. Policy

It will be a condition of all offers of employment made by the College that a satisfactory enhanced DBS disclosure is obtained or current status viewed on the online DBS update service (if the applicant is a member). 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 date) this will result in the withdrawal of the provisional offer.

All sessional, voluntary and agency employees will be required to have a satisfactory enhanced DBS disclosure carried out ideally within the previous 6 months but on exceptional basis within 12 months provided they have been working in an education environment during this time

All contractors 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 mini bus operation, security and cleaning will require their employees to have appropriate and satisfactory DBS clearance.

Should any employee be convicted of an offence during the period of their employment, it is their duty to declare this to the Human Resources Manager in order for the risk to be assessed (see Appendix 1). Failure to do so may result in disciplinary action being taken.

5. 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 institution where the normal duties of that work involve regular contact with children aged under 18 and vulnerable adults is exempted from the ROA.

Applicants are requested to provide information about their criminal background at the application stage so that any issues raised can be dealt with at the interview stage (or shortly after) and a decision can be made on that basis, subject to the Disclosure check. Should applicants wish to submit a disclosure under separate

cover and not via the online application form, they may do so by writing to the Human Resources Manager at North Kent College. The application form includes a statement to candidates that their appointment is subject to a satisfactory Disclosure check, and that a criminal record will not necessarily prevent an offer of employment. This will depend on the nature of the offence and how long ago the offence took place and the background.

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

6. Procedure

Once a provisional offer of employment has been made, Human Resources will issue the necessary Disclosure paperwork for completion and verify the applicant's identification in line with DBS guidance. Original documents are seen and checked, and the Disclosure application form is countersigned and sent to the DBS.

The individual only receives 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 DBS log held within HR.

If an individual has joined the update service and give their consent for their status to be checked, they must provide the original paper DBS certificate which is registered with the update service. A new DBS application form will not need to be completed unless the online check reveals a change in status since the original DBS certificate was issued.

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 for consideration. In all situations, where there are any offences relating to children or vulnerable adults, the Human Resources Manager will consult with the Vice Principal. 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 taken into account when reaching a decision about employing an individual with a criminal conviction or caution:

- 6.1. whether the conviction or other matter is relevant to the position;
- 6.2. the seriousness of the offence or other matter;
- 6.3. the length of time since the offence or other matter occurred;
- 6.4. whether the applicant has a pattern of offending or other relevant behaviour; and
- 6.5. 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 via a Safer Recruitment Interview, which is carried out by a member of the HR team with the Department Manager. 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 Principal or Vice Principal 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 appointment.

7. Discussing Criminal Records

If a candidate has given details of their criminal record at the 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 HR feel 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 declared. It may be that they have, for example, misunderstood what is meant by a spent conviction or was unaware that cautions would also be included in the Disclosure.

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.

8. Barring

The College is required to provide the DBS with information about employees that may be considered to deem them unsuitable to work with children or vulnerable adults. This information will not include convictions as these will be reported via the Police to the DBS but could include issues that warrant dismissal but not a criminal charge. The DBS will then assess the information and proceed according to the DBS criteria. This is outside of North Kent College's control.

9. Portability

The DBS has issued guidance that a Disclosure carries no period of validity and the DBS does not endorse the use of portability, due to the risks involved. This is 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 no longer accept a previously issued Disclosure.

However, should an applicant/employee subscribe to the updating service offered by the DBS, whereby updates are automatically provided, the College will check their Disclosure documentation. After checking with the DBS on line service, the College reserves the right to still action a full DBS check.

10. Conditional Employment

DBS checks can take several weeks to be processed. There may be rare occasions where an employee or volunteer is urgently required to start work before the receipt of a satisfactory DBS Disclosure. This can only be authorised by the Human Resources Manager subject to the following conditions and on an individual basis:

- 10.1. a satisfactory DBS/CRB has previously been issued within the last 12 months whilst working in an education environment and is produced by the individual for inspection by HR;
- 10.2. a new DBS form has been completed and forwarded to DBS for processing;
- 10.3. where the individual has no declared convictions or cautions in the application process, which may cause concern;
- 10.4. where the individual is not on the barred list;
- 10.5. line manager to provide written assurance to the HR Manager, that the individual will be appropriately, supervised by another College employee with a satisfactory DBS check, pending the receipt of the satisfactory DBS Disclosure and that this is monitored by their line manager; and
- 10.6. good reference(s) from current/previous employer, which confirms no safeguarding issues have been received.

11. Re-checks

All employees in posts will need to be re-checked during the course of their employment. On average this will be every three to four 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. However, if the conviction/caution is felt to be serious and incompatible with continuing to work within a Further Education environment, a disciplinary hearing will be convened with the possible outcome of dismissal.

12. Storage, Use and Disposal of DBS Information

Disclosure 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 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 Disclosures or Disclosure 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, disclosure information 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 Disclosure information 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 this time, 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 information is immediately destroyed by secure means, i.e. by confidential shredding. While awaiting destruction, Disclosure 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 may keep a record of the date of issue of a Disclosure, 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 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

Name of Applicant (or staff member) _____ Proposed job title (or current role) _____

Age _____ Service length (if employed) _____

Convictions/cautions on DBS with dates and penalties: _____

Issues for consideration: _____

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 on-going 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, robbery? _____

Did the offence involve drink or drug driving? _____

Comments: _____

Is the offence compatible with working at NKC in terms of under 18 or vulnerable adults contact? _____

Is the offence compatible with working as an NKC representative? _____

Decision: _____

..... Date

HR Manager Signature

..... Date

Deputy Principal / Vice Principal Finance & Resources Signature