

Disclosure and Barring Scheme Policy and Procedure

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Person Responsible	HR Manager
Approval/ review body (ies)	SLT
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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
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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 is a registered body with the Disclosure and Barring Service (“DBS”), previously known as the Criminal Records Bureau, 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.

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

As the College is an educational establishment all staff who work at the College (including agency workers, volunteers and work experience placements excepting Year 10 and 11 school work experience placements) have regular access to learners under the age of 18, or people of any age who may be vulnerable for others reasons. Therefore, all roles at the College will require a DBS check; with the majority of roles 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”).

3. Policy

It will be a condition of all offers of employment made by the College that a satisfactory DBS disclosure at the relevant level is obtained or current 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 date) this will result in the withdrawal of the provisional offer.

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 minibus operation, security and cleaning will require their employees to have appropriate and satisfactory DBS clearance.

Should any employee be convicted of an offence after appointment and during their ongoing period of 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.

4. 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 to North Kent College are advised via the College job 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.

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

5. 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 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 previously joined the update service and gives 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, 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 for consideration. In all situations, where there are any offences relating to children or vulnerable adults, the Human Resources Manager will consult with the Deputy 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 considered when reaching a decision about employing an individual with a criminal conviction or caution:

- 5.1. whether the conviction or other matter is relevant to the position;
- 5.2. the seriousness of the offence or other matter;
- 5.3. the length of time since the offence or other matter occurred;
- 5.4. whether the applicant has a pattern of offending or other relevant behaviour; and
- 5.5. 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 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 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.

6. Discussing Criminal Records

If a candidate has provided 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.

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.

7. Barring

The College is legally required and will therefore 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.

8. 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 on its own merit. However, should an applicant/employee subscribe to the update service offered by the DBS, whereby updates are automatically provided, the College will check their Disclosure documentation. After checking with the DBS via the update service, the College reserves the right to require a new disclosure.

9. Conditional Employment

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

For operational reasons, there may be rare 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 HR Manager and the Deputy Principal, must be risk assessed in accordance with Appendix B and will be subject to the following conditions:

- 9.1. a satisfactory DBS to the correct level has previously been issued within the last 12 months and is produced by the individual for inspection by HR or a separate Barred List Check is conducted by the College and returned clear prior to the agreement of a start date. Furthermore, all other pre-employment checks must be complete and deemed satisfactory;
- 9.2. a new DBS form has been completed and forwarded to DBS for processing;
- 9.3. the individual has not declared convictions or cautions in the application process, which may cause concern;

- 9.4. line manager has provided 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
- 9.5. satisfactory reference(s) from current/previous employer, which confirms no safeguarding issues, have been received.

10. Re-checks

All employees are required to be re-checked during the course of their employment; on average this will be every three 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.

11. Storage, Use and Disposal of DBS Information

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, 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.

12. 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.

13. 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	
Decision	
HR Manager's Signature and Date	
Deputy Principal's Signature and Date	

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	
Decision	
HR Manager's Signature and Date	
Deputy Principal's Signature and Date	