

## Disclosure and Barring Service (DBS) Policy

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## 1 Introduction

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### 1.1 Policy statement

The primary role of the Disclosure and Barring Service (DBS) is to help employers to make safe recruitment decisions by checking information that may be held about an employee on the Police National Computer (PNC).<sup>1 2</sup>

Criminal record checks have been established to ensure that unsuitable persons are highlighted at the recruitment stage as not being suitable to enter specific areas of employment. Within primary care, this is paramount due to the nature of our business as many of our patient groups are considered to be vulnerable. Therefore, most personnel at The Bay Medical Practice will be required to have obtained a DBS certificate that does not contain any previous convictions or warnings that cause them to be deemed unsuitable to be employed at this organisation.

This policy covers the array of DBS requirements and is split into key sections and refers to the nuances with regard to GPs.

The sections are as follows:

- Pre-employment
- Considering ex-offenders
- Post-employment
- Handling requirement of the DBS certificate information

This policy is aligned to current NHS check standards and should be read in conjunction with the CQC's [GP Mythbuster 2: Who should have a DBS Check?](#)

### 1.2 Interim COVID-19 arrangements

The CQC published a [letter](#) with regard to the COVID-19 outbreak so that methods to manage urgent recruitment can be fast-tracked or risk assessed to ensure that there is no delay in the process.

Note: If recruiting for a PCN, for '*practice*' read '*PCN*' or '*organisation*'

There are three criteria that need to be met and these are:

- The practice needs staff to start work urgently
- Waiting for a full DBS check could cause undue delay
- When this delay leads to risks to the continuity of service, impacting the safety and wellbeing of people using that service

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<sup>1</sup> [www.gov.uk](http://www.gov.uk)

<sup>2</sup> [Safeguarding Vulnerable Groups Act 2006](#)

The CQC acknowledges that people may be begin in their roles as an emergency and without all the usual [checks and balances](#) that would need to be met in ordinary circumstances. Practices will remain responsible for using judgement and taking necessary action if concerns about a new member of staff or volunteer arise.

To further support this action, the Government has provided the document titled [COVID-19: Free-of-charge DBS applications and fast-track Barred List check service](#) where it details that a fast, free DBS and Barred List check for recruited staff working with children and/or adults within this emergency role can be sought.

This document additionally advises that should a new member of the team be recruited as an emergency measure and in support of the pandemic, but their date to commence employment is prolonged due to not having a new DBS, then consideration may be given to determine suitability by utilising their previous DBS certificate.

This is provided that:

- It is no more than THREE years old
- It is for the correct level i.e., standard or enhanced
- It is for the same workforce i.e., children and/or adults

The HM Government COVID-19 [DBS check flowchart](#) further explains the process.

Therefore, at The Bay Medical Practice, we will take reasonable steps to ensure new staff are adequately supported and sufficiently supervised so that people are safe.

Reasonable steps will include:

- Pre-employment checks, including evidence of a previous DBS within the past three years and/or a subscriber to the DBS update service
- Any application is to be used in conjunction with findings from the risk assessment
- Mitigating actions and that there is evidence of the person's fitness to carry out this new role
- Detailed record of actions taken

It is acknowledged that the above actions are simply interim measures to enable any new member of the team to commence work. To further mitigate any risk and to ensure that the required measures are conducted, then the appropriate DBS check will be sought following their start date.

A DBS risk assessment template can be found at [Annex A](#).

Notes:

- By completing these reasonable actions, the CQC has advised that it will not take a punitive approach during any inspection should normal procedures not have been followed as they ordinarily would outside of these interim COVID-19 measures.

- The CQC encourages all providers to work as cooperatively and collaboratively as possible with their local health and social care systems during this time. Should this organisation have serious concerns regarding staffing that cannot be eased or resolved locally, then The Bay Medical Practice will contact the CQC to discuss further. CQC advise that they “*will do whatever is possible within our powers and can escalate issues and concerns at regional and national level when necessary.*”
- This section is for those persons joining the organisation solely for the purpose of COVID-19 support. All other appointments and applications for DBS checks not linked to COVID-19 must be processed according to existing DBS and CQC guidance.

NHS Employers also provide some useful [guidance](#) surrounding the strict rules that govern applying for a fast-tracked DBS request.

### 1.3 KLOE (England only)

The Care Quality Commission would expect any primary care organisation to have a policy to support this process and this should be used as evidence of compliance against CQC Key Lines of Enquiry (KLOE).<sup>1</sup>

Specifically, The Bay Medical Practice will need to answer the CQC key questions on “Safe”.

The following is the CQC definition of Safe:

*By safe, we mean people are protected from abuse\* and avoidable harm. \*Abuse can be physical, sexual, mental or psychological, financial, neglect, institutional or discriminatory abuse.*

<b>CQC KLOE S1</b>	How do systems, processes and practices keep people safe and safeguarded from abuse?
<b>CQC KLOE S2</b>	How are risks to people assessed and their safety monitored and managed so they are supported to stay safe?

### 1.4 Status

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time. For the avoidance of doubt, it does not form part of your contract of employment.

### 1.5 Training and support

The organisation will provide guidance and support to help those to whom it applies to understand their rights and responsibilities under this policy. Additional support will be provided to managers and supervisors to enable them to deal more effectively with matters arising from this policy.

## 2 Scope

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### 2.1 Who it applies to

This document applies to all employees of the organisation and other individuals performing functions in relation to the practice such as agency workers, locums and contractors.

Furthermore, it applies to clinicians who may or may not be employed by the organisation but who are working under the Additional Roles Reimbursement Scheme (ARRS)<sup>3</sup>.

### 2.2 Why and how it applies to them

All staff are to be aware of the importance of the DBS check yet all staff and management should also be aware that certain roles do not require a periodic DBS check.

The organisation aims to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the [Equality Act 2010](#). Consideration has been given to the impact this policy might have with regard to the individual protected characteristics of those to whom it applies.

## 3 Definition of terms

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### 3.1 DBS certificate

A DBS certificate is the report produced by the DBS containing information of an individual's criminal record.

### 3.2 Regulated activity

Regulated activity is a term used to describe certain job functions carried out by an employee that could place the patient (or other service user) in a vulnerable position. The Disclosure and Barring Service sets out what is defined as regulated activity in detail.

These requirements are important as they determine eligibility for an Enhanced Level DBS check and a check of the DBS Barred Lists.

### 3.3 Barred lists

There are two barred lists, the Children's Barred List and the Adults' Barred List. Individuals working or volunteering in a regulated activity must be checked against the list.

It is a criminal offence for any person who is barred from working with children or vulnerable adults to work or volunteer or seek to work with either of those groups. Likewise, it is a

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<sup>3</sup> [Network DES Contract specification 2021/22](#)

criminal offence if an organisation knowingly employs a person who is barred from working with those groups.

## 4 Pre-employment

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### 4.1 Pre-employment checks

These are specific checks that must be carried out prior to employment and are legal and mandated requirements. Failure to comply with these checks may result in a risk to patient, staff and public safety.

Pre-employment checks include:

- a. Verification of identity
- b. Right to work
- c. Professional and qualification
- d. Employment history and reference\*
- e. Occupational health
- f. Disclosure and barring service\*
- g. Registration authority ID (for Smartcard)

\*Occasionally, and in exceptional circumstances where there may be a risk to the safety and wellbeing of patients or staff, a prospective member of staff may not be allowed to commence work prior to all satisfactory checks being received.

With regards to the DBS check or references, a risk assessment must be undertaken should these not have been received prior to the employment commencement date. [Section 4.13](#) details the requirement further.

All other checks are to have been completed prior to this date.

See [Recruitment Policy and Procedure](#)

### 4.2 Employment of a new partner or director

Employment checks for partners and directors differ and both need to be considered to be fit to perform their role.<sup>4</sup> DBS is dependent on specific roles as it is for other members of the team.

There are different regulations that need to be followed which are dependent on the formation of the organisation.

- a. Traditional GP partnerships are governed by [Regulation 4](#) of the Health and Social Care Act 2008 (Regulated Activities), Regulations 2014.

All new partners joining a traditional GP partnership will be required to undertake a [CQC countersigned DBS check](#) as they will become a 'registered person'. Further

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<sup>4</sup> [CQC GP Mythbuster 31: Fit and proper persons requirement \(FPPR\)](#)

advice with regards to the DBS process for registered persons can be sought at [CQC DBS Guidance](#).

There are additional requirements for a new registered manager. [Section 6.7](#) refers.

- b. However, [Regulation 5](#) applies to all providers that are not individuals or partnerships (other than limited liability partnerships) that carry out a regulated activity.

This includes (but is not limited to):

- Public and private limited companies
- Charitable bodies
- Unincorporated associations
- Limited Liability Partnerships (LLPs)
- Community Interest Companies (CICs)

Directors only require a DBS check where the position and role meet the eligibility criteria.<sup>5</sup>

For further information on Regulation 5, refer to the [Fit and Proper Persons Policy](#).

See [Chapter 6](#) with regard to update checks.

### 4.3 Employment of a salaried GP

Guidance states that all clinical staff require a DBS check. This includes GPs who also need to confirm any criminal activity as part of their Performers List<sup>6 7</sup> checks. Satisfactory evidence for both would be required by the CQC during an inspection.

See [Chapter 6](#) with regard to update checks.

### 4.4 CQC countersigned DBS checks

To be a registered person, the CQC DBS check needs to adhere to the following process:

- Register with the [CQC DBS website](#)
- Complete the DBS form which usually takes five days to arrive by email
- Following receipt, identity needs to be confirmed at a [Post Office](#) that accepts CQC DBS applications\*
- After identity has been checked, the CQC DBS website automatically submits the DBS application
- The CQC countersigned DBS will be received via the post

\*Not all post offices can check identity. To find a post office that can confirm identity, click on “choose your service” and select “CQC CRB ID Verification Service”.

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<sup>5</sup> [FPPR and DBS FAQ](#)

<sup>6</sup> [PCSE Performers Lists](#)

<sup>7</sup> [CQC GP Mythbuster 2: Who should have a DBS check?](#)

#### 4.5 Standard DBS check – eligible positions

Any employment or other work which is concerned with the provision of health services and which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to persons in receipt of such services in the course of his normal duties.

Source: DBS

#### 4.6 Enhanced DBS check with and without checks of the barred list<sup>8</sup>

An enhanced check shows the same as a standard check plus any information held by local police that is considered relevant to the role. An enhanced check with a check of the barred lists shows the same as an enhanced check, plus whether the applicant is on the Adults' Barred List, Children's Barred List or both.

This type of check is predominantly carried out for all clinical staff.

#### 4.7 Eligibility versus need

Following [NHS Employers criminal record check standards](#), certain roles will meet the eligibility to have a standard DBS check carried out. There is no general requirement for non-clinical staff (for example reception or administrative staff) to have a DBS check, although this does depend on their specific duties and responsibilities.

As a guide, and to determine whether a new member of the team requires a DBS check, or to ascertain what level of DBS check is needed, this organisation utilises the [NHS Employers DBS Check Eligibility Tool](#).

Whilst all clinical staff will require a DBS, The Bay Medical Practice has considered other staff on a case-by-case basis and the following administration staff who do not act as chaperones do not routinely require a DBS check:

- Patient Advisor
- Medical Secretaries
- Prescription Clerks
- Business Administrators
- Data Administration Staff

A DBS certificate is only requested where it is both proportionate and relevant to the position concerned. For those positions where a DBS certificate is required, recruitment information will contain a statement that a DBS certificate will be requested in the event of the individual being offered the position.

Other sources to confirm DBS requirement are:

[DBS eligibility guidance](#)

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<sup>8</sup> [Gov.uk - DBS Detailed guidance](#)

## [NHS Employers Eligibility for DBS Checks – Scenarios by Job Role](#)

### **4.8 Recruitment**

Any offer of employment will be subject to either of the following:

- A satisfactory disclosure from the Disclosure and Barring Service (DBS) (for England and Wales) or the Protecting Vulnerable Groups Scheme (for Scotland) or Access NI (for Northern Ireland)
- The findings of the risk assessment and self-declaration

Both methods of obtaining the applicant's criminal history need to consider the requirements of the role. The findings and subsequent decision are at the discretion of this organisation and will be final.

### **4.9 Risk assessment**

For those individuals and roles that have been decreed as not requiring a DBS check, a risk assessment is carried out in its place. This assessment is coupled with a self-declaration to confirm that the individual does not have any criminal reason that would disbar them from employment within the health service.

Note, the risk assessment should also be used for any new members of staff as detailed at [Section 1.2](#) who are joining under the interim COVID-19 arrangement process.

The risk assessment is to be completed by the Practice management team for those relevant staff. [Annex A](#) provides a template. For new employees who do not require a DBS check, a self-declaration will accompany the risk assessment.

For support on compiling a risk assessment, refer to:

[Risk assessment guidance document](#)  
[COVID-19 risk assessment – an aide memoire](#)

### **4.10 Self-declaration form**

The self-declaration form is used for the following two reasons at The Bay Medical Practice. Firstly, during the recruitment process for those positions that do not need a DBS certificate.

Secondly, an annual confirmation with existing staff to confirm that there has been no criminal activity since the original certificate/or the previous self-declaration.

#### **a. Recruitment**

If the position is deemed to require a DBS check, an application will be made as part of the recruitment process following the applicant being given a conditional offer of employment.

Should the position not require DBS certification, in lieu of this any new employee will be required to complete a self-declaration form.

b. Annual review

[Section 6.2](#) details the requirement for existing staff and the need to complete an annual review.

Unless the nature of the position allows questions about their entire criminal record, only questions about “*unspent*” convictions as defined in the Rehabilitation of Offenders Act 1974 can be asked and this is to be made clear on the self-declaration form.

A self-declaration relies on the honesty of the candidate to provide complete and accurate information. Where a position is listed as exempt under the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975](#), this organisation will make it clear to the applicant that they are entitled to seek information about all spent and unspent convictions that are not subject to the filtering rules introduced on [29 May 2013](#) and that any information disclosed will be verified by obtaining a standard or enhanced check through the DBS.

The Practice management team must advise applicants that, in completing and signing the self-declaration form, they are giving their consent for the information provided to be verified by obtaining an appropriate DBS check should this be required for their position.

For others who do not require a DBS check, this information will be used to support the risk assessment as detailed above.

The organisation will advise the following to any candidate:

- Information to explain why pre-employment checks are being made
- The level of checks being obtained
- The type of information that may be disclosed about them
- Who the information will be shared with
- How this will be recorded and handled as part of their recruitment briefing

The organisation will also advise applicants where they can seek independent advice should they have any concerns or who to contact if they have any questions about providing criminal record information.

[Annex B](#) provides a self-declaration form.

#### **4.11 DBS update service**

At interview, potential employees will be advised that there will be a requirement for a DBS update annually and that this will be via the DBS update service. This cost will be met by the organisation and there is currently a charge of £13.00.

Refer to [www.gov.uk/dbs-update-service](http://www.gov.uk/dbs-update-service)

Additionally, refer to [Section 6.4](#).

#### 4.12 Declaring convictions

The Rehabilitation of Offenders Act 1974 helps rehabilitated ex-offenders back into work by allowing them not to declare criminal convictions to employers upon the rehabilitation period becoming lapsed and the convictions therefore becoming “*spent*” (old).

During the rehabilitation period, convictions are referred to as “*unspent*” (i.e., current) convictions and must be declared to the organisation within the application form.

In order to protect the vulnerable, the Rehabilitation of Offenders Act (Exceptions) Order 1975 exempts some professions within the health and care sectors from this approach. The rules on what can be considered when recruiting an applicant are found under the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975 \(Amendment\) \(England and Wales\) Order 2013 \(S.I. 2013/1198\)](#).

These rules provide that certain “*spent*” convictions and cautions will become protected when specific conditions are met.

Protected convictions and cautions will not be disclosed in a DBS check and the organisation cannot ask for information about protected convictions or cautions or take these into account when assessing a candidate’s suitability for a post.

All other convictions that cannot become spent or filtered will be expected to be detailed by the applicant. The full list of offenses that cannot ever be spent or filtered, can be sought within the Gov.uk [List of offenses that will never be filtered from a DBS certificate](#).

If a candidate is applying for a post which involves having access to patients in receipt of health services, any offer of employment will be subject to a satisfactory disclosure from the Disclosure and Barring Service. Any failure to reveal information relating to convictions that a candidate is required to disclose will normally lead to the withdrawal of any offer of employment.

#### 4.13 Commencing employment

Due to the nature of our business at this organisation, we cannot permit any employee to commence employment in their normal regulated activity without the DBS certificate having been returned to state that they are not barred from working with adults or children.

See extract from NHS Employers Criminal Record Checks<sup>9</sup> dated January 2021:

*“Employers may, in exceptional circumstances, make a risk-based decision to allow individuals to take up their appointment before the outcome of their DBS check is known.*

*Exceptional circumstances include where individuals are required to complete a period of induction or training in advance of them starting in their role. Where practical, it may also*

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<sup>9</sup> [NHS Employers Criminal Record Checks](#)

*include allowing individuals to start work or volunteer in a limited capacity, for example, restricting duties to non-regulated activity until the outcome of the check is known”.*

It should be noted that an ‘Adult First’ check is not appropriate within primary care due to the requirement to work with children.<sup>10</sup>

#### **4.14 Enhanced DBS certificates**

Where a position is exempt from the Rehabilitation of Offenders Act 1974 and falls within the Rehabilitation of Offenders Exemptions Order 1975, an application for an enhanced DBS check will form part of the recruitment process.

An enhanced DBS certificate provides details of the applicant’s criminal record (both spent and unspent convictions).

#### **4.15 Barred lists**

Where a position is classed as a regulated activity and meets the criteria for an enhanced criminal record check, the disclosure will include information held on the barred lists for working with children and/or working with adults and any restrictions to that barring.

#### **4.16 Data protection**

The handling of personal data is controlled by the [Data Protection Act 2018 \(DPA18\)](#) and in particular Chapter 2: UK General Data Protection Regulation (UK GDPR).

The DPA18 requires us to comply with a number of principles regarding privacy and disclosure when handling criminal record data (i.e., ‘special categories of data’) including ensuring such data is processed, stored and used for limited purposes and always in accordance with UK GDPR.

DPA18 and UK GDPR include measures to ensure that information is processed fairly and seeks to protect individuals’ rights to confidentiality.

The organisation confirms your data will be processed in accordance with DPA18. Further details can be found in the documents below which can be found on the practice website.

- a. [UK GDPR Policy](#)
- b. [Privacy Notice – Candidates applying for work](#)

Individuals have, on written request, the right of access to personal data held about them.

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<sup>10</sup> [CQC DBS Guidance](#)

## 5 Employment of ex-offenders

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### 5.1 Management of a DBS certificate with a criminal history

Where a DBS certificate contains criminal convictions and/or reveals other information, the partners and management will discuss the DBS outcome and consider the proposed employment.

### 5.2 Interview and assessment

All applicants will be assessed in relation to the criteria identified on the person specification for the post. Being in possession of a criminal conviction will not necessarily prevent an applicant from employment. This will depend on the circumstances and background to the offence in relation to its relevance to the role.

It is, however, important to note that within this organisation some offences (e.g., involving dishonesty, drugs, violence or sexual abuse) will preclude an applicant from having access to patients.

At interview, or in a separate discussion, the organisation aims to ensure that applicants have the opportunity to discuss any offences or other matters that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to the withdrawal of an offer of employment.

This organisation will ensure every applicant for a DBS check is aware of the existence of the DBS code of practice and will make a copy available upon request.

### 5.3 Recruiting ex-offenders

This organisation is committed to the fair treatment of its staff, potential staff or users of its services regardless of any criminal record or history of offending. The organisation promotes equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from a wide range of candidates including those with criminal records.

This organisation recognises that the employment of ex-offenders plays a valuable role in enabling ex-offenders to re-integrate into society and the community and prevent their re-offending. However, the nature of our work within the care and health sector places significant obligations upon the organisation to not place the care and well-being of our patients at risk nor to expose certain sectors of our patients (such as vulnerable adults and children) to risk where that risk may come from those persons who are barred from working with such persons, or such persons are subject to specific restrictions.

Ex-offenders will be considered for employment on their individual merits. However, the organisations approach towards employing ex-offenders differs depending upon whether the job is or is not exempt from the provisions of the [Rehabilitation of Offenders Act 1974](#) or is subject to the provisions of the [Safeguarding Vulnerable Groups Act 2006](#).

At The Bay Medical Practice, our recruitment procedure routinely requires the appointment of candidates to be subject to a satisfactory disclosure from the DBS as part of the selection process.

As an organisation using the DBS service to help assess the suitability of applicants for positions of trust, we will comply fully with the DBS code of practice<sup>11</sup> and undertakes to treat all applicants for positions fairly.

By complying with the DBS code of practice with regard to the recruitment of ex-offenders, the organisation aims to ensure, and to provide assurance to those applying for DBS checks, that the information released will be used fairly.

Further, the organisation undertakes not to discriminate unfairly against any person who is subject to a DBS check because of a conviction or any other information revealed.

## 6 Current staff

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### 6.1 Renewal or repeat checks

According to the DBS, primary care organisations are not legally required to obtain periodic or retrospective checks for staff in eligible positions who are already employed and if there is no change in their place or terms of work practices. However, it would be expected that appropriate evidence can be provided to confirm that a robust recruitment process was undertaken.

This is enforced by current CQC guidance on the management of DBS. See extract<sup>12</sup>.

*“There is no requirement for a service that directly employs its own staff to repeat DBS checks within a set period. For example, there is no blanket rule such as re-checking all employees every three years. However, employers can recheck their staff whenever they think it is necessary. Any additional checks should be proportionate to risk.*

*Further checks on staff depend on whether the registered person judges that this is necessary or advisable after a certain period. When making their decision they should undertake a risk assessment taking into account the work staff do, the potential scope for abuse and the stability of the workforce”.*

Staff would be expected to advise management of any cautions or convictions they receive whilst in the course of their employment (see [Section 6.5](#)).

### 6.2 Local management of renewal checks

Organisations have the discretion to introduce a local policy but any decision to do so must be proportionate to risk and the frequency for periodic checks is something that may also be defined locally.

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<sup>11</sup> [Code of Practice for Disclosure and Barring Service](#)

<sup>12</sup> [CQC DBS Guidance](#)

Whilst there is no requirement for ongoing DBS checks throughout the course of staff employment, it is the organisation's policy for a risk assessment and self-declaration to be undertaken annually for all staff members (except GPs, see section 6.3). Taking this stance supports the CQC's requirement for organisations to be able to provide evidence that they have appropriately considered this position as per [CQC GP Mythbuster 2](#).

The self-declaration form can be found at [Annex B](#).

Based on risk, The Bay Medical Practice requires that DBS checks are renewed once every three years.

It should be noted that, when considering whether or not to implement periodic DBS checks, employers may find it beneficial to consider how they might encourage certain professionals to subscribe to the DBS update service (see [Section 6.4](#)).

### **6.3 GP requirements for the Performers List**

Whilst GPs have robust checks throughout their Performers List application, the CQC will still expect to see evidence that the GP is listed upon the Performers List and also has DBS certification.

Due to the nature of the Performers List, self-declaration is not required for either salaried GP nor GP principal partners as Regulation 9 of The National Health Service (Performers Lists) (England) Regulations 2013<sup>i</sup> dictates that GPs must update the Performance List Board (via the Commissioner) within seven days if they have been convicted of a criminal offence or are under investigation by the GMC.

Note: The GMC is likely to inform the Board plus ask for further information about the GP.

Increasingly, GPs are becoming directors of companies. This also applies if the offence relates to a GP who is a director of a corporate body.

Refer to the footnote for the full explanation and wording detailing the requirements for the general practitioner.

### **6.4 DBS update service**

An alternative to a self-assessment is for staff to have an annual DBS update. Whilst this is an option, self-assessment will be the means to ensure confirmation of staff members' criminal history as per their contract of employment.

Whilst the self-assessment option is considered, the organisation may additionally consider formally reviewing the DBS should they feel that there is a need for confirmatory checks.

Currently, the charge for this annual subscription is £13.00. The benefits include that, following registration, applicants can both keep their DBS certificates up to date and advise employers of this current DBS status.

The service can now be used for both standard and enhanced DBS checks

For further information and to register for this service, visit the Government's [DBS Update Service](#).

## 6.5 Staff reporting of any criminal offences

Existing staff are required, as a condition of their employment contract, to report any criminal offences including any arrests, cautions or charges to the practice management team (excluding minor traffic offences). Any offence should be reported within a reasonable timescale.

In these circumstances, a new DBS check may be sought.

## 6.6 Staff role changes or promotion

Where employees are considered to be promoted or are required/request to change their role within the organisation, this may be conditional upon a satisfactory DBS outcome.

## 6.7 Changes to the CQC registered manager

Changes to the registered manager can be a protracted process and appropriate timescales must be given dependent on the circumstances surrounding this change, particularly should there be a definite date such as retirement.

The CQC registered manager application process can be found [here](#) which also includes advice on the CQC DBS requirements which is the same as for other registered persons.

## 6.8 Decisions on offences

Where a DBS certificate contains criminal convictions and/or reveals other information, either for existing staff or applicants, the partners and practice management have overall responsibility for the decision as to how this new information is managed.

The partners and management will consider the nature of the offence and its relevance to the post-holder/role by assessing the following:

- a. Level of one-to-one contact with patients and access to children and/or vulnerable adults
- b. Level of supervision the post-holder will have in carrying out their duties
- c. Nature of the offence and whether the nature of the role presents an opportunity for the post-holder to re-offend given the nature of the previous offence(s)
- d. Level of access to sensitive information, personal data or health records, cash or financial records, members of the public and other aspects of the role in relation to the offence

- e. Whether the offence has been disclosed by the post-holder as required by their contract of employment

Where appropriate, they will undertake an employment risk assessment and discuss the findings within the senior team. All discussions and subsequent decisions will be documented and placed within the staff member's personnel file.

The organisation will undertake to discuss any matter revealed in a DBS certificate with the person seeking the position before withdrawing any conditional offer of employment or, in the case of existing staff, before any decision is made in relation to a change of role or the termination of employment.

## **6.9 Disputes**

Any disputes as to whether the information in the disclosure is accurate will be referred to the DBS for investigation and correction, where necessary. During this time, all efforts will be made to minimise any risk and a risk assessment is to be conducted.

Examples of outcomes could include the following; however, this list is not exhaustive:

- a. Removing the staff member from the regulated activity
- b. Additional supervisory measures as appropriate
- c. Suspension (full pay)

The outcome, when received, will be final.

## **7 Handling of DBS documentation**

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### **7.1 Requirement**

This organisation is required to comply fully with the DBS code of practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. It also complies fully with its obligations under the DPA18 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information.

The practice manager will maintain a list, where necessary, of DBS counter-signatories, i.e., those with authority to process DBS applications and certificates.

If employees do not understand their responsibilities or any terms or requirements set out in this chapter, they should seek clarification from the practice manager.

### **7.2 Process for secure storage and access**

Certificate information will be kept securely on individual personnel files with access strictly controlled and limited to those who are entitled to see it as part of their duties.

### **7.3 Handling**

In accordance with section 124 of the [Police Act 1997](#), certificate information is only passed to those who are authorised to receive it in the course of their duties.

It is a criminal offence to pass this information to anyone who is not entitled to receive it.

### **7.4 Usage**

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

### **7.5 Retention**

Once a recruitment (or other relevant) decision has been made, the organisation does not keep certificate information for any 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 certificate information for longer than six months, the organisation will consult the DBS regarding 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.

### **7.6 Disposal of DBS certificates and certificate information**

Once the retention period has elapsed, the organisation will ensure that any certificate information is given back to the respective staff member. The organisation will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate.

### **7.7 Data protection**

The handling of your personal data is controlled by DPA18 and GDPR.

These regulations require this organisation to comply with a number of principles regarding privacy and disclosure when handling criminal record data (i.e., 'special categories of data'), including ensuring such data is processed, stored and used for limited purposes and always in accordance with Article 9 of the GDPR.

The GDPR includes measures to ensure that information is processed fairly and seeks to protect individuals' rights to confidentiality.

The organisation confirms your data will be processed in accordance with this legislation and further details can be found in the following:

- a. [General Data Protection Regulations Policy](#)
- b. [Privacy Notice – Employee](#)

- c. [Privacy Notice – Candidates applying for work](#)
- d. [Recruitment Policy and Procedure](#)

This information can be found on the practice website and is available to staff on TeamNet.

Individuals have, on written request, the right of access to personal data held about them.

## 8 Summary

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The Disclosure and Barring Service needs to be closely managed and aligned to current national guidance and NHS Employment Check Standards.

Compliance with this policy will prevent unsuitable people from working with vulnerable groups and safeguard service users from abuse. Importantly, this will also provide satisfaction to both our patients and our governing authorities.

## Annex A – DBS risk assessment template

<p>This risk-assessment is to be completed by a member of the management team to assess the risk of not undertaking a DBS check on the named staff member.</p> <p>This risk assessment is to be completed in conjunction with the staff member's 'Self-declaration' form.</p>	
<b>Organisation name</b>	
<b>Manager</b>	
<b>Individual's name</b>	
<b>Individual's role</b>	
<b>Risk title</b>	<b>RISK ASSESSMENT IN LIEU OF DBS CHECK</b>
<b>Risk description – describe the risk in detail</b>	<p><b>Example:</b> <i>In the role of receptionist, [insert name] provides face to face and telephone communication with all patient types. The role also requires him/her to access patients' medical records, review prescription requests and liaise with clinicians.</i></p> <p><i>This individual does NOT act as a chaperone and does not supervise children or patients with a carer</i></p> <p><i>Risk of patients being affected by means of medical information being used and disclosed in such a manner that harms the patient. Possibility of vulnerabilities being taken advantage of to the detriment of the patient's wellbeing, mental state and physical security.</i></p>
<b>What is the source of the risk?</b>	<p><i>Face to face contact</i></p> <p><i>Telephone communications</i></p> <p><i>Medical record access</i></p>
<b>What is the likelihood of the risk?</b>	
<b>What are the consequences of the risk?</b>	

<b>What control measures are in place to reduce the risk?</b>	<b>Example:</b> <i>Individual not left alone with a patient; reception desk barrier between patient and the staff member; telephone calls are routinely monitored; repeat medication requests monitored by clinical pharmacist; confidentiality agreement signed; self-declaration form signed and dated by each relevant individual. See accompanying self-declaration form</i>
<b>Are there any issues with the current control measures that reduce their effectiveness?</b>	
<b>What actions are being undertaken to improve the control measures (if applicable)?</b>	

		Likelihood Score				
		1	2	3	4	5
		Rare	Unlikely	Possible	Likely	Almost certain
Consequence	5 Catastrophic	5	10	15	20	25
	4 Major	4	8	12	16	20
	3 Moderate	3	6	9	12	15
	2 Minor	2	4	6	8	10
	1 Negligible	1	2	3	4	5

Risk-rating key			
Low 1 - 3	Moderate 4 - 6	High 8 - 12	Extreme 15 - 25
Risk rating			
Risk score	Consequence	Likelihood	
<b>Overall risk rating</b> (Low, Moderate, High, Extreme)			
<b>Target risk</b> (the acceptable overall risk rating)			

Actions required

<b>Assessment date</b>	
<b>Assessor Name</b>	
<b>Assessor signature</b>	

<b>Risk review</b>	
<b>Complete this section once all actions have been completed</b>	
<b>All outstanding actions complete</b>	[Insert date]
<b>Assessor/person reviewing</b>	
<b>Signature</b>	

## Annex B – Staff self-declaration form

<b>Staff member details</b>			
Full name (in block capitals)		Contact details	
Current role			
<b>1. Do you have any UNSPENT convictions as outlined in the Rehabilitation of Offenders Act 1974?</b>			Yes
<p>This includes any unspent convictions that may have been issued in any other country where it would be an equivalent offence in England and Wales.</p> <p>It also includes all unspent convictions or summary hearings that have been issued under military law while serving in the Armed Forces in the UK or any other country where it would be an equivalent offence in England and Wales.</p> <p>You <b>are not</b> required to disclose any information in relation to convictions that have become SPENT. In these circumstances you should tick NO to this question.</p> <p>If you have ticked YES, you now have two options on how to disclose this information.</p>			No
<b>Option 1:</b> Please provide details of the conviction or summary hearing including the date and sentence administered in the space below.			
<b>Option 2:</b> You can disclose your record separately together with any statement detailing your unspent conviction or summary hearing. Any supplementary information should be marked CONFIDENTIAL and state your full name and the details of the position being applied for.			
<p>To do this you must mark an "X" against the statement below.</p> <p>I have attached details of my conviction separately ..... <b>(please mark with an "X")</b></p>			

<p><b>2. Do you have any UNSPENT cautions, reprimands or final warnings as outlined in the Rehabilitation of Offenders Act 1974?</b></p> <p>This includes any unspent cautions, reprimands or final warnings that may have been issued in any other country where it would be an equivalent offence in England and Wales.</p> <p>It also includes all unspent cautions that have been issued under military law while serving in the Armed Forces in the UK or any other country where it would be an equivalent offence in England and Wales.</p> <p>You <b>are not</b> required to disclose any information in relation to cautions, reprimands or final warnings that have become SPENT. In these circumstances you should tick NO to this question.</p> <p>If you have ticked YES, you now have two options on how to disclose this information.</p>	Yes	No
<p><b>Option 1:</b> Please provide details of the cautions, reprimands or final warnings including the date and sentence administered in the space below.</p>		
<p><b>Option 2:</b> You can disclose your record separately together with any statement detailing your unspent cautions or reprimands, final warnings. Any supplementary information should be marked CONFIDENTIAL and state your full name and the details of the position being applied for.</p> <p>To do this you must mark an "X" against the statement below.</p> <p>I have attached details of my conviction separately ..... <b>(please mark with an "X")</b></p>		
<p><b>3. Have you been formally charged with any other offence which has not yet been disposed of?</b></p> <p>This includes where you have been formally charged of any offence that has been issued in any other country which has not yet been disposed of.</p> <p>Please note that you must inform us immediately if you are formally charged with any offence <b>after</b> you complete this form.</p>	Yes	No
<p>If you have ticked YES, please provide details of the nature of the offence with which you have been formally charged, the date on which you were charged and details of any ongoing proceedings, if any, by a prosecuting body.</p>		

<p><b>4. Are you currently subject to any criminal investigations and any pending prosecutions by the police which may have a bearing on your suitability for this post?</b></p> <p>This may include any current criminal investigations or pending prosecution by the police in any other country.</p>	Yes	No
<p>If you have ticked YES, please provide details of the nature of the allegations made against you and, if known to you, any action to be taken against you by the police.</p>		
<p><b>5. Have you ever been subject to any action being taken against you by the NHS Counter Fraud Authority (formerly NHS Counter Fraud and Security Management Services) or any other investigatory body in relation to allegations of fraud which may have a bearing on your suitability for this post?</b></p> <p>Any other investigatory bodies may include: HM Revenue &amp; Customs, Financial Services Authority, Department for Business, Energy and Industrial Strategy (formerly the Department of Trade &amp; Industry), Local Authorities, Department of Work and Pensions, Home Office, and UK Visas and Immigration.</p> <p>This list is not exhaustive and should be taken as a guide only. You must declare any action taken against you by an investigatory body, following allegations of fraud.</p>	Yes	No
<p>If you have ticked YES, please provide details of the offence, formal action taken, dates and investigatory or prosecuting body, as may be relevant.</p>		

The information you provide using this self-declaration form will be processed in accordance with data protection law. It will be used for the purpose of determining your suitability for the position in which you are employed in accordance with the NHS employment check standards. It will also be used for enquiries in relation to the prevention and detection of fraud.

The form and any supplementary information provided by staff members within this form will be kept securely and separately from any personnel records and access will be strictly limited to those who are entitled to see it as part of their duties.

Once the retention period has elapsed, we will ensure that any information provided is destroyed by secure means, for example by shredding, pulping or burning. While awaiting destruction, the secure handling of information, as outlined above, will be adhered to.

**Please sign and date this form below**

If you need any assistance or advice before returning this form to us, or you wish to withdraw your consent at any time after you have submitted this form, please contact the practice management team.

All enquiries will be treated in strict confidence.

In signing this form, you are agreeing to the following statements:

1. I confirm that I have read and understood the guidance provided to me which explains how my data will be processed and give my consent for enquiries to be made, as outlined.
2. I declare that the information I have provided in this form and in any accompanying documentation is true to the best of my knowledge and belief.
3. I understand and accept that if I knowingly withhold relevant information or provide false or misleading information, this may result in my employment at this organisation being placed in jeopardy or my dismissal and, where applicable, this may result in the organisation making a referral to any relevant regulatory or licensing body.
4. I agree to notify the organisation of any subsequent change to the information supplied in this form should they occur **after** signing.

Full name (in block capitals)		Signature	
Date			

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