

# Disclosure and Barring Service (DBS)

(Formerly Criminal Records Bureau (CRB) Policy)

This Policy sets out the responsibilities of the Trust and its employees to comply with the requirement to undertake a Criminal Records (DBS) Disclosure Check on commencement of employment/ volunteering where appropriate to ensure the protection of vulnerable people.

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## Version Control and Summary of Changes

Version number	Date	Comments (description change and amendments)
1	04 April 12	Harmonised Policy –Adopted LPT as a base
2	May 2012	Formatted
3	March 2013	Amended in relation to Protection of Freedoms Act Sept 2012 and subsequent legislative changes.
4	December 2016	Rationalised to simplify policy and bring in line with UHL policy

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### Equality Statement

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

It takes into account the provisions of the Equality Act 2010 and promotes equal opportunities for all.

This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity.

In carrying out its functions, LPT must have due regard to the different needs of different protected equality groups in their area.

This applies to all the activities for which LPT is responsible, including policy development and review.

### Due Regard

LPT must have **due regard** to the aims of eliminating discrimination and promoting equality when policies are being developed. Information about due regard can be found on the Equality page on e-source and/or by contacting the LPT Equalities Team.

**The Due regard assessment template is Appendix 5 of this document**

### Definitions that apply to this Policy

<b>DBS</b>	Disclosure and Barring Service (1 December 2012)
<b>Standard</b>	As defined by the Police Act and Rehabilitation of Offenders Act 1974, Standard disclosures apply to posts exempted under the Act, such as posts that involve the individual having access to patients in the course of their normal duties.
<b>Enhanced</b>	As defined by the Police Act and Rehabilitation of Offenders Act 1974, Enhanced disclosures are for posts involving greater contact with children or adults, such as jobs involving the caring for, supervising, training or being in sole charge of a person aged under 18, or a person aged 18 or over who is considered vulnerable and requires the assistance of an employee or volunteer carrying out regulated activity.
<b>Regulated Activity</b>	Roles which carry out Regulated Activity, require an <i>enhanced</i> DBS check. This will include a check against the relevant Disclosure and Barring Service, Barring List (for either Adult / Children or both dependent on the role)
<b>CRB</b>	Former Criminal Records Bureau is now incorporated into the Disclosure and Barring Service (1 December 2012)  (The Agency provides Disclosure and Barring Service (DBS) Criminal Records Checks which replace CRB checks from December 2012)
<b>Independent Safeguarding Authority (ISA)</b>	The regulated body that originally oversaw vetting and barring decisions –  Now part of the new Disclosure and Barring Service from 1 December 2012, which undertake vetting and barring decisions
<b>Vetting and Barring Scheme(VBS)</b>	A list of people that are barred from carrying out regulated activity with adults and/or children
<b>Due Regard</b>	Having <b>due regard</b> for advancing equality involves: <ul style="list-style-type: none"> <li>• Removing or minimising disadvantages suffered by people due to their protected characteristics.</li> <li>• Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.</li> <li>• Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low</li> </ul>

## **Purpose of the Policy**

The Trust has a responsibility to comply with legislation and NHS Employment Check Standards and to help prevent unsuitable people undertaking paid or volunteer work with children or vulnerable adults. Employees who are employed by Leicestershire Partnership NHS Trust (the Trust) whose role involves working with vulnerable people, and meets the Disclosure and Barring Service code of practice are required to undertake a Disclosure Baring Service check before commencing employment or volunteering.

People who are included on the Vetting and Barring lists are barred from working with vulnerable people. It is illegal to employ or allow a volunteer who is barred from working with vulnerable people to work with them. A DBS disclosure check will identify any individuals who are barred from working with vulnerable people.

The purpose of this Policy is to clearly define DBS procedures, providing guidance to the Trust as to when DBS information is required, how it is obtained and how it should be used and stored. The Trust will observe the DBS Disclosure Code of Practice when using disclosure information, so as to ensure that information provided is used fairly and handled and stored appropriately. The Trust is also required to comply with current the NHS Employment Check Standards which include DBS checks. It is the Trust's policy to comply with its responsibilities under DBS legislation including fulfilling its obligation to refer employees, workers and job applicants to the DBS where there is a requirement to do so.

There is a legal requirement to carry out a DBS check where an employee will be carrying out regulated activity as defined by the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012. In addition there is also a requirement for DBS checks to be carried out on other staff groups.

This document details all the statutory obligations that the Trust is required to follow as well as NHS policy and practice. The justification for the document is to ensure that the Trust remains legally compliant.

## **Summary and Key Points**

This Policy sets out the responsibilities of the Trust and its employees to comply with the requirement to undertake a Disclosure Baring Service Check on commencement of any form of work with LPT in roles that require such a check to ensure the protection of vulnerable people.

A DBS Disclosure will reveal if the person has committed an offence that would make The Trust consider them unsuitable to do the specific job, such as convictions for theft, fraud or dishonesty. When used together, the DBS-Vetting and Barring Scheme Lists and DBS criminal records checking process will provide the Trust with a comprehensive assessment to safeguard vulnerable people.

## **Introduction**

The Trust has a responsibility to comply with legislation and NHS Employment Check Standards. It also has the legal duty to prevent individuals that have been barred from working with adults or children.

## **Duties within the Organisation**

The **Director of Human Resources** is responsible for ensuring that robust processes and procedures are in place to enable the efficient and equitable application of this policy.

The **Head of Employment Services** has responsibility for ensuring that the application of this policy is monitored and audited and that reports on the application of the policy are provided regularly (at least annually) to the Joint Staff Consultative Committee and to the Trust Board.

**Recruiting Managers and Human Resources** are responsible for identifying the appropriate level of DBS Disclosure required for individual posts.

**The Trust** in considering DBS information, is required to balance the risk between preventing unsuitable people from working in sensitive posts with the need to ensure that this does not discriminate against ex-offenders who have been rehabilitated.

All **employees, workers and volunteers** have a responsibility for complying with the policy.

The Trust Board has a legal responsibility for Trust policies and for ensuring that they are carried out effectively.

Trust Board Sub-committees have the responsibility for ratifying policies and protocols.

## **Training needs**

There is no training requirement identified within this policy

## **Monitoring Compliance and Effectiveness**

This policy will be reviewed every 3 years or before if there are legislation changes.

The monitoring of this policy includes an annual audit that comprises of the following table. Where non-compliance is identified an action plan will be drawn up and monitored at the Safeguarding Committee. Where remedial action can be taken immediately, the action must be recorded appropriately.

Ref	Minimum Requirements	Evidence for Self-assessment	Process for Monitoring	Responsible Individual / Group	Frequency of monitoring
21.4.2	ESR Mandatory Checklist/Renewals Report		Audit	Human Resources Department	Monthly
20.7.1	Overseas Medical Students Risk Assurance Pro-forma		Audit	Human Resources Department	Annual

### Standards/Performance Indicators

TARGET/STANDARDS	KEY PERFORMANCE INDICATOR
Care Quality Commission Regulation 13: Safeguarding service users from abuse and improper treatment	Service users must be protected from abuse and improper treatment
Regulation 19: Fit and proper persons employed	Persons employed for the purposes of carrying on a regulated activity must be of good character, Recruitment procedures must be established and operated effectively to ensure that persons employed meet the conditions of being of good character.

### Requirements for Policy

- 12.1 The Trust has a responsibility to comply with legislation and NHS Employment Check Standards and to help prevent unsuitable people undertaking paid or volunteer work with children or vulnerable adults. Employees who are employed by Leicestershire Partnership NHS Trust (the Trust) whose role involves working with vulnerable people, and meets the Disclosure and Barring Service code of practice are required to undertake a Disclosure Barring Service check before commencing employment or volunteering.

- 12.2 People who are included on the Vetting and Barring lists are barred from working with vulnerable people. It is illegal to employ or allow a volunteer who is barred from working with vulnerable people to work with them. A DBS disclosure check will identify any individuals who are barred from working with vulnerable people.
- 12.3 The purpose of this Policy is to clearly define DBS procedures, providing guidance to the Trust as to when DBS information is required, how it is obtained and how it should be used and stored. The Trust will observe the DBS Disclosure Code of Practice when using disclosure information, so as to ensure that information provided is used fairly and handled and stored appropriately. The Trust is also required to comply with current the NHS Employment Check Standards which include DBS checks. It is the Trust's policy to comply with its responsibilities under DBS legislation including fulfilling its obligation to refer employees, workers and job applicants to the DBS where there is a requirement to do so.
- 1.4 There is a legal requirement to carry out a DBS check where an employee will be carrying out regulated activity as defined by the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012. In addition there is also a requirement for DBS checks to be carried out on other staff groups.
- 1.5 This document details all the statutory obligations that the Trust is required to follow as well as NHS policy and practice. The justification for the document is to ensure that the Trust remains legally compliant.

### **Registered Body**

- 13.1 Leicestershire Partnership NHS Trust is registered with the DBS, and therefore is entitled to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974 Exceptions Order 1975.
- 13.2 The Trust's role as a registered body is to:

- Establish the true identity of the applicant, through the examination of a range of documents using guidance provided by the DBS;
- Ensure the application process is accurately administered;
- Comply with the DBS's Code of Practice.
- The Trust may also utilise a third party provider to administer DBS checks to facilitate the process and where it does so will share data with this provider to facilitate the checks.

### **DBS Code of Practice**

- 14.1 As a registered body, the Trust is required to comply with the DBS's Code of Practice. This can be found on <https://www.gov.uk/government/publications/dbs-code-of-practice>

## **Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (as amended).**

- 15.1 The ROA 1974 applies to England, Scotland and Wales and is aimed at helping people who have been convicted of a criminal offence and who have not re-offended since.
- 15.2 Anyone who has been convicted of a criminal offence, and received a sentence of not more than 2.5 years in prison benefits as a result of the Act, if he or she is not convicted again during a specified period otherwise known as the 'rehabilitation period'. The length of this period depends on the sentence given for the original offence and runs from the date of the conviction. If the person does not re-offend during this rehabilitation period, they become a 'rehabilitated person' and their conviction becomes 'spent'.
- 15.3 Sentences can carry fixed or variable rehabilitation periods and these periods can be extended if the person offends again during the rehabilitation period. However, if the sentence is more than 2.5 years in prison, the conviction never becomes 'spent'. It is the sentence imposed by the courts that counts, even if it is a suspended sentence, not the time actually spent in prison.
- 15.4 Once a conviction is 'spent' the convicted person does not normally have to reveal it or admit its existence in most circumstances. **However, this is not the case for persons working with children or vulnerable adults.** These roles/jobs are, exempt from the Rehabilitation of Offenders Act.

## **Exemptions to the Rehabilitation of Offenders Act (ROA) 1974**

- 16.1 Various kinds of employment, occupations and professions are exempt from the Rehabilitation of Offenders Act 1974. This means that the employment rights of an ex-offender in respect to convictions are overruled. Ex-offenders therefore have to disclose information about spent, as well as unspent convictions including any convictions, cautions, warnings, reprimands and bind-overs.
- 16.2 Exempted occupations fall into the following categories:
- work that brings the person into contact with vulnerable groups such as the those receiving healthcare, e.g. who are elderly, those with mental health conditions and young people under 18
  - posts concerned with the administration of justice, for example, police officers, lawyers
  - Professions that have legal protection, for example, nurses, doctors, dentists, chemists etc
  - Health Service appointments
  - Work involving matters of national security.
- 16.3 It is illegal to carry out a DBS check, either Standard or Enhanced, on any post that is not exempt under Rehabilitation of Offenders Act (ROA) 1974

(Exceptions) Order 1975 (as amended), and to do so could render the Trust liable for legal action.

- 16.4 Such posts are defined as those where the individual does not have access to patients in the course of their normal duties. For example, this would include administration or management staff who work in separate building or have minimal access to patients; maintenance staff who are not required to work on ward areas; laundry staff; catering staff who do not deliver food to patients.
- 16.5 There is a minimum age limit set at 16 for a DBS check from Sept 2012. Someone who is aged under 16 will not be able to apply for a DBS check.

### **Notifiable Professions**

- 17.1 Home Office guidelines place **All** persons employed in the care of vulnerable groups including children in
- Care Homes,
  - their Own Home (where the person needs personal care due to incapacity);
  - Ancillary staff in any type of care home or employed in the care sector,;
  - Adult Placement Schemes, Hospitals, Clinics, Medical Agencies or NHS bodies;
  - Care workers and Nurses employed in the care sector
  - Registered Medical Practitioners
  - Medical Students
  - Nurses on the Notifiable Occupations List Category 1. This means that there is a presumption on the part of police services to notify the Trust about all recordable convictions, cautions, reprimands and final warnings which arise.

The up to date guidance on this can be found at <https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance> (copy enclosed in the appendices)

- 17.2 Minor offences such as traffic offences which may have a material bearing on a persons work will also be considered by the Trust where they are reported to the Trust by the police service.
- 17.3 In addition, where someone is employed to work with vulnerable groups including children and is under suspicion of an offence of violence or a sexual offence, if the Trust is notified of such an occurrence the Trust will review the appropriateness of the individual continuing in their post.

### **Disclosure Types**

- 18.1 Two types of DBS check are currently available for posts exempt under the Rehabilitation of Offenders Act 1974; Standard and Enhanced. The nature of the job role will determine the type of DBS check required.

## 18.2 Standard Disclosures

- 18.2.1 As defined by the Police Act and Rehabilitation of Offenders Act 1974, Standard disclosures apply to posts exempted under the Act, such as posts that involve the individual having access to patients in the course of their normal duties.
- 18.2.2 Standard disclosures list all convictions (spent and unspent), cautions, reprimands or warnings held on the Police National Computer, and in relevant cases reveals if an individual is on any lists held by the Department of Health or the Department for Education and is unsuitable to work with vulnerable groups including children.

## 18.3 Enhanced Disclosures

- 18.3.1 As defined by the Police Act and Rehabilitation of Offenders Act 1974, Enhanced disclosures are for posts involving greater contact with children or vulnerable adults, such as jobs involving the caring for, supervising, training or being in sole charge of a person aged under 18, or a person aged 18 or over.
- 18.3.2 There are two documents attached as appendices which have lists of what is deemed as regulated activity for adults and children.

### 18.4 Additional Information (Amended by Protection of Freedom Act 2012)

Under the Police Act 1997, police forces can provide certain sensitive 'additional information' about applicants only to organisations, not to the applicants themselves.

This is sometimes also known as 'brown envelope' material and is issued separately to an enhanced DBS check. Whilst this provision will no longer exist in the Police Act, the police may choose to use common law powers to provide information directly to employers in cases where this is necessary, for example to prevent crime or harm to others.

This information must not be shared with the applicant, but where disclosed will be information the Trust makes decisions on the suitability of an individual to work within the Trust. .

### **Who is required to undertake a DBS check?**

- 19.1 All employees, workers or volunteers within LPT that are exempt from the Rehabilitation of Offender Act 1974 **and** carry out Regulated Activity, as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended in September 2012) are required to undertake a DBS check.

19.2 The requirement for a DBS check will be assessed against the Rehabilitation of Offenders Act 1974, the Safeguarding Vulnerable Groups Act 2006 and the DBS code of practice before a request is submitted.

19.3 Where an applicant can provide a previous check at the correct level and including the correct lists, where they have subscribed to the DBS update service, this service will be used to verify their criminal record and a new check will not be undertaken.

19.4 Roles which carry out Regulated Activity, require an enhanced DBS check. This will include a check against the relevant vetting and barring lists. Please see the Home Office fact sheet below for details of which roles this covers. In addition to this, there is also a requirement for an enhanced DBS check if the activity is carried out in a **specified place** in the following settings.

- schools (educational institutions exclusively or mainly for the provision of full-time education to under 18s, including nursery schools)
- children's centres
- pupil referral units
- childcare premises, including nurseries
- residential homes for children in care
- children's detention centres
- adult residential care homes.

19.5 In specified places, everyone who has the opportunity to have contact with children and/or vulnerable adults is regarded as carrying out regulated activity since 12 October 2009, even if they are not undertaking work of a specified nature (teaching, training, care and so on). As a result all staff who work in a specified place will be required to undertake an enhanced DBS.

### **When will a DBS check be carried out?**

#### **20.1 Recruitment**

20.1.1 All new applicants for roles, Trust bank workers or volunteers to the Trust whose job roles requires them to have a DBS check undertaken will do so during the Trusts recruitment process. (see Recruitment & Selection Policy).

20.1.2 The cost involved in carrying out the DBS check will be charged to the successful applicant.

20.1.3 The Trust reserves the right to request any person affected to undertake subsequent DBS checks to maintain the safety of vulnerable persons if necessary.

20.1.4 A new DBS check is not always required where an existing member of staff moves jobs within the same organisation and their roles and responsibilities

and level of contact with that vulnerable group has not significantly changed. The trigger for a new check is where:

- They have never had a DBS check before and are moving to a position that now requires them to have a check.
- The level of check is dependent on the roles and responsibilities of the job they have previously had a standard level check and are moving into a regulated activity, which now requires them to have a higher level disclosure under the terms of the Safeguarding Vulnerable Groups Act
- the new position requires them to work with a different vulnerable group and they are required to have a check against one or both barred list(s)
- there has been a break of service for more than three months between leaving the old position and taking up the new position, i.e. the person has left the Trust for more than three months
- there is a concern about that individual's suitability for the post

20.1.5 Existing employees of the Trust are contractually obliged to disclose to the Trust any criminal conviction or caution incurred since their initial appointment. In these circumstances, employees are advised to inform their line manager initially in writing, and another DBS check may be required to assess the risk of continuing employment, and/or the matter managed through the Trusts Disciplinary Policy.

## **20.2 Doctors in training.**

20.2.1 Doctors on educationally-approved rotational training will be regarded as being in continuous employment during the term of training and are therefore required to have a DBS check, as a minimum, once every three years, rather than each time they change rotation.

20.2.2 For doctors who started their training programme post-October 2009, the Trust is required to seek written assurances from the host/previous employer that a check has been obtained at the correct level and against the appropriate safeguarding lists.

20.2.3 It is the Trust's policy that it will share DBS information with appropriate partner organisations to facilitate rotations within the NHS.

20.2.4 In the event of the educationally approved rotational training post being over three years in duration prior to the next rotation to LPT, or within LPT, then LPT will at the three year mark require and apply for a new DBS. The cost of this will be met by the Doctor. In such situations and where there are no concerns regarding the individual's practice or criminal behaviour then this

should not delay the next rotation from commencing, providing the original check was at the appropriate level.

- 20.2.5 LPT reserve the right to undertake a DBS check at any point during the educationally approved rotational training post should information be available that would warrant such action.

### **20.3 Health Care professionals in Training**

20.3.1 All successful applicants onto education programmes where the professional regulatory bodies (e.g. NMC) have indicated that a recent DBS is required as an entry criteria. It is the employee's responsibility to ensure that they have a suitable DBS check in place prior to commencing the application process. The Trust will support employees in this process.

20.3.2 Where an employee of LPT has to undertake training that requires a new DBS check then the service manager should agree with the employee who will pay for this check in this circumstance. It is not a given that LPT will pay for checks in this circumstance.

### **20.4 Temporary Workers.**

20.4.1 Agency workers, locums and other temporary workers will require a DBS check to be carried out in line with the requirements of the contract for supply of agency workers that they hold which should include carrying out rechecks in line with NHS Standards.

The supplying agency is required to give the Trust assurance that their agency worker has an appropriate DBS certificate before supplying any worker to carry out any work. If there are entries on the disclosure, the Agency must engage with the LPT DBS Panel process and receive confirmation that the worker can work for LPT before they supply them to carry out any work.

### **20.5 Student Placements.**

20.5.1 The Trust will ensure that a satisfactory DBS check has been conducted by the host University of students or trainees that work within LPT as part of their training course. This must be verified by LPT before a placement is confirmed.

### **20.6 Trust Bank Workers**

20.6.1 All bank workers who fulfil the criteria for a DBS check are required in line with other employees, volunteers etc to have a DBS check the cost of the check will be charged to the bank worker. It is particularly important to consider what patient/client groups they are likely to work with to ensure the DBS check flexibly covers regulated activity in those areas, as they move between assignments

## **20.7 Staff Recruited from Abroad**

- 20.7.1 A certificate of good conduct or overseas criminal record check must be requested in accordance with that countries justice system and UK requirements when recruiting from abroad. Specific guidance can be found at: <https://www.gov.uk/disclosure-barring-service-check/arranging-checks-as-an-employer> .
- 20.7.2 A DBS check must also be requested for eligible posts even if the applicant claims they have never lived in the UK before as, in a small number of cases, overseas criminal records are also held on the Police National Computer (PNC). This should be requested within 2 months of the staff members commencement date.

## **DBS Secure storage, handling, use retention and disposal of DBS information.**

### **21.1 Storage and Access**

Disclosure information should be 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.

### **21.2 Handling**

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. We maintain a record of all those of 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.

### **21.3 Usage**

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

### **21.4 Retention**

- 21.4.1 Data regarding an applicant's DBS status will be kept in accordance with the Data Protection Act and NHS document retention guidelines.
- 21.4.2 Once a DBS has been carried out the outcome will be recorded in the applicant's electronic record. It is the Trust's policy to disclose to other NHS Trust's the outcome of DBS checks carried out on its employees to other NHS Trusts to facilitate recruitment checks within the wider NHS.

### **21.5 Disposal**

- 21.5.1 When disposal is required, the Trust will ensure that any Disclosure information is destroyed by secure means, i.e. by shredding or confidential destruction.

21.5.2 However, notwithstanding the above, we will keep a record of information which substantiates that a Disclosure was undertaken and the recruitment decision taken and basis for that.

### **Assessment of DBS Disclosures**

22.1 The Trust acknowledges that deciding on the relevance of convictions to specific posts is not an exact science. In some cases the relationship between the offence and the post will be clear enough for the Trust to decide easily on the suitability of the current employee or applicant for the job. In other cases the suitability for employment of a person with a criminal record will be less clear and will vary depending on the nature of the job and the details and circumstances of any convictions. In all situations a DBS assessment is required. The process for this is outlined in Appendix 1.

22.2 The applicant / employee will be required to complete a DBS Disclosure Statement in order to assist the panel to come to a decision about the risk of employing them against the protection of the vulnerable person.

22.3 The Trust DBS Assessment Panel which will consist of at least two senior clinical representatives and a suitable member of the Human Resources team (e.g. HR Business Partner, HR Manager) who are able to assess the offences in line with best practice and the DBS Code of Practice.

22.4 The Trust will operate a DBS Assessment Panel which will assess the employee /applicant's skills, experience and conviction circumstances against the risk assessment criteria for the job as outlined in Appendix 1 and in sections 23.5 onwards.

22.5 In line with best practice, the Trust will consider the following points when deciding on the relevance of offences to particular posts:

- What type of work will be carried out
- Does the post involve one-to-one contact with children or other vulnerable groups as employees, customers or clients?
- What level of supervision will the post holder receive?
- Does the post involve any direct responsibility for finance or items of value?
- Does the post involve direct contact with the public?
- Will the nature of the job present any opportunities for the post holder to re-offend in the course of work?

22.6 For each assessment the relevance of each offence will be considered by the Trust and/or where appropriate additional information sought from the individual, taking into account the following issues:

- the seriousness of the offence and its relevance to the safety of other employees, customers, clients or property;
- the number of offences

- the honesty of the applicant in disclosing the information when requested;
- the length of time since the offence occurred;
- any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example, the influence of domestic or financial difficulties;
- whether the offence was a one-off, or part of a history of offending;
- the potential for re-offence
- whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely;
- whether the offence has been decriminalised by Parliament;
- the country in which the offence was committed. Some activities are offences in Scotland and not in England and Wales, and vice versa;
- the degree of remorse, or otherwise, expressed by the applicant and their motivation to change

22.7 The decision will be recorded and retained on an applicant's personal file if they are to be offered a post or for a period of one year if the applicant is unsuitable for the role.

22.8 Once an assessment has been made this will be communicated to the applicant. The DBS Assessment panel's decision will be final.

22.9 It is possible that in a DBS panel, a DBS disclosure could reveal previous names and gender for transgender applicants where an offence or caution that has been recorded in that name exists in police records. In this case there is no way of avoiding the disclosure of that former identity to the employer. If this occurs panel members must deal with the transgender information in a responsible, confidential and sensitive manner.

### **Managing Sensitive Information**

23.1 The Trust will ensure that information regarding offences is kept confidential, so that employees and applicants feel confident that information about their convictions will not be disclosed to anyone unless there is a specific reason for doing so.

23.2 Only persons directly involved in management of the employee /recruitment and the DBS Assessment Panel members will be informed of an applicant's criminal record.

23.3 On request, an employee / successful applicant will be informed who in the organisation has been told about the conviction and the reasons for this. If the individual's line manager was not directly involved in the assessment or recruitment process, they will only be informed of the offence if it is directly connected with the job.

23.4 Offence information and any additional police information will be stored and handled in accordance with the Trust's DBS Secure Storage, Handling, Use, Retention & Disposal of Disclosure and Disclosures Information section 16.

- 23.5 For broader policy and procedure advice concerning personal files generally, please refer to the Trust's Information Life Management Policy including records Management Policy.
- 23.6 Additional information supplied by an employee or applicant will be retained on the employee personal file/ recruitment file. The individual on supply of such information signs a declaration to that affect.
- 23.7 In the case of an employee, should additional DBS Disclosures be required in the future the Trust, will not seek to reassess the entries already assessed, unless the nature of the new job is fundamentally different. In these cases re assessment may be appropriate.
- 23.8 If an applicant has failed to disclose that they have a criminal record when directly asked i.e. at interview or on application of DBS, The Trust may need to refer the information that they did not disclose to the NHS Counter Fraud department as it may be deemed that the individual is trying to gain employment using false information.

### **Recruitment / Employment decisions**

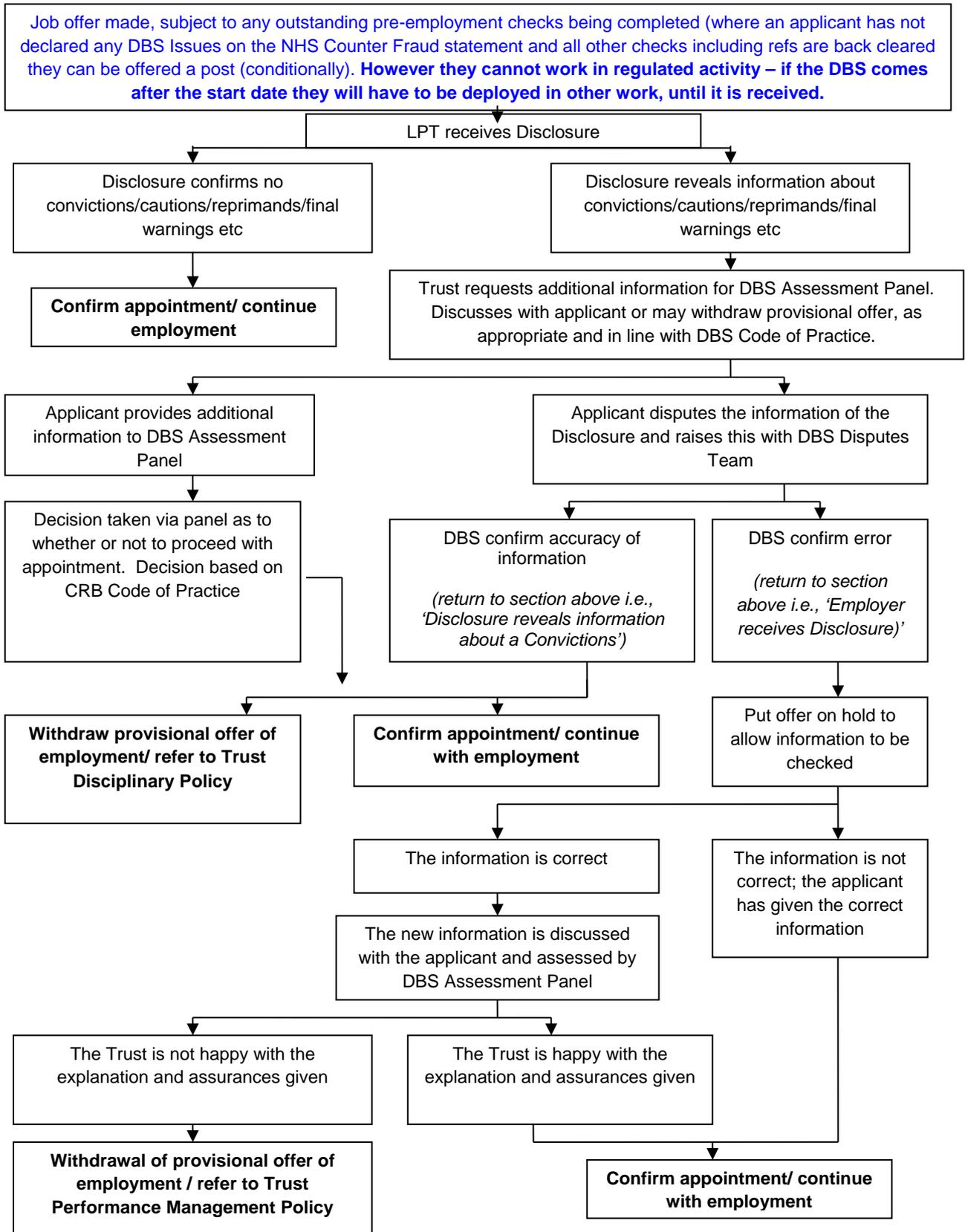
- 24.1 Recruitment decisions will be made on the basis of all information released by the Disclosure and Barring Service, including additional direct police information, and information supplied by the individual in accordance with good recruitment practice.
- 24.2 If the decision is made to withdraw a provisional offer of an appointment, the applicant will be informed of that decision. It may be that matters revealed in the Disclosure justify such a decision or, that information from the police as in the case of Standard or Enhanced Disclosures, provides evidence that, in the view of the Trust, the applicant is unsuitable for the position.
- 24.3 If the individual is a current employee of the Trust the matter may be managed by the Disciplinary Policy. This may result in terminating the contract of employment. Other remedial action may also be required
- 24.4 It is possible to offer a post conditionally subject to receiving a satisfactory DBS check, however, there will be certain conditions that apply. The applicant should be in a position to state on the NHS counter fraud self-declaration that there are no DBS issues.

***If the DBS Check does not arrive by the start date, the employee will have to be deployed in other work in the department. They must not carry out any duties that are defined as regulated activity with patients until the DBS check is returned and suitable.***

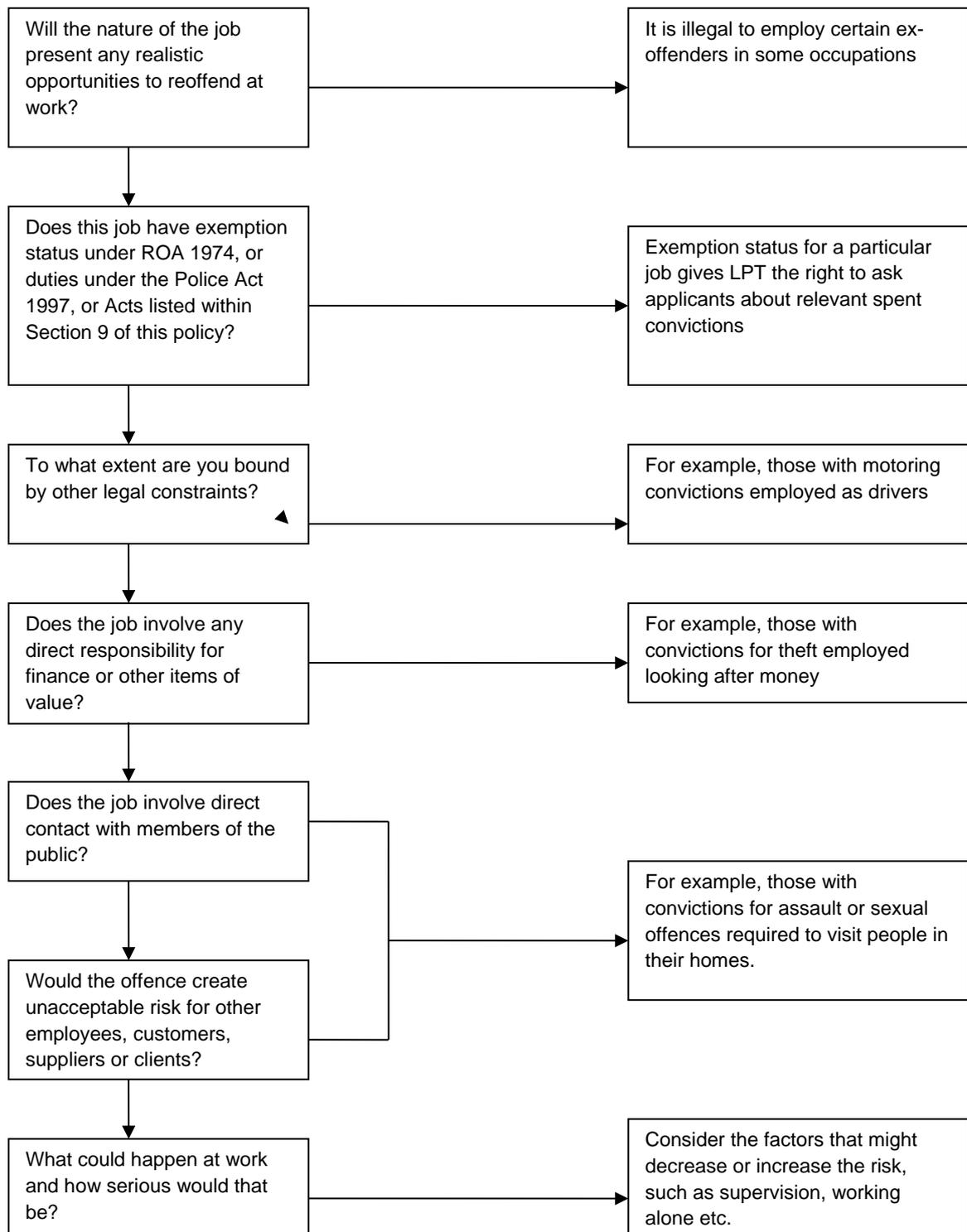
If subsequently the DBS comes back with entries the applicant did not appropriately disclose in the selection process the Trust have the right to withdraw the offer.

Where contrary information is disclosed in the recruitment process this will be risk assessed through a DSB panel in line with the policy before any type of offer can be made to the candidate. The panel will liaise with the manager as appropriate to the issue and take into account all supporting information provided.

## Process for dealing with DBS Disclosures

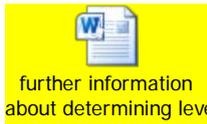


## Assessing a Post for DBS Level and factors to take into consideration



To support managers further there is a questionnaire embedded in this policy and Managers Guidance on E-Source which designed to help you; with supporting relevant Dept. of Health /NHS Employers resources and detailed statutory guidance for you to use.

This is a required to be completed for all new posts or roles which are being redesigned/ developed or if clarification is needed. It will be embedded into recruitment requisitions for advertising for new posts.



### **DBS Costs**

The cost of undertaking a DBS disclosure at the required level will be met by the individual. The Trust will meet the initial costs of the disclosure which will be deducted from the individuals' salary following commencement.

There are specific exemptions to this, Apprentice appointments and Mental Health Act, Hospital Ward Managers.

Additionally individuals who are required to have a new DBS check due to management of change will have the cost for this new DBS met by the organisation.

### DISCLOSURE STATEMENT

Please ensure that you complete every section of this statement. If a question is not applicable to your circumstances, please mark it N/A. If you have more than one statement to submit please complete an additional form(s).

#### Personal Details

<b>Surname</b>		<b>Forename</b>						
<b>Other names</b>		<b>Date of Birth</b>	D	D	M	M	Y	Y
<b>Current Post /Post applied for</b>		<b>Place of work /applied to work</b>						

#### Conviction Details

<b>Date of Conviction</b>		<b>Offence</b>	
<b>Court</b>		<b>Disposal</b>	

Type of Criminal Record (please tick)

- |                    |                          |                             |                          |
|--------------------|--------------------------|-----------------------------|--------------------------|
| Spent conviction   | <input type="checkbox"/> | Bind over order             | <input type="checkbox"/> |
| Unspent conviction | <input type="checkbox"/> | Reprimand/Warning           | <input type="checkbox"/> |
| Caution            | <input type="checkbox"/> | Other, please explain below | <input type="checkbox"/> |

1. We need additional information on the offence listed. Please provide an explanation of how the offence occurred including the circumstances surrounding the offence and include any mitigating circumstances, or explanations you wish to give.

2. Have your circumstances changed since the offence occurred? If so in what way?

3. What impact did the offence have on you as an individual and did it change your view point in any way?

4. Have you submitted an application form for any post in this Trust since the incident?	Yes / No
5. If so, did you volunteer details of your criminal record on the application form?	Yes / No
6. If not why not?(give details)	
7. If you attended for interview did you declare details of your criminal record at interview?	Yes / No
8. If not, why not? (give details)	
<p>9. Have you ever been refused employment on the basis of a DBS Disclosure? If so please complete the sections below</p> <p>Name of post declined:</p> <p>Employer:</p> <p>Date of decline:</p>	

**FOR CURRENT EMPLOYEES ONLY**

10 Start Date with Trust		
11. Were you employed by the Trust at the time of the incident?	Yes / No	
12. If yes, did you inform your manager?	Yes / No	
13. If yes, please give their name and their job title at that time	Name	Job Title
14. Please can you confirm when you told your manager?		
15. How did you inform them e.g. verbally/ letter etc		
16. What was the response/outcome from the manager?		
17. If not, why didn't you inform your manager?		

*I understand that by giving this information it will be used by the Trust to assess my suitability to continue to work/ continue with my recruitment. The information will only be disclosed to individuals who are responsible for making the assessment decision. On completion of the assessment this statement and the assessment form will be retained on my personal file (for current/perspective employees) or for one year for applicants who are refused employment on DBS Disclosure grounds.*

Signed:

Name in capitals: \_\_\_\_\_ Date: \_\_\_\_\_

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### References and Bibliography

policy was drafted with reference to the following:

This policy was drafted with reference to the following:

#### **Home Office/Disclosure and Barring Service**

PO Box 110, Liverpool L69 3EF.

<http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/>

#### **DBS Code of practice**

<http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/dbs-checks-organisations1/code-of-practice/>

#### **Department for Education**

<http://www.education.gov.uk/>

#### **NHS Employers**

[www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/Employment-Check-Standards.aspx](http://www.nhsemployers.org/RecruitmentAndRetention/Employment-checks/Employment-Check-Standards/Pages/Employment-Check-Standards.aspx)

#### **The Protection of Freedoms Act 2012**

[http://www.legislation.gov.uk/ukpga/2012/9/pdfs/ukpga\\_20120009\\_en.pdf](http://www.legislation.gov.uk/ukpga/2012/9/pdfs/ukpga_20120009_en.pdf)

#### **Safeguarding Vulnerable Groups Act 2006**

[http://www.legislation.gov.uk/ukpga/2006/47/pdfs/ukpga\\_20060047\\_en.pdf](http://www.legislation.gov.uk/ukpga/2006/47/pdfs/ukpga_20060047_en.pdf)

#### **Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**

<http://www.legislation.gov.uk/uksi/1975/1023/contents/made>

#### **The Police Act 1997**

<http://www.legislation.gov.uk/ukpga/1997/50/contents>

Also these documents embedded which are also used in associated documents  
Managers Guidance/Questionnaire March 2013.

DOH Factual Note on Adults (Sept12)



Regulated-Activity-a  
dults-V2 -DOH.pdf

DFE Factual Note on Children (Sept 12)



regulated activity  
children full informati



supervision guidance  
revised Children sos s

DFE Statutory Guidance on Supervision for Children - Sept 12

NHS Employers DBS Check Standard (April 2016)



Criminal record  
checks.pdf

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/249431/dbs-factsheet-regulated-activity-adults.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249431/dbs-factsheet-regulated-activity-adults.pdf)



Regulated-Activity-Adults-Dec-2012.pdf

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/377519/DBS\\_referrals\\_guide\\_summary\\_of\\_regulated\\_activity\\_with\\_children\\_v2.2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/377519/DBS_referrals_guide_summary_of_regulated_activity_with_children_v2.2.pdf)



Regulated\_activity\_in\_relation\_to\_children.pdf

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/519060/Guide\\_to\\_eligibility\\_v8.1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/519060/Guide_to_eligibility_v8.1.pdf)



Guide\_to\_eligibility\_v8.1.pdf

### The NHS Constitution

The NHS will provide a universal service for all based on clinical need, not ability to pay. The NHS will provide a comprehensive range of services

<b>Shape its services around the needs and preferences of individual patients, their families and their carers</b>	<input type="checkbox"/>
<b>Respond to different needs of different sectors of the population</b>	<input type="checkbox"/>
<b>Work continuously to improve quality services and to minimise errors</b>	X
<b>Support and value its staff</b>	<input type="checkbox"/>
<b>Work together with others to ensure a seamless service for patients</b>	<input type="checkbox"/>
<b>Help keep people healthy and work to reduce health inequalities</b>	<input type="checkbox"/>
<b>Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance</b>	<input type="checkbox"/>

**Stakeholders and Consultation**

**Key individuals involved in developing the document**

<b>Name</b>	<b>Designation</b>
Daniel Norbury	Interim Deputy Head of Employment Services
Sarah Willis	Director of Human Resources and Organisational Development
UHL	

**Circulated to the following individuals for comment**

<b>Name</b>	<b>Designation</b>
Richard Apps; Kamy Basra; David Bell; Michelle Brookhouse; Kathryn Burt; Adrian Childs; Pete Cross; Alan Duffell; Jennifer Holloway; Laura Hughes; Bal Johal; Bernadette Keavney; Sam Kirkland; Satheesh Kumar; Frank Lusk; Peter Miller; Sharon Murphy; Anthony Oxley; Anne Senior; Sarah Willis	Management side
Sally Clare; Timothy Coulton; Kim Craig; Val Dawson; Barbara Evans; Susan Harrison; Yvonne Jacobs; Carolyn Jones; Josephine Lane; Baskara Lingam; Bernadette McAndrew; Ian Thomas; Jim Stringer	Staff side representatives

**Section 1**

<b>Name of activity/proposal</b>	<b>DBS/Criminal Record checks</b>
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**Appendix 5**

**Due Regard Screening Template**

<b>Date Screening commenced</b>	4 April 2012		
<b>Directorate / Service carrying out the assessment</b>	Enabling		
<b>Name and role of person undertaking this Due Regard (Equality Analysis)</b>	Daniel Norbury		
<b>Give an overview of the aims, objectives and purpose of the proposal:</b>			
<b>AIMS:</b> This Policy sets out the responsibilities of the Trust and its employees to comply with the requirement to undertake a Criminal Records (DBS) Disclosure Check on commencement of employment/ volunteering where appropriate to ensure the protection of vulnerable people.			
<b>OBJECTIVES:</b> To effectively vet the workforce to meet safeguarding requirements.			
<b>Section 2</b>			
<b>Protected Characteristic</b>	<b>If the proposal/s have a positive or negative impact please give brief details</b>		
Age	n/a		
Disability	n/a		
Gender reassignment	Have an impact but a process is available with DBS to conduct DBS checks in a sensitive way for people undergoing gender re-assignment.		
Marriage & Civil Partnership	n/a		
Pregnancy & Maternity	n/a		
Race	n/a		
Religion and Belief	n/a		
Sex	n/a		
Sexual Orientation	n/a		
Other equality groups?	Offenders/ Rehabilitated offenders		
<b>Section 3</b>			
<b>Does this activity propose major changes in terms of scale or significance for LPT? For example, is there a clear indication that, although the proposal is minor it is likely to have a major affect for people from an equality group/s? Please <u>tick</u> appropriate box below.</b>			
No re scale but does have a major effect on offenders/rehabilitated offenders			
High risk:		Low risk: Go to Section 4.	
<b>Section 4</b>			
<b>If this proposal is low risk please give evidence or justification for how you reached this decision:</b>			
<b>Signed by reviewer/assessor</b>	Daniel Norbury	<b>Date</b>	6.9.17
<i>Sign off that this proposal is low risk and does not require a full Equality Analysis</i>			
<b>Head of Service Signed</b>	Kathryn Burt	<b>Date</b>	19.9.17