



Disclosure & Barring Service (DBS) Check Policy

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**Impact Assessment
Completed**

Yes

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Equality Impact Assessment Form

The completion of the Equality Impact Assessment (EIA) will help us to ensure that our policies, procedures and practices do not discriminate or disadvantage people and also improve or promote equality.

In relation to: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

Please explain if you identified any inequalities or possible discrimination in the policy, procedure or practice?

No inequalities or possible discrimination have been identified.

To mitigate against any inequalities or possible discrimination the following controls are in place:

- Guidance is available to Managers.
- Policy statement on the Recruitment of Ex-Offenders.
- Policy statements on the secure storage, handling, use, retention and disposal of Disclosures and Disclosure Information.
- Recruitment & Selection Procedure
- HR give high priority to arranging [Enhanced](#) DBS checks
- Safer Recruitment Training provided to Managers
- At least 1 member of a recruitment panel will have received Safer Recruitment Training

If identified, how have you changed the policy, procedure or practice to remove or mitigate the inequality or discrimination?

N/A

Any follow up actions required?

None

DISCLOSURE AND BARRING SERVICE (DBS) CHECK POLICY

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1. PURPOSE

Safeguarding children and adults is absolutely paramount and the College will build good safeguarding practice into routine procedures and practice. It is vital therefore that, running in parallel with this policy, the College adheres to robust recruitment and vetting procedures that minimise the risk of employing people who might abuse children and adults, or are otherwise unsuited to work with them.

2. SCOPE

This Policy applies to all applicants, and current employees of Shipley College who undertake work that is classed as 'Regulated Activity'. 'Regulated Activity' means working in a position which involves the provision of education and regularly caring for, training, supervising or being in sole charge of children, young people under the age of 18 or vulnerable adults.

3. RESPONSIBILITY

It is the responsibility of all Managers to comply with the requirements of this Policy. Policy and practice is overseen by the HR Manager.

4. TYPES OF DISCLOSURE AND BARRED LIST CHECKS

The different levels of criminal records check that Shipley College carries out are:

- Enhanced DBS check through the Disclosure & Barring Service
- Enhanced DBS check with Children's and Adult Barred list check

5. REFERRAL TO THE DISCLOSURE AND BARRING SERVICE (DBS)

The Safeguarding Vulnerable Groups Act 2006 sets a legal duty for Shipley College to refer information to the DBS if a member of staff/volunteer/contractor is dismissed or removed from working with children and/or adults (in what is legally defined as Regulated Activity) because they meet the referral criteria. Shipley College has a duty to refer information to the DBS as a Regulated Activity Provider and will forward information to the DBS in all cases where an individual is dismissed or removed from regulated activity (or would have been removed had they not already left) because they harmed or posed a risk of harm to vulnerable groups including children. In cases where the College believes the person has committed a criminal offence, information will also be forwarded to the police at the earliest opportunity.

6. ENHANCED DBS AND BARRED LIST RE-CHECKS FOR EMPLOYEES

If a post requires an Enhanced DBS check, Shipley College can legally re-check their staff as regularly as they wish to. This will be done through the online update service. If the online status check reveals a change in the disclosure status then a re-check will be required.

Shipley College will re-check those employees that work in Regulated Services if:

- There is a significant change in their role and duties
- Their actions or activities give 'cause for concern'
- An employee has disclosed a conviction since their last DBS check

The grounds for 'cause for concern' could include allegations of suspicious or inappropriate behaviour made by a child or other person or a colleague, parent, carer or member of the public. In such instances, a full investigation of any such allegations will be conducted in accordance with the College's Disciplinary Policy. As part of the investigation process, the employee may be required to undergo an Enhanced DBS check or Enhanced check for Regulated Activity with consideration and legal advice taken in respect of human rights and employment legislation.

Where, due to changes in legislation, occupational groups become subject to regulation for the first time, Shipley College will write to existing employees in those groups informing them of the requirement to obtain an Enhanced DBS check. All employees will be expected to comply. Any existing employee refusing to comply with the request for an enhanced DBS check will be advised that their deliberate and unreasonable refusal to carry out lawful and safe instructions issued by an appropriate manager and/or to comply with a contractual agreement will lead to the employee being subject to a disciplinary investigation.

7. CURRENT POSTS

Any position which involves regularly caring for, training, supervising or being in sole charge of children or young people under the age of 18 is exempted from the provisions of the Rehabilitation of Offenders Act 1974, and the College will require them to hold an Enhanced DBS Disclosure check. This includes Volunteers, Variable Hours/Casual and Agency Staff.

As DBS only send a copy of the Disclosure Certificate to the applicant, the College will request sight of the original from the individual.

8. FOR A NEW POST

Shipley College HR Manager, in collaboration with the Line Manager and SMT, will establish whether a position comes under the current definition of "Regulated Activity" and is therefore entitled to an enhanced DBS check. If a post does not come under the definition then it is not entitled to a DBS check.

9. RECRUITMENT

All recruitment will be in line with the Shipley College Recruitment and Selection Policy.

10. SAFER RECRUITMENT

Safer recruitment training for new managers will be held as and when required and at least one member of the interview panel will have attended Safer Recruitment for Managers training.

11. PORTABILITY

A satisfactory DBS certificate will be accepted in the instance where a candidate:

- Was carrying out the same or similar role in the previous institution
- Has not had a break in service from that role exceeding 3 months

For those applicants that have worked or been resident overseas, including UK citizens who have worked or lived overseas, Shipley College may require the Statement of Good Conduct, dependant on the length of time overseas.

N.B. This does not apply to members of the UK armed forces and their families that were stationed overseas.

12. AFTER RECRUITMENT

As part of an employee's induction, new employees should be made aware of their commitment to safeguarding children and adults whilst employed at Shipley College. It is mandatory for all roles that new staff complete the relevant safeguarding training within 6 weeks of employment.

All staff will be expected to undertake refresher training every 3 years and will receive further training regarding any other important safeguarding related matters.

If, for operational reasons, someone starts prior to a DBS check being returned, the manager must complete the [DBS Risk Assessment](#). Once a disclosure is received the Risk Assessment will be void.

The risk assessment asks for confirmation that:

- ~~An adult or children Barred List check has been undertaken~~
- The pre-employment checks as outlined in the Recruitment and Selection Policy have been completed. For example, the identity of the job applicant is confirmed, references have been taken and verified etc.
- The manager has introduced sufficient safeguards for the individual not to have unsupervised access to children or adults. Only a current Shipley College employee who has a satisfactory DBS check may provide supervision

Only when the Principal formally approves the proposed supervisory arrangements may the individual commence employment with the College.

13. APPLICANTS WITH ADVERSE DISCLOSURES

If a DBS check reveals details of convictions which may render the applicant unsuitable for the applied post – termed 'Cause for Concern' – the HR Manager will discuss the situation with the applicant, in line with the relevant [Code of Practice](#).

A [Risk Assessment](#) will be completed and the applicant will be asked to sign the risk assessment to verify the information provided and give permission for the risk assessment to be stored securely and later destroyed, in accordance with retention and disposal policies.

When assessing any disclosure or declared conviction information received, consideration will be given to a range of issues and, in some cases, the HR Manager may wish to seek legal advice prior to discussing it with the applicant.

Having a conviction will not necessarily bar someone from employment with Shipley College, who will only take a criminal record into account when the conviction is relevant. Protection of the applicant's rights and interests must be weighed against the rights and interests of the College, student, employees and the public, including Shipley College's duties and responsibilities towards these or other groups.

The HR Manager & SMT will not allow personal prejudices to 'cloud' judgement and good practice. They will consider the relevance of offences and be aware that no two offences are exactly alike.

If the candidate has made a false declaration on their application form then Shipley College will not be able to confirm the appointment. If the disclosure certificate contains information that was not revealed by the candidate or additional information from the Police is received, it will be necessary to hold a further discussion with the candidate and undertake a further review against any risk assessment before deciding to confirm or withdraw the offer of employment and legal advice will be sought at this point.

The College check the Barred List as part of the Enhanced DBS process and applicants are made aware of this within the recruitment process. If the checks reveal that a candidate is on the Barred List for Regulated Activity, the College will make a referral to DBS to notify them of an individual's attempt to apply for barred work.

14. EMPLOYEES WITH ADVERSE DISCLOSURES

Where existing employees who have not been previously checked, or their post requires a re-check and subsequently have an adverse disclosure result, the HR Manager will discuss the situation with the employee, in line with the relevant [Code of Practice](#). Employees, whether previously checked or not, are informed of their duty to inform management if their conviction status changes during their employment.

It may be appropriate to move the employee to an alternative post with no access to children and/or vulnerable groups, property/ information/ resources etc.,

depending on the nature of the disclosures and pending the outcome of a full investigation.

It may be that there are no suitable duties the employee could undertake during this period which do not bring them into contact with children/adults. If this is the case, the HR Manager will give consideration to suspending the employee on full pay pending the outcome of the disciplinary investigation.

The employee may confirm or refute the information provided by the DBS. Where this is the case, the HR Manager, in conjunction with the employee's line manager, may pursue a range of options and this may include further checking with the DBS.

When completing the Risk Assessment Proforma it should be considered whether the conviction is relevant to the post and evidence of previous convictions should not be used to dismiss a person for poor job performance. The track record of the individual should be carefully assessed and should be considered positively if it is satisfactory. If the disclosure results are considered to be of a serious nature and prove to be correct then the HR Manager/SMT may consider various options. Options include:

- Termination of employment
- Redeployment pending the availability of a suitable vacancy
- The introduction of safeguards

Only after a full appraisal of the situation, including the risks involved and other alternative employment options investigated, should dismissal be considered and then only after seeking legal advice. If the HR Manager & SMT decide to consider termination of employment then the employee must be informed in writing and a hearing held in line with the College's Disciplinary Procedure.

If the disclosure results are considered not to be serious and do not impinge on an employee's ability to work in their existing role then the HR Manager should inform the employee accordingly in writing.

15. EMPLOYEES SUPERVISING YOUNG PEOPLE DURING WORK EXPERIENCE

If, as part of an employee's duties, they are asked to supervise young people (under 16s) on work experience this is regulated activity and an enhanced DBS check with Children's Barred List is required.

16. AGENCY WORKERS

The agency is legally the employer of any agency workers and the responsibility to obtain a relevant Basic Disclosure, DBS check, or an Enhanced check for Regulated Activity is theirs. This check can then be used within any organisation that the agency provides workers to work within, provided that it is for the same workforce and relevant barred list check. Shipley College undertakes annual audits of the

agencies to ensure they are compliant with the College's safeguarding requirements.

When using an agency worker, the Line Manager should ask to see written confirmation from the agency or a copy of the DBS check (this should be no more than one year old), to ensure that each worker supplied to them has had a satisfactory DBS check.

17. CONTRACTORS

The organisation providing the contractor is legally the employer of any contractors and the responsibility to obtain a relevant DBS check or Enhanced check for Regulated Activity is theirs. This check can then be used within any organisation that contractors are provided to. If contractors are procured, Shipley College will ensure that all Safeguarding requirements are included within the procurement documentation. An audit of the contractor's organisation will be undertaken on an annual basis to ensure compliance with these requirements. Contractors who do not hold a DBS shall be supervised throughout their attendance on site and these visits will be made where possible out to term time to reduce contact with students.

18. VOLUNTEERS

A volunteer is described as a person who performs an activity which involves spending time that is unpaid (except for travelling and approved out of pocket expenses) doing something which aims to benefit someone (individuals or groups) other than, or in addition to, close relatives.

Volunteers who assist on a regular basis in a role which meets the parameters for requiring a DBS check are required to undertake a DBS check, and if the role is also classed as Regulated Activity they will be eligible for an Enhanced check for Regulated Activity.

The disclosure is provided free.

Volunteers who do not meet the parameters for a DBS check will be risk assessed and supervised within College.

N.B. Some people can be referred to as volunteers but do not actually meet the DBS criteria to get a free disclosure check. To qualify for a free of charge disclosure, the applicant must not benefit directly from the position the DBS application is being submitted for. The applicant must not:

- receive any payment (except for travel and other approved out of pocket expenses);
- be on a placement/work experience;
- be on a course that requires them to do this job role; and/or
- be in a trainee position that will lead to a full-time role post qualification.

Volunteer roles should be properly described under 'role of applicant' on the DBS disclosure form e.g. "volunteer classroom helper" and therefore must be provided correctly on the "New Starter Form".

19. GENDER RECOGNITION CERTIFICATES

The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate. When a full gender recognition certificate has been issued, the person is legally considered to be of the acquired gender.

If the person is required to undergo a DBS check as part of the recruitment process they must disclose any previous names and/or gender to the DBS who have established a special application procedure/dedicated contact officer to maintain confidentiality:

DBS - email: sensitive@dbsgsi.gov.uk

Gender confidentiality will be maintained where the individual has no criminal convictions and where there is no other information held by any Police Authority, as a clear disclosure certificate is the ultimate result. However, if they did have convictions under their previous gender that were considered relevant to the post/position, then the individual's gender change would become evident through the provision of conviction information on the DBS disclosure certificate showing both gender names.

20. DATA PROTECTION

Shipleigh College will ensure that sensitive personal information is held securely, and only seen by those entitled to see it in the course of their duties. See Appendix 1 on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information.

The HR Manager will record that a check has been carried out, including unique disclosure number and date, on the successful applicants personnel record in Cintra as part of the College's Single Central Record.

Under section 124 of The Police Act 1997 it is a criminal offence to pass disclosure information about a spent conviction to anyone who is not entitled to receive it. Serious misuse of a person's criminal record could result in a prison sentence of up to six months or a fine of up to £1,000, or both.

21. COMPLAINTS

Applicants unhappy with any aspect of the DBS process, including the application of this policy, should initially raise their concerns through the appointing manager or the HR Manager. Where this fails to produce a satisfactory resolution, applicants have the right to complain to the College Principal.

The above complaints procedure is intended to deal with the College's own internal processes. Complaints relating to mistaken identity or the nature of the information given in a criminal record disclosure can only be dealt with by the Disclosure and Barring Service.

22. MONITORING & REPORTING

Compliance with the Policy will be monitored by the HR Manager.

23. LINKS TO OTHER POLICIES OR PROCEDURES

This Policy links to:

- Policy statement on the Recruitment of Ex-Offenders
- Recruitment and Selection Policy and Procedure
- Equality Policy
- Grievance Procedure
- Data Protection Policy
- Safeguarding Policy & Procedure
- Contractors Policy



Policy Statement on the Secure Storage, Handling, Use, Retention & Disposal of Disclosures Information

Purpose

As an organisation using the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, Shipleigh College complies fully with the 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 General Data Protection Regulation (GDPR), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.

This policy applies to all employees and all applicants who apply to work at Shipleigh College.

Storage and access

Certificate 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.

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. We maintain a record of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

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.

Retention

Once a recruitment (or other relevant) decision has been made, we do not keep certificate information for any longer than is necessary. This retention will allow for the consideration and resolution of any disputes or complaints, or be for the purpose of completing safeguarding audits.

Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed, we will ensure that any DBS certificate information is immediately destroyed by secure means, for example by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack).

We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, we may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken.