



Human Resources
Disclosure and Barring Service (DBS) Checks
Policy and Procedure



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1. Policy

- 1.1 Walsall College is committed and passionate about providing a safe and secure environment in which all students and employees are enabled to achieve the best they can from working or studying at the College.
- 1.2 The College will ensure, through the appropriate use of DBS checks, that it does not employ or make use of the services of any person who has a criminal conviction or record of conduct that could present a risk to the safety and well-being of Walsall College students and employees.
- 1.3 Walsall College is a registered body with the DBS and complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act 2018 and GDPR and other relevant legislation pertaining with the safe handling, use, storage, retention and disposal of Disclosure information.
- 1.4 As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the Disclosure and Barring Service (DBS), Walsall College complies fully with the code of practice and undertakes to treat all applicants for positions fairly and undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.
- 1.5 Throughout this policy and procedure, reference is made to 'children and young people'. This term refers to those under the age of 18 years old.
- 1.6 Reference is also made to 'adults at risk of harm' throughout this policy and procedure. Adults at risk of harm are defined as people aged 18 years old and over who may need or receive community care services by reason of mental health or other disability, age or illness and who may be unable to take care of themselves or protect themselves against significant harm or exploitation.

2. Background

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

updated to take this name change into account, as well as updating it in relation to the new changes brought in. CRB checks are now called DBS checks.

2.3 Three types of DBS checks are referred to in this policy and procedure:

- Standard: this provides information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC), regardless or not of whether they are spent under the Rehabilitation of Offenders Act 1974. The law allows for certain old and minor matters to be filtered out;
- Enhanced: this provides the same information as a standard check, plus any approved information held by the police which a chief officer reasonably believes to be relevant and considers ought to be disclosed; and
- Enhanced with barred list check: where people are working or seeking to work in regulated activity with children, this allows an additional check to be made as to whether the person appears on the children's barred list.

2.4 Employees engaging in regulated activity will require an enhanced disclosure which includes barred list information. For other staff who work at Walsall College, but not engaged in regulated activity, as they will have regular opportunity for access to students under the age of 18 or people of any age who may be vulnerable for others reasons, they will require an enhanced disclosure check (not including a barred list check).

2.5 Applications for a Disclosure are made by the College as a Registered Body, which countersigns and pays for the application. When the individual receives the Disclosure Certificate they must present it to the College for checking. A record of receipt of this is kept on the individual's computerised file.

2.6 It will be a condition of all offers of employment made by the College that a satisfactory DBS disclosure is obtained. Should any prospective employee or student to whom this applies refuse to complete a DBS Disclosure Application form within a reasonable timescale (i.e. two weeks of the offer date) this will result in the withdrawal of the provisional offer.

2.7 All contractors and agency workers will be assessed to determine the level of access to Walsall College students and level of supervision on site before DBS disclosure requirements are specified in the contract.

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

3. Cautions and Convictions

- 3.1 All convictions resulting in a custodial sentence, whether or not suspended, will always be disclosed.

Youth cautions, warnings and reprimands will not be disclosed automatically on a Standard or Enhanced DBS certificate. Please see self-disclosure rules at the end of this document for guidance.

- 3.2 From November 2020 the law changed and the amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) provides that when applying for certain jobs and activities, certain convictions and cautions are considered as 'protected'. This means that they do not need to be disclosed to employers and if they do the College cannot take them into account.

DBS filtering is as follows:

- warnings, reprimands and youth cautions will no longer be automatically disclosed on a DBS certificate
- the multiple conviction rule has been removed, meaning that if an individual has more than one conviction, regardless of offence type or time passed, each conviction will be considered against the remaining rules individually, rather than all being automatically disclosed

<https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide>

4. The Rehabilitation of Offenders Act 1974 (ROA)

- 4.1 The main purpose of the ROA is to ensure that a person who has been convicted of a criminal offence in the past and who has not re-offended in a specified period is, so far as possible, treated as if the offence and the conviction for it had never occurred. The ROA achieves this by enabling some convictions to become 'spent', or ignored, after a period of time, so that the offender does not have to declare the conviction when applying for a job. However, there are exemptions to the ROA, which require candidates to disclose convictions, cautions, warnings, and other relevant matters. One such exemption applies to roles within further education institutions where the duties involve regular contact with children and young people under the age of 18, or adults at risk of harm. These roles are exempt from the ROA, meaning that employers are entitled to ask candidates to disclose convictions, cautions, and similar matters, regardless of whether they are spent.

- 4.2 Walsall College can only ask an individual to provide details of convictions and cautions that Walsall College are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020), and where appropriate Police Act Regulations as amended).
- 4.3 Walsall College can only ask an individual about convictions and cautions that are not protected. There is a list of offences that will always be disclosed on a Standard or Enhanced DBS certificate (unless they relate to a youth caution). These are known as 'specified offences' and are usually of a serious violent or sexual nature, or are relevant for safeguarding children and vulnerable adults.
- 4.4 Applicants are requested to provide information about their criminal background as part of the recruitment and selection process so that any issues raised can be dealt with at the interview stage (or shortly after) and a decision can be made on that basis, subject to the Disclosure check. Should applicants wish to submit a disclosure under separate cover, they may do so by writing to the Head of Human Resources at Walsall College. The application form includes a statement to candidates that their appointment is subject to a satisfactory Disclosure check, and that a criminal record will not necessarily prevent an offer of employment.
- 4.5 A copy of the DBS's Code of Practice is available to all candidates on request.

5. Scope

- 5.1 The College requires all employees, agency workers, certain contractors and volunteers to have an enhanced DBS Disclosure.

6. Procedure

- 6.1 Once a provisional offer of employment has been made, Human Resources will issue the necessary Disclosure paperwork and verify the applicant's identification in line with DBS guidance. Original documents are seen and checked, and the Disclosure application form is countersigned and sent to the DBS.
- 6.2 The Disclosure certificate is posted to the individual's registered home address and it is the responsibility of the individual to produce the original certificate to Human Resources. Human Resources will check for any recorded convictions, cautions, etc. and take a copy of the DBS certificate which is retained for six months in a confidential area. The unique DBS reference number is recorded on the individual's personal file.

- 6.3 If the Disclosure certificate shows recorded items such as convictions or cautions, Human Resources will pass the certificate together with the relevant paperwork to the Head of Human Resources for consideration. In all situations, where there are any offences relating to children and young people or adults at risk of harm, the Head of Human Resources will consult with the Designated Safeguarding Lead and the Executive Team. Under no circumstances will an appointment be made if a person is on the Barred List (an Enhanced check for Regulated Activity).
- 6.4 The following will be taken into account when reaching a decision about employing an individual with a criminal conviction or caution:
- Whether the conviction or other matter is relevant to the position
 - The seriousness of the offence or other matter
 - The length of time since the offence or other matter occurred
 - Whether the applicant has a pattern of offending or other relevant behaviour
 - Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters
 - The circumstances surrounding the offence and the explanation(s) offered by the individual.
- 6.5 Where the decision is taken to employ an individual with a criminal conviction or caution, the Head of Human Resources will place a record of the risk assessment using the above criteria on their personal file. No appointment of an individual with criminal convictions or cautions relating to children and young people or adults at risk of harm can be confirmed without the agreement from the Designated Safeguarding Lead or a member of the Executive Team.
- 6.6 Where the decision is taken not to appoint an applicant because of the information on their Disclosure, the Head of Human Resources will provide the Executive Team with a recorded risk assessment using the criteria stated in clause 6.4.

7. Disclosure of Convictions

- 7.1 At interview, or in a separate discussion, Walsall College ensures that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
- 7.2 Where an applicant's criminal record was disclosed as part of the recruitment and pre-employment process and they are provisionally offered employment, HR will need to discuss this with the applicant prior to them commencing.

- 7.3 Walsall College undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.
- 7.4 Where an applicant's criminal record is not made available prior to interview and there are issues revealed through the DBS Disclosure, which HR feel need to be discussed, HR will meet with the applicant. Such a discussion will also be necessary when the Disclosure contradicts what the applicant has declared. It may be that they have, for example, misunderstood what is meant by a spent conviction or were unaware that cautions would also be included in the Disclosure. Following any discussion, the provisions outlined in paragraphs 6.5 and 6.6 apply.
- 7.5 If an applicant disputes the information contained on a Disclosure, they can appeal to the DBS. If a mistake has been made a fresh Disclosure will be issued to the individual who must provide to HR for checking. A final decision about the applicant's suitability for the job will not be made until the outcome of the appeal.
- 7.6 The College cannot accept responsibility where a job offer has been withdrawn due to entry errors on the DBS return.

8. Update Service

- 8.1 The Disclosure and Barring Service (DBS) launched an Update Service on 17 June 2013. Details are as follows:
- DBS checks are updated on a regular basis rather than just on the day they were applied for.
 - New applicants or relevant employees can register with the update service
 - The College can carry out a free, online check on the status of a DBS certificate.
 - The Update service will cost employees £13 per year and is free for volunteers.
 - The DBS certificate is portable between roles (provided the same level and type of check are required).
 - Employers will no longer receive copies of the DBS Check, it will only be sent to individuals.
 - Individuals would need to give the College consent to carry out an on-line check.

9. Portability

- 9.1 There is no official expiry date of a criminal record check issued by the DBS. Any information revealed on a DBS certificate will be accurate at the time the certificate was issued. Consequently, the College will normally require a

renewed DBS application to be made or a renewed DBS status check for individual who are subscribed to the DBS update service.

9.2 For a College there is no requirement to obtain an enhanced DBS certificate or carry out checks for events that may have occurred outside the UK if, during a period which ended not more than three months before the person's appointment, the applicant has worked in:

- a school in England in a position which brought them regularly into contact persons aged under 18; or
- another institution within the further education sector in England, or
- in a 16 to 19 Academy, in a position which involved the provision of education and caring for, training, supervising or being solely in charge of persons aged under 18.

Where all other checks are in place with respect to a new member of staff, then subject to any appropriate conditions that may be relevant a start date may be confirmed. The College will still normally require a renewed application as outlined in 9.1.

10. Conditional Employment

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

- Where the individual has no declared convictions or cautions in the application process, which may cause concern.
- Where the individual is not on the barred list.
- Line manager to provide written assurance to the Head of HR, that the individual will be appropriately, supervised pending the receipt of the satisfactory DBS Disclosure and that this is monitored by their line manager.

11. Re-checks

11.1 All employees will need to be re-checked every three years.

11.2 If there become concerns about an existing staff member's suitability to work with children, the College reserves the right carry out additional relevant checks. If a person working at the school or college moves from a post that was not regulated activity into work which is considered to be regulated activity, the relevant DBS checks for that regulated activity will be carried out.

12. Storage, Use and Disposal of DBS Information

- 12.1 Disclosure information is kept securely with access strictly controlled and limited to those who are entitled to see it as part of their duties.
- 12.2 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 to whom Disclosures or Disclosure information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.
- 12.3 Disclosure information is only used for the purpose for which it was requested and for which the applicant's consent was given. Once a recruitment (or other relevant) decision is made, Disclosure information will not be kept longer than necessary, typically for up to six months, to allow for dispute or complaint resolution. In exceptional circumstances, if it is necessary to retain the information beyond this period, we will consult the DBS and consider the data protection and human rights implications. During this time, the usual security measures will apply. Once the retention period ends, we will securely destroy the information (e.g., by shredding) and ensure it is not stored in an insecure manner. We will not keep photocopies or images of the Disclosure outside of the periods above. However, we will retain a record of the Disclosure's issue date, the applicant's name, the type of Disclosure, the position requested, the unique reference number, and the recruitment decision taken

13. Monitoring and Review of the Policy

- 13.1 HR will monitor the development and dissemination of good practice to ensure that the policy and procedure is achieving the key aims. HR will also impact assess this policy. The application of this procedure will be monitored by equality and diversity protected characteristics of candidates/employees affected.

14. Equality and Diversity

- 14.1 If any employee has difficulty at any stage of the procedure because of a disability, they should discuss the situation with their line manager or a member of HR as soon as possible.
- 14.2 Candidates or Employees who need a carer (for reasons of their disability), or an interpreter/translator to attend a meeting with them, for disability or language reasons, may arrange this with HR.
- 14.3 Candidates or Employees who require assistance accessing a meeting should inform HR who will ensure that venues for meetings are accessible.

- 18.2 The College is committed to providing fair and equal treatment for all candidates and employees and will comply with the requirements of the Equality Act 2010, the Public Sector Equality Duty, and the ACAS Code of Practice. We will not tolerate any form of discrimination, whether direct or indirect, based on race, sex, ethnic or national origin, marital status, age, disability, sexual orientation, gender identity, religion or belief, political views, or trade union membership at any stage of the recruitment or employment process. For further details, please refer to the College's Equity, Diversity, Inclusion & Belonging policy.
- 14.5 Employees may request this procedure in an alternative format from Human Resources who will endeavour to accommodate the request.

15. Review

- 15.1 This policy will be reviewed every two years or in response to changes to legislation, best practice or significant feedback from managers, employees or applicants, whichever is the sooner.