

POLICY ON THE USE OF DISCLOSURE AND BARRING SERVICE DISCLOSURE CHECKS FOR APPLICANTS AND STUDENTS

1. Introduction

1.1 Purpose

1.1.1 The University utilises the Disclosure and Barring Service (DBS) for admitting students on to programmes where a DBS is a requirement of admission. A DBS Enhanced Disclosure is a specific requirement of admission to programmes where students may be working with children and/or vulnerable adults.

1.1.2 The aims of this Policy are:

- i) To provide details of the various levels of DBS checks available depending on the type of work or activity which will be undertaken by a student
- ii) To provide staff, applicants and students with guidance as to what level of check can be requested
- iii) To provide information on the University's responsibilities as a Registered Body of the DBS

1.2 Scope

1.2.1 This Policy aims to provide guidance and information to Academic Schools, applicants and students on initiating DBS checks, the application process, the management of DBS check and the information contained therein.

1.2.2 This policy relates to applicants and students only. A separate policy that covers staff and volunteers, 'Policy on the use of Disclosure and Barring Service Disclosure Checks – Staff and Volunteers', is available on the Human Resources website.

1.3 Commitment to Equality

1.3.1 As a Registered Body of the DBS, the University complies fully with its obligations under the DBS Code of Practice, the Data Protection Act 1998 and other relevant legislation.

1.3.2 The University is committed to the fair treatment of its students and applicants, regardless of age, disability (including mental health), gender identity, marital status & civil partnership, maternity & pregnancy, race, religious belief, sex or sexual orientation.

1.3.3 In line with the DBS Code of Practice, the University undertakes to treat all applicants who have a criminal record fairly and not discriminate automatically because of a conviction or other information revealed.

2. Roles and Responsibilities

2.1 Lead Counter Signatory for applicants and students

The Deputy Director of Global Student Recruitment and Admissions will act as Lead Counter Signatory and will be:

- i) Accountable for compliance with this policy and the DBS Code of Practice
- ii) Responsible for the approval of counter signatories

- iii) Advising on DBS related issues
- iv) Responsible for the University's legal duty to refer as a regulated activity provider by referring individuals to the DBS for barring consideration in relevant circumstances and to provide information to the DBS upon request. (see Annex D for further details)

2.2 Counter Signatories

DBS Counter Signatories as put forward by the University and approved by the DBS will be required to undertake mandatory training. Counter signatories will be responsible for the operation of the Disclosure process and are responsible for:

- i) Checking and validating the information provided by the applicant on the DBS application form.
- ii) Countersigning Disclosure application forms to confirm that the position is covered by the Exceptions Order to the Rehabilitation of Offenders Act 1974 and that the organisation therefore has an entitlement to access criminal record(s) information and that any Disclosures requested are at the appropriate level
- iii) Receiving Disclosures and managing the retention, storage, use and disposal of Disclosures in accordance with the University Records Management and Retention Schedule
- iv) Advising on DBS related issues
- v) Complying with this policy and with the DBS Code of Practice

2.3 Academic Schools

Academic Schools are responsible for ensuring that they assess and review each programme with regard to placements/research/volunteering with regard to working with children and/or vulnerable adults. The Counter Signatories will identify whether a DBS check is required and if so at which level.

2.4 Evidence Checkers

Evidence checkers will be required to undertake training and are responsible for checking and recording the documentary evidence provided by applicants to establish their identity.

2.5 Individuals applying for a DBS check

Individuals applying for a DBS check are responsible for completing the DBS application form accurately, and in a timely manner and for providing a copy of the DBS disclosure certificate to the relevant School.

3. What is a DBS Check?

- 3.1 A DBS check is an impartial and confidential document that details an individual's criminal record, including cautions, convictions and other relevant police information (subject to filtering), and where appropriate, details of those who are barred from working with children and/or vulnerable adults (known as 'barred lists').
- 3.2 There are various levels of DBS checks available depending on the type of work which will be undertaken. A summary of disclosure levels, guidance regarding regulated activity and the types of roles which may be checked can be found in Annexes A and B.

4. Disclosure of Criminal Records Information

4.1 All Programmes

- 4.1.1 Keele University requires all applicants to declare any unspent convictions or cautions (as defined in Rehabilitation of Offenders Act 1974) on the 'declaration task' in the applicant portal, once they have accepted an offer to study.
- 4.1.2 Once a caution or conviction becomes spent, an individual is treated as rehabilitated with regards to that offence, and they don't have to declare it when applying for a

programme that is not subject to a DBS check. Further guidance and an online calculator which helps people to calculate when their convictions become spent is available from Unlock, a charitable organisation offering guidance and support for people with convictions.

4.2 Programmes eligible for a DBS Check

- 4.2.1 Where the programme of study involves working/volunteering with children and/or vulnerable adults, a DBS check will be required. This includes, for example, the majority of our Health, Social Work and Education programmes. Applicants will be made aware of which programmes require a DBS through the published programme information, which will contain a statement that a DBS check (including level) will be part of the selection criteria.
- 4.2.2 The amendments to the Exceptions Order 1975 (2013 and 2020) states that certain spent convictions and cautions are 'protected' and such information will not be included in DBS checks. Therefore, such information need not be disclosed to the University, and cannot be taken into account when making an admissions decision (this is known as 'filtering'). For more information, please see DBS Filtering below.

5. DBS Filtering

Legislation that came into effect on 29 May 2013 allows for some old or minor convictions and cautions to be exempt from disclosure under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended). This means that under the new filtering rules, applicants will no longer need to declare certain old and minor convictions or cautions. On 28 November 2020 this was also extended to warnings, reprimands and youth cautions which will no longer be automatically disclosed on a DBS certificate. Therefore, the University cannot take these into account in their decisions, even though the applicant may be carrying out what the DBS calls "Regulated Activity".

All cautions and convictions for specified serious violent and sexual offences, and other specified offences of relevance for posts concerned with safeguarding children and vulnerable adults, will remain subject to disclosure. In addition, all convictions resulting in a custodial sentence, whether or not suspended, will remain subject to disclosure. Further information can be found on the [DBS Filtering pages](#).

6. Disclosure Application process

- 6.1 Where a DBS check is a necessary part of the recruitment process, applicants will be asked to provide details of any criminal record at an early stage in the application process. This provides the candidate with an opportunity to discuss any offences with the Course Director or nominee prior to a DBS check.
- 6.2 Applicants holding a confirmed place on a programme requiring a DBS check will be emailed with instructions on how to apply for the check. The Disclosure application should not normally be submitted to the DBS earlier than three months prior to the start of the programme¹.
- 6.3 When the DBS have completed all the necessary checks, the Disclosure certificate will be sent to the individual who will be required to bring the certificate to Admissions
- 6.4 The outcome of the DBS check will be sent to the relevant Academic School by Admissions. If there are details contained in the Disclosure the Assessing Criminal Record Information procedure will be followed.

7. Applicants with a substantial record of overseas residence

¹ Deferred applicants required to provide an Enhanced DBS check will not normally be requested to complete this until a few months before their programme begins.

- 7.1 As DBS cannot access criminal records held overseas, international applicants must provide an original Criminal records check or 'Certificate of Good Conduct'² from any country or countries where they have resided for a period of time exceeding 4 months.
- 7.2 Normally, where an applicant has been resident in the UK for at least four months a Disclosure should be sought in addition to confirmation of their criminal record overseas, although it is recognised that the Disclosure is likely to be of limited value where the period of UK residence has been short.
- 7.3 Where Police Checks are not available in English, a certified translation must accompany the check provided. Overseas Police Checks must be provided not later than the commencement of the programme unless an alternative arrangement has been agreed by the Head of School.

8. Ongoing Checks during your programme

- 8.1.1 Individuals accepted onto programmes related to Child and Adult Workforce will also be required to complete an annual self-declaration at the point of re-registration to confirm that they have not received any police reprimands, warnings, convictions or cautions, including both 'spent' and 'unspent' convictions, since the last DBS check or declaration
- 8.1.2 Individuals accepted onto programmes related to Child and Adult Workforce who subsequently receive a reprimand, warning, conviction or caution, must complete a self-declaration form immediately, which must be submitted to the School Manager and the Course Director.
- 8.1.3 Students on a programme related to Child and Adult Workforce, who are granted an interruption of studies (including those students that have intercalated), will be required to complete a self-declaration on return. Where the period of interruption has been more than one academic year a full DBS check will be required.

8.2 DBS Online update Service

The DBS update service lets applicants and students keep their DBS certificates up to date online and allows employers to check a certificate. Students subject to a re-check will be asked to register for the DBS update service at admission and the University will use the online update service for subsequent re-checks.

9. Students on Programmes not related to the Child and Adult Workforce

The above Policy will also apply to students from other programmes, who are involved in situations that bring them into contact with children and/or vulnerable adults, for example, as part of their research work. The level of the check will be determined by the Supervisor³, and depend on the nature of the activity.

10. Payment

The fee for DBS checks will normally be paid by the applicant/student concerned and will be communicated via the University's webpages. Students who subscribe to the Update Service are required to pay the annual fee.

11. Confidentiality

Information provided on any Disclosure is both sensitive and confidential. As a Registered Body, the University adheres to the DBS Code of Practice and the University also complies fully with its obligations under the Data Protection Act 1998

² Please refer to the 'Arranging checks as an employer' section on the DBS website for further information on how to apply for these checks from different countries.

³ In consultation with the Research Governance Officer and/or DBS Lead in Admissions.

and other relevant legislation pertaining to the safe handling, use storage, retention and disposal of Disclosure information.

12. Related Policies and Procedures

This Policy should be read in conjunction with following associated documents:

- Admissions Policy
- Procedure for the consideration of all applications from applicants declaring a criminal conviction
- Disclosure the Assessing Criminal Record Information procedure
- University Policy Statement on Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information
- Fitness to Practise Code of Practice
- University Policy on the Recruitment and Employment of Ex-Offenders

13. Review, Approval and Publication

The Policy should be reviewed at least every 3 years, with any amendments to be approved by PSG, following consultation with key stakeholders. The Policy may be reviewed sooner, if there are external changes made by the DBS that need to be reflected in this document. The current Policy will be published on the University website.

14. Annexes

Annex A	Levels of DBS Disclosure
Annex B	Definitions of Regulated Activity
Annex C	University Policy on the Recruitment and Employment of Ex-Offenders
Annex D	Duty to Refer to the DBS

15. Document Control Information

Document Name	DBS Policy for Applicants and Students
Owner	Jo Ladwa Deputy Director of Global Student Recruitment and Admissions, GSRA
Version	2.0
Approval Date	20/04/21
Approved by	PSG
Date of Commencement	01/05/2021
Date of Last Review	05/02/2015
Date for Next Review	30/04/2024
Related University Policy Documents	<ul style="list-style-type: none"> • Admissions Policy • Procedure for Consideration of Criminal Record Disclosures by Applicants and Students • University Policy on the Recruitment and Employment of Ex-Offenders

Annex A - Levels of DBS Disclosure

Level of Disclosure	Checks Undertaken	Criteria	Examples of Applicable Types of work
Standard check	Unspent and spent convictions/cautions (subject to DBS filtering of 'protected' information) held on the Police National Computer	The position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975, as amended.	Positions NOT working with children or vulnerable adults, available for specified occupations, licences and entry into specified professions, e.g. private security, chartered accountants, legal professions
Enhanced check	As above plus Police information held locally that is considered to be 'reasonably relevant' to the post	The position must be included in both the ROA Exceptions Order and in the Police Act 1997 (Criminal Records) regulations and meet the Pre-September 2012 definition of regulated activity	Supervised activities with children which would be considered as 'regulated activity' if unsupervised (following statutory guidance regarding supervision) not in a 'specified place' Infrequent activities with children which would be considered as 'regulated activity' if frequent Activities with vulnerable adults that are not deemed as 'regulated activities' under the new post 2012 definitions
Enhanced check for regulated activity (children and/or adults)	As above plus a check against the Adult or Child Barred List of individuals who must not work with these groups	The position must be eligible for an enhanced level DBS as above and be specifically listed in the Police Act 1997 (Criminal Records) and meet the Post-September 2012 definition of regulated activity	Unsupervised 'regulated activities' with children on a regular basis Working in a 'specified place' (children) Specified activities with adults deemed as vulnerable when in receipt of those activities

Annex B – Definitions of Regulated Activity

1. Summary of the new definition of regulated activity Post September 2012

The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended (in particular, by the Protection of Freedoms Act 2012). Regulated activity still excludes family arrangements, and personal, non-commercial arrangements.

1.1 Regulated activity relating to children

The new definition of regulated activity relating to children comprises only:

- (i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children;
- (ii) Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. Not work by supervised volunteers;

Work under (i) or (ii) is regulated activity only if done regularly. Statutory guidance about supervision of activity which would be regulated activity if unsupervised is also provided.

- (iii) (iii) Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;
- (iv) (iv) Registered child-minding; and foster-carers. A child is a person under the age of 18, or under the age of 16 when in employment.

1.2 Regulated activity relating to adults

The new definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead, the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. This means that the focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities.

There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

There are six categories of people who will fall within the new definition of regulated activity (and so will anyone who provides day to day management or supervision of those people).

- i. Providing healthcare
- ii. Providing personal care
- iii. Providing social work
- iv. Assisting with cash, bills and/or shopping
- v. Assistance with the conduct of a person's own affairs
- vi. Conveying

For more information please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012.

Annex C – University Policy on the Recruitment and Employment of Ex-Offenders

1 Policy Statement

- 1.1 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), Keele University complies fully with the Code of Practice and undertakes to treat all applicants for positions fairly.
- 1.2 Keele University undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.
- 1.3 Keele University can only ask an individual to provide details of convictions and cautions that they 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 as amended, and where appropriate Police Act Regulations as amended), Keele University can only ask an individual about convictions and cautions that are not protected.
- 1.4 An application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the programme or activity concerned. For those positions where a criminal record check is identified as necessary, all application forms and programme information documents will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered a place.
- 1.5 Keele University ensures that all those who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. Keele University also ensures that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

2 Assessing Disclosed Information

- 2.1 Keele University makes every subject of a criminal record check submitted to DBS aware of the existence of the Code of Practice and makes a copy available on request.
- 2.2 Keele University undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before making a Fitness to Practise decision.

Annex D - Duty to Refer to the DBS

The University has a legal duty to make a referral to the Disclosure and Barring Service (DBS) when one of their students has harmed or poses a risk of harm to a child or vulnerable adult. The University must make a referral to the DBS when the following two conditions have both been met:

Condition one: The University withdraws permission for a person to work in regulated activity with children and/or adults either through exclusion or by moving the student to another programme that does not include regulated activity.

This includes situations where the University would or may have excluded the student or moved them to another programme, if the student had not withdrawn.

and Condition two: The University thinks the person has carried out one of the following:

- i. been cautioned or convicted of a relevant (automatic barring) offence as are listed in the DBS guidance referral guide: relevant offences in England and Wales or,
- ii. engaged in relevant conduct in relation to children and/or adults (i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk or harm); or,
- iii. satisfied the harm test in relation to children and / or vulnerable adults. (I.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable still exists).

The legal duty to refer to DBS applies to regulated activity providers even when a referral has been made to another body such as a local authority safeguarding team or professional regulator regardless of whether that body has made a referral to the DBS about the person.

There may be occasions when the University wishes to make a referral in good faith in the interests of safeguarding children or vulnerable adults including acting under the advice of the Police or a safeguarding professional, but the legal duty has not been met. For example, where we have strong concerns but the evidence is not sufficient to justify dismissing or removing the person from working with children or vulnerable adults. The DBS is required by law to consider any and all information sent to it from any source.