

Disclosure and Barring Service (DBS) Policy

<p><u>SUMMARY & AIM</u></p> <p>This document outlines the criminal record and barring checks that Airedale NHS Foundation Trust is required to undertake in the appointment and on-going employment of individuals in eligible positions in the NHS as required by the Criminal Record and Barring Checks Standard which is one of a set of six standards that make up the NHS Employment Check Standards.</p> <p>Airedale NHS Foundation Trust is registered to use the Disclosure and Barring Service (DBS) to assess applicants' suitability for positions of employment within the Trust and the checks are designed to help prevent unsuitable people from entering the NHS workforce and gaining access to vulnerable groups. Carrying out a criminal record check helps employers prevent unsuitable people from entering the workforce and accessing adults, young people and children who are considered vulnerable because they are receiving health or care services.</p>	<p><u>KEY REQUIREMENTS</u></p> <ul style="list-style-type: none"> • This document provides clarity on the legislation which permits employers to obtain criminal record checks • How checks can be obtained • The application and portability of disclosure information provided by the Disclosure and Barring Service (DBS) • Use of the DBS Update Service • Duties to refer information to the DBS • The handling and retention of information
<p><u>TARGET AUDIENCE</u></p> <p>All applications for NHS positions (prospective employees) and staff in on-going NHS employment. This includes permanent staff, staff on fixed-term contracts, volunteers, students, trainees, contractors, highly mobile staff, temporary workers, bank and agency staff</p>	
<p><u>TRAINING REQUIREMENTS</u></p> <p>Initial briefing sessions will be arranged for the launch of the policy ongoing training and awareness will be covered as part of the recruitment and selection training. All managers/staff will continue to be supported and advised by the Recruitment and HR Business Partner team.</p>	
<p><u>EVIDENCE OF IMPLEMENTATION</u></p> <p>All relevant staff will receive a DBS check at appointment.</p> <p>All managers/staff will be made aware of the policy and revisions to the process through e-mail and staff briefings. Prior to recruitment episodes all managers will be reminded of their responsibilities in relation to DBS checks.</p>	

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Safeguarding Adults Policy	Safeguarding Adults Policy December
Safeguarding Children & Young People Policy	Safeguarding Children and Young People Policy

Statement of changes made from version 2

Version	Date	Section & description
3	21.11.2019	Full policy review in line with national legislation

List of stakeholders who have been asked to review this document

(list each person, a department or head of department with responsibilities)

Name	Title	Date
People & Organisational Development		10.12.2019
APG Working Group		10.12.2019

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1. INTRODUCTION

The Foundation Trust complies fully with the [DBS Code of Practice](#) and undertakes to treat all applicants for positions fairly when the Disclosure service has been used to assess suitability. In line with the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 we will not discriminate against any individual on the basis of a conviction or other information revealed in a disclosure.

The Foundation Trust will also comply fully with our obligations under the Data Protection Act 1998, the Code of Practice for registered persons and other recipients of disclosure information (April 2009) and section 124 of the Police Act 1997 pertaining to the safe handling, use, storage, retention and disposal of certificate information.

All NHS providers are required to be registered with the Care Quality Commission (CQC) and, as part of this registration are required to comply with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and the Care Quality Commission (Registration) Regulations 2009. The CQC's Essential Standards of Quality and Safety outline 16 core standards which must be met, including having robust recruitment practices in place (Outcome 12 Requirements relating to workers, specifically refers). NHS providers are required to provide evidence of compliance with the NHS Employment Check Standards as part of the CQC's annual regulatory framework.

2. PURPOSE

The Disclosure and Barring Service (DBS) has been established under the Protection of Freedoms Act 2012 and merges functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

This document outlines Airedale NHS Foundation Trust's policy on the use of Criminal Record Checks and recruitment of staff or volunteers with criminal convictions or those who are barred from working with vulnerable groups.

It is the responsibility of this Trust to ensure that staff employed by us are suitable and do not pose a threat to our service users. For this reason we access the services of the Disclosure and Barring Service (DBS).

In the UK, criminal record checks should be obtained through the Disclosure and Barring Service (England and Wales). This document specifically focuses on the criminal record checking requirements which apply to NHS positions in England.

Further information on how to obtain a criminal record check can be found on the [.gov website](#).

This policy refers to vulnerable groups including children and adults. A child is anybody under the age of 18. An adult is considered vulnerable during the time which they require services including; health care; personal care; social care; assistance with cash, bills and shopping; assistance with the conduct of their affairs and conveying (transport in relation to health, personal or social care provision).

3. SCOPE

This policy applies to all staff in on-going NHS employment with this Trust. This includes permanent staff, staff on fixed-term contracts, volunteers, students, trainees, contractors, highly mobile staff, temporary workers, bank and agency staff.

This policy will be made available to applicants at the outset of the recruitment process where a DBS request for disclosure of their criminal record will be required as part of the application/tendering process.

4. POLICY

4.1 THE DBS PROCESS

Airedale NHS Foundation Trust adheres to the national [Criminal Record Check NHS Mandatory Employment Check standard](#). Not all individuals being appointed into positions within the NHS are eligible for criminal record or barring checks. The need for a check and the level of check is determined by the activities and the type of access to patients they will have as part of a particular role. The eligibility and application process is governed by the Trust's Recruitment Team within the HR Workforce Resource Service as described under the Criminal Record Check NHS Employment Check Standard. The Trust's recruitment team refer to the [DBS Eligibility Tool](#).

Carrying out a criminal record check helps employers prevent unsuitable people from entering the workforce and accessing adults, young people and children who are considered vulnerable because they are receiving health or care services. Although important a DBS check is only one element of the recruitment process therefore Recruiting Manager's must ensure that any recruitment decision is made on the balance of what a criminal record check provides against all other evidence presented during the application, interview and employment check stages.

The disclosure certificates will be sent directly to the individual the check relates to. The Trust will receive an update directly from e-DBS confirming the DBS certificate status. If it is a positive disclosure the Trust will request a copy of the certificate from the individual as part of the pre-employment check process. Anyone that is subscribed to the update service will also be required to evidence their disclosure. The Trust continues to issue a small number of paper DBS applications that are not captured through a usual recruitment process (e.g. volunteers and doctors in training), individuals are therefore required to present their DBS certificate as part of the pre-employment check process.

All staff have a duty under the NHS Terms and Conditions of Service to notify the Trust if they subsequently become subject to any convictions, police cautions, conditional cautions or other similar offences, at any point during their term of appointment. This includes volunteers and temporary/contracted workers.

The Trust will only ask for information that is strictly necessary to gain assurance of an individual's suitability for the role they are recruiting to. This is to ensure that we comply with the Data Protection Act 2018 and the General Data Protection Regulation 2018 (GDPR). This is made clear within the Trust's advertising documentation to ensure applicants understand what information may be sought about them.

All new starters that require a DBS check for the role they are appointed to will not be permitted to arrange a start date or start work until the DBS check is received as part of the pre-employment check process.

EXISTING STAFF CHANGING ROLES WITHIN THE TRUST

If an existing member of staff has had a DBS check for their current position and they apply for a new role within the Trust which has the same or similar responsibilities, then a new DBS check will not be required.

A new check will always be required if the member of staff is moving to a new role which requires a different level of check or clearance against a barred list. The Trust's recruitment team will advise on the level of check required.

THE DBS UPDATE SERVICE

The DBS update service is available for prospective and current employees to subscribe to when they apply for a DBS check. Subscription to the service enables the portability of a previously issued disclosure certificate where individuals are changing roles and the new position does not alter the level of check required. The service allows for a subscribed person's criminal record information to be regularly updated. It therefore enables employers to manage risk more effectively where a worker's criminal record status subsequently changes while employed or volunteering.

Airedale NHS Foundation Trust encourages all prospective and current employees who require a DBS check for the type of role they work in to subscribe to the Update Service. The requirement may be mandated in the future as part of the national streamlining agenda.

PORTABILITY

The DBS define 'portability' as meaning the re-use of a disclosure obtained for a position in one organisation and later used for another position in another organisation.

A new DBS disclosure is always needed for a new employee unless otherwise specified by this policy. It is not appropriate to accept a DBS disclosure completed for another organisation i.e. NHS to NHS.

Information included as part of a disclosure certificate has no term of validity and it only provides information in relation to what is known about the individual up to the point of its issue. The Trust will therefore recommend the benefits of subscribing to the Update Service to all prospective employees as part of the recruitment information to applicants that is published on NHS Jobs.

The Trust may accept a previously issued DBS check where individuals have not subscribed to the Update Service. This will be supported by a robust recruitment process.

The Recruitment team will make an informed judgement about whether to accept an existing DBS check rather than requiring a new one.

Where accepting pre-disclosed information, the Recruitment team must be satisfied that they can evidence that a check has been done. On receipt of pre-disclosed information the recruitment team must be satisfied that information can be authenticated and is genuine.

Where a new position requires a different level of clearance i.e. they are moving into regulated activity for the first time, or where they were previously working with a different vulnerable group, then a new DBS check must always be undertaken.

The Trust will only accept original copies of the DBS certificate. Photocopies will not be accepted.

A portability agreement is currently agreed across WYAAT which applies to staff moving between Trust's for the purpose of an honorary contract. For this purpose only all pre-employment checks will be portable subject to satisfactory evidence which must be provided by the host employer.

TEMPORARY WORKERS AND CONTRACTORS

Not all temporary workers and contractors are eligible for DBS checks. The Trust is responsible for ensuring that the appropriate level of check is in place for any NHS roles in a temporary or contractual agreement that we may have with a variety of external companies including agencies and external contractors. The Temporary Staffing team will ensure this is in place for all temporary workers employed by an agency that is booked through the Workforce Resourcing Service. Service Managers are responsible for ensuring this is in place for all other agency requirements that sit outside of the temporary staffing service. Supplies and Business Planning are responsible for ensuring that all appropriate checks are in place for contractors.

DOCTORS IN TRAINING

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

SELF-DISCLOSURE

Where the position is listed as exempt under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, the Trust makes it clear to applicants that we are entitled to seek information about all spent and unspent convictions that are not subject to the filtering rules introduced on the 29 May 2013 and that any information disclosed will be verified by obtaining a standard or enhanced check through the DBS.

Applicants are asked to self declare on the application form and on the Model Declaration Form issued by the Recruitment team as part of the pre-employment check process. A self-declaration relies on the honesty of the individual to provide complete and accurate information.

The Recruitment Team obtains self-disclosures using the following forms:

[Model DBS Declaration Forms](#)

CHECKS THAT REVEAL A POSITIVE DISCLOSURE

Having a criminal record does not automatically mean that an individual cannot work in this Trust or the NHS. Recruiting Managers with the support of HR Business Partners will need to make a fair, non-discriminatory assessment based on the individual's skills, experience and suitability for the post. The decision rests with the Trust as to whether to allow a person whose criminal record check reveals a conviction, caution or other information to be appointed into a position. The information obtained should be carefully considered and judged on a case-by-case basis. It is important to ensure that we do not unfairly rule out individuals who are the best candidate for the role, meet all other necessary check criteria and no risks have been identified against the duties they would be required to perform.

If the DBS disclosure certificate simply reaffirms what the applicant has already disclosed to the Trust and that information has already been considered then we may issue an unconditional offer of employment.

Where the disclosure indicates that the DBS has made a barring decision against one or both of the barred lists, it is illegal for an employer to allow that person to engage in

regulated activity from which they are barred. It is also a criminal offence for a barred person to apply for work or to engage in a regulated activity.

If a positive disclosure is received the Recruitment team will notify the Recruiting Manager and a HR Business Partner. The recruitment decision rests with the Recruiting Manager under the advice of the HR Business Partner. The recruitment team will ensure they are provided with all the information they require to make a decision such as the declaration form, information on the application form and the disclosure certificate contents to enable a fair and balanced decision to be made. As part of the process the Trust will take into consideration whether or not the content was disclosed at an appropriate point in the process. Please access the [NHS Employers Positive Disclosure Discussion Guide](#) for further support.

DUTIES TO REFER TO THE DBS

Under the Safeguarding Vulnerable Groups Act, the Trust has a legal duty to refer information to the Disclosure and Barring Service if an employee or volunteer has harmed, or poses a risk of harm to vulnerable groups and where they have dismissed them, or removed them from working in a regulated activity with children or adults. This duty equally applies where an individual has resigned before a formal decision to dismiss or remove them from regulated activity has been made. This applies where the worker has been supplied by a third party staffing provider for example and agency or contractor. The duty to refer also applies even when a report has already been made to another body, such as a professional regulatory or licensing body. Referrals should be made by the relevant senior manager supported by a HR Business Partner.

Further detailed information is available on the [NHS Employers website](#)

ACTING AS AN UMBRELLA BODY

The Trust acts as an umbrella body for employers who are not registered with the access to the Disclosure & Barring Service's services i.e. will countersign applications on behalf of other bodies.

The Trust must satisfy itself that other bodies on whose behalf the applications will be countersigned are likely to ask exempted questions under the Exceptions order to the Rehabilitation of Offenders Act 1974 and take reasonable steps to ensure that the organisation observes the Code of Practice including the handling, storage, retention and disposal of the disclosure information.

A copy of this policy will be sent to all organisations using the DBS service under the umbrella scheme when a request is made. Each organisation using this service will be required to sign a DBS Umbrella Service Agreement.

5. TRAINING & SUPPORT

Initial briefing sessions will be arranged for the launch of the policy ongoing training and awareness will be covered as part of the recruitment and selection training. All managers/staff will continue to be supported and advised by the Recruitment team and HR Business Partner team as appropriate.

6. PROCESS FOR MONITORING COMPLIANCE

To ensure the Trust meets the requirements of external performance measures e.g. Care Quality Commission, DBS checks will be monitored using the Trust's staff data base, ESR.

Standard to be	Process	Frequency	Person	Assurance Group
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monitored	for monitoring		responsible	
All new staff that are eligible for a DBS check receive one at recruitment stage	TRAC Report	Monthly	HR Services Manager	POD Governance Group
DBS Compliance Audit	DBS Process	Annual	HR Services Manager	POD Governance Group

7. ABBREVIATIONS & TERMS USED

Term	Meaning
CQC	Care Quality Commission
DBS	Disclosure & Barring Service
ESR	Electronic Staff Record
GMC	General Medical Council
NMC	Nursing and Midwifery Council
PNC	Police National Computer
POD	People and Organisational Development

8. DUTIES (ROLES & RESPONSIBILITIES)

Role	Duty
<i>Director of People and Organisational Development</i>	Has the delegated responsibility for providing assurance to the Board of Directors for them to discharge their duties in relation to this Policy.
<i>HR Responsibilities</i>	<p>The HR team will provide advice and guidance to Managers on the implementation of the policy.</p> <p>The Recruitment team have responsibility for managing the DBS application process and treating disclosures according to DBS regulations.</p> <p>HR Business Partners must notify the Trust's safeguarding teams if they become aware of a member of staff that has been prosecuted for offence.</p> <p>The Recruitment team and HR Business Partner Team will ensure secure handling, storage, retention and disposal of disclosure information in line with the Police Act 1997 and the DBS Code of Practice.</p>
<i>Manager's Responsibilities</i>	<p>If a manager becomes aware that a member of staff has committed an offence they are responsible for notifying their HR Business Partner.</p> <p>Managers must ensure they complete a risk assessment statement for all eligible posts requiring a standard or enhanced check or enhanced with adults barred list check prior to that individual commencing work if the disclosure has not been received prior to the start date. Once the risk assessment is completed and the individual has commenced work, safeguards must be in place to manage that individual i.e. full supervision where they are given access to patients and restricted duties, until the outcome of a DBS check has been received. Managers must ensure that a DBS check has been processed for every eligible member of staff prior to them commencing in post.</p> <p>Managers must ensure that all applicants/new employees that are required to work</p>

	<p>in regulated activity with Children are not permitted by the Trust to commence employment until the outcome of a DBS check has been received.</p> <p>Consult HR Business Partners if they wish to employ an applicant with a criminal record.</p> <p>Ensure that staff are aware that should they gain a conviction or caution after commencing employment, they must inform their manager immediately.</p>
<i>Applicants Responsibilities</i>	<p>Individuals should complete job application form, declaration form and DBS application form accurately and honestly. Comply with the ID check and DBS check process and provide genuine and valid documentation.</p> <p>Individuals will be required to produce their original DBS disclosure upon receipt to the Recruitment team in an efficient manner prior to an unconditional job offer where requested.</p> <p>Any individual that unreasonably refuses to apply for a disclosure will have his or her conditional offer withdrawn.</p>
<i>Employees Responsibilities</i>	<p>Employees, Volunteers and Temporary Workers are to complete DBS application forms when requested as a condition of their employment.</p> <p>Employees have a contractual obligation to disclose any criminal convictions, cautions, reprimands and warnings that are subsequently acquired during their employment at the earliest opportunity. The disclosure should be made in confidence to their Line Manager who will be supported by HR Business Partner to consider the effect of the offence against the position held. Existing staff may be subject to Disciplinary action and possible dismissal if they knowingly fail to disclose relevant information in relation to their criminal record or barred list status.</p> <p>The Trust retains the right to request that a further disclosure is sought at any time regardless of the length of time elapsed since the last check.</p>
<i>Assurance Group</i>	<i>POD Governance</i>
<i>Workforce Development Manager</i>	<i>Responsible for coordinating the Trust training needs analysis and must be consulted on all Procedural Documents where training needs are identified.</i>
<i>Trust staff</i>	<i>Employees and other workers are responsible for of all applicable procedural documents as stated within individual job descriptions</i>

9. REFERENCES

NHS Employment Check Standards:
 Criminal Record and Barring Checks
 The Protection of Freedoms Act 2012
 The Police Act 1997
 Rehabilitation of Offenders Act 1974
 The Safeguarding Vulnerable Groups Act 2006

10. APPENDICES

10.1 Appendix A OFFENDERS

POLICY STATEMENT ON THE RECRUITMENT OF EX-

10. APPENDICES

APPENDIX A - POLICY STATEMENT ON THE RECRUITMENT OF EX-OFFENDERS

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), Airedale NHS Foundation Trust complies fully with the [code of practice](#) and undertakes to treat all applicants for positions fairly.
2. Airedale NHS Foundation Trust undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.
3. Airedale NHS Foundation Trust can only ask an individual to provide details of convictions and cautions that Airedale NHS Foundation Trust 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).
4. Airedale NHS Foundation Trust can only ask an individual about convictions and cautions that are not protected.
5. Airedale NHS Foundation Trust is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
6. Airedale NHS Foundation Trust has a written policy on the recruitment of ex-offenders, which is made available to all DBS applicants at the start of the recruitment process.
7. Airedale NHS Foundation Trust actively promotes equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records.
8. Airedale NHS Foundation Trust select all candidates for interview based on their skills, qualifications and experience.
9. 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 position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position.
10. Airedale NHS Foundation Trust ensures that all those in Airedale NHS Foundation Trust who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.
11. Airedale NHS Foundation Trust 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.
12. At interview, or in a separate discussion, Airedale NHS Foundation Trust 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.

13. Airedale NHS Foundation Trust 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.
14. Airedale NHS Foundation Trust undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.