

Reference Number: FOI2021/381
From: Press/Media
Date: 19 November 2021
Subject: Allegations of sexual assault committed by staff or contractors, Security providers and DBS checks

Q1 How many allegations of sexual assault committed by staff or contractors on Trust estates have been reported since 2016? Please provide these figures year-by-year, including the most recently available figure for 2021 so far.

A1 [Zero](#)

Q2 Is your Trust's Security provided by the NHS or by a private contractor?

A2 [The Trust's Security is provided in house.](#)

Q3 If by a private contractor, please state their name.

A3 [Not applicable, as per A2 above.](#)

Q4 What is your current policy on DBS checks for staff? Please specify which kinds of staff, if any, are DBS checked.

A4 [There is a request for an enhanced DBS Check for any staff engaging in paid work or as a volunteer in a regulated activity.](#)

[Please see attached document: Disclosure and Barring Checks v2.0 - Extended](#)

Disclosure and Barring Checks

Policy

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Scope: Trust Wide	Classification: HR	
Replaces: Disclosure and Barring Checks v1		
To be read in conjunction with the following documents: Recruitment and Selection Policy Disciplinary Policy		
Document for public display? Yes		
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Has Endorsement been completed?	No

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Policy Statement

Liverpool Heart & Chest Hospital NHS Foundation Trust welcomes job applications from people with the right mix of talent, skills, knowledge, attributes, qualifications, experience and potential. Candidates will be appointed on merit only and no account shall be taken of age, disability, race, nationality, ethnic origin, gender, religion, sexual orientation, domestic circumstances, social and employment status, gender reassignment, political affiliation or trade union membership.

This policy outlines the process by which the Trust conducts mandatory safeguarding checks, when it is applicable to conduct such checks and how the information is treated.

Jobs which are either exempt from the rehabilitation of Offenders Act and/or fall within the category of a regulated activity demand the Trust seeks information about the following:

- Criminal records
- Proceedings which may lead to a criminal conviction
- Bind-overs, reprimands or cautions

This information will be sought from the Disclosure and Barring Service (DBS).

1. Roles and Responsibilities

Director of Workforce Development

The Director of Workforce Development is responsible for the development and implementation of this policy.

People Committee

The People Committee will monitor performance against this policy.

HR and Education Group

This group will be responsible for ratifying and reviewing the policy through delegated responsibility from the People Committee. The group will ensure appropriate management and staff side consultation when reviewing the policy and will monitor its applications and outcomes.

Managers

Managers are responsible for applying the principles of the policy fairly, equitably and sensitively and ensuring all their team members are aware of the policy. Managers must

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contact the Human Resources Department if they require advice on the application of this policy.

Employees

All Liverpool Heart & Chest employees are responsible for co-operating with the development and implementation of corporate policies as part of their normal duties and responsibilities.

HR Department

Human Resources are responsible for:-

- The overall service provision of Disclosure and Barring Checks for the Trust.
- Providing advice, guidance and support to Departmental and Recruiting Managers.
- Assisting managers in applying a consistent approach to the application of this policy.
- Providing advice and guidance to managers where an offer of employment maybe withdrawn.
- Providing advice and guidance before any termination of employment is considered.
- Ensuring the administration of safeguarding checks is carried out appropriately and in a timely manner.
- Ensuring that there is a process in place for the recovery of DBS costs through payroll
- Processing invoices for DBS charges

2. Document Control Standards

The aim of this policy is to ensure that the Trust is compliant in accordance with current legislation for employment checks for staff in accordance with the Disclosure and Barring Service.

This policy applies to directly employed staff including bank staff and volunteers in roles where a DBS check is appropriate. The policy excludes agency staff, locums and independent contractors, arrangements for these groups are detailed in Section 3.17

3. Procedure

New employee's/bank staff applying for a position that requires the Trust to raise a DBS Check will be required to pay for the cost of the relevant level of Disclosure.

Existing staff changing positions within the Trust that require a DBS Check will also be required to pay for the cost of the relevant Disclosure.

The Trust will pay the initial cost and deduct from salary over 3 instalments.

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3.1 Levels of Disclosures

The Recruiting Manager is responsible for identifying if the position requires a DBS check (in line with the DBS Policy Appendix A and the DBS Decision Tree Appendix D) and should a check be required, to determine which level of check is necessary for the position.

There are three levels of Disclosure: Standard, Enhanced (excluding the barred list check) and Enhanced (including the barred list check for roles that carry out regulated activity).

3.2 Standard Disclosure

Is available for any position or licensing application listed in the Rehabilitation of Offenders Act 1974, (Exceptions) Order 1975. Standard DBS checks show details of both spent (old) and unspent (current) convictions including cautions, reprimands and warnings held on the Police National Computer.

3.3 Enhanced Disclosure (excluding the barred list check)

An enhanced disclosure contains the same information as a standard disclosure but also includes any non-conviction information held by local police, where they consider it to be relevant to the post and where this is thought necessary in the interests of preventing or detecting crime.

An Enhanced Disclosure is available to anyone who works in what is known as a “prescribed position”. These are the positions which are in the Rehabilitation of Offenders Act and have also been named in Police Act Regulations. Regulated Activity with Children or Adults and certain Judicial Appointments are examples of prescribed positions.

3.4 Enhanced Disclosure (including the barred list check)

If the person is to carry out regulated activity (see below) the enhanced disclosure will include any information held by the Disclosure and Barring Service from December 2012.

3.5 Regulated Activity

Regulated activity’ is a term which is used both in the regulation of care services under the Health and Social Care Act, and to activities a person who is listed on the DBS barred lists is prohibited from doing under the Safeguarding Vulnerable Groups Act. The terms mean very different things in the two different contexts. By way of clarity, this guidance specifically focuses only on the latter.

Where an individual is engaging either in paid work or as a volunteer in a regulated activity, employers must request an enhanced DBS check, with a check against the appropriate barred list. Where individuals are undertaking activities with both adults and children it would be appropriate to check against both barred lists.

It is an offence for any organisation to ‘knowingly’ appoint or continue to allow an individual who is barred from working with children and/or adults to engage in a regulated activity with

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that group. Barring checks are accessed through the process of applying for an enhanced criminal record disclosure.

There are six categories within the new definition of regulated activity, these include where the individual will be providing any one of these activities as part of their role:

- healthcare
- personal care
- social work
- assistance with cash, bills or shopping
- assistance with the conduct of their own affairs
- conveying services

Regulated activity still excludes family arrangements; and personal, non-commercial arrangements. There is no frequency test for providing these activities.

In addition to the above activities, regulated activity also includes where an individual is providing 'unsupervised' teaching, training, instruction, caring for or supervision of children where these activities are undertaken 'frequently'. Frequently is determined as once a month or more, three or more days in any 30 day period or overnight between the hours of 2am and 6am. Activities undertaken in a supervised capacity i.e. reasonable day to day supervision under the direction of a healthcare worker, is not regulated activity, therefore employers may wish to consider whether the roles and responsibilities meet the criteria for an enhanced without barred list check or a standard level check.

3.6 Barred Lists

There are two barred lists administered by the DBS (the Children's List and the Adults List check). Checks against these lists apply to any regulated activity (as defined above) that involves the individual working or volunteering with children or adults.

3.7 Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act provides for anyone who has been convicted of a criminal offence, and has been sentenced to less than two-and-a-half years in prison, to be regarded as rehabilitated after a specified period of time where no further convictions have been committed.

A rehabilitation period may vary from six months to 10 years from the date of conviction. During this period the conviction is regarded as 'unspent' (current) and an individual is required to disclose this information to any prospective employer, or their current employer if the offence takes place during their term of employment.

Once this period of rehabilitation has passed, the conviction is regarded as 'spent' (old). In normal circumstances the convicted person does not have to reveal any 'spent' convictions to a prospective employer when applying for a job.

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However some professions within the Health and Social Care sector are exempt from this approach by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. In the case of such excepted professions, employers are entitled to know about all previous criminal record information whether spent or unspent (including reprimands, cautions, final warnings) and to take this information into account when assessing an individual's suitability for the post.

3.8 Model Declaration Forms

As part of the Recruitment & Selection process where the position meets the criteria for a DBS check applicants will need to provide a self-declaration providing details of any criminal records as part of the application process. This should be obtained by issue of Declaration Form A.

Where the position does not meet the criteria for a DBS Check employers are only permitted, by law, to ask about unspent convictions. This should be obtained by issue of Declaration Form B.

Forms A and B are issued by the Resourcing Team.

3.9 Recruitment of Ex-Offenders

Having a criminal record will not necessarily prevent an individual from working for the NHS. Suitability for employment will depend on the nature of the position and the circumstances and background to any offences.

Where a candidate has indicated at application they have a criminal record the process detailed in section 3.11 Positive DBS Check must be applied.

Further information on the recruitment of ex-offenders can be found at Appendix C.

3.10 Existing staff changing positions

A new DBS check is not always required where an existing member of staff moves jobs within the same organisation and their roles and responsibilities and level of contact with that vulnerable group has not significantly changed.

The trigger for a new check is where:

- The employee has never had a DBS check before and is moving to a position that now requires them to have a check (the level of check is dependent on the roles and responsibilities of the job).
- The employee has previously had a standard or enhanced check and is moving into a regulated activity, which now requires them to have an enhanced check or enhanced with barring list.
- The new position requires them to work with a different vulnerable group and they are required to have a check against one or both barred lists.
- There has been a break of service for more than three months between leaving the old position and taking up the new position.

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The Trust reserves the right to ask existing employees in relevant positions for a disclosure check or to undertake a fresh DBS check if their actions or activities give cause for concern. The grounds for this could be allegations of inappropriate behaviour made by a child or vulnerable adult, or a colleague, parent, carer or member of the public. In such circumstances a full investigation will be carried out in accordance with the relevant Trust policies.

If during the course of employment an employee is arrested, charged, cautioned or convicted of any criminal offence, they must notify the circumstances to their line manager as soon as practically possible and before the start of the next shift. This includes any pending court appearance, bind-overs, absolute and conditional discharges. A failure to disclose such information to the Trust may result in disciplinary action being taken up to and including dismissal. The Line Manager must discuss such disclosure of information with the HR Business Partner.

Employees are also required to declare if they are the subject of a Police investigation, in the UK or abroad.

3.11 Positive DBS Check

If the Trust is notified that the DBS contains information the Resourcing Team will contact the Recruiting Manager and HR Business Partner/Head of Resourcing.

The Recruiting Manager will then invite the successful candidate/existing employee to a formal meeting to discuss and verify the content of the DBS and complete the DBS Risk Assessment Form (appendix B). For existing employees, HR will also be present and the individual will be afforded the right to representation.

The Recruiting Manager will need to risk assess the nature of the offence(s) to the job role and determine whether or not, the successful applicant/existing employee imposes a risk to patient safety.

When considering disclosure information the Recruiting Manager must assess:

- The nature of the offence(s)
- The date(s) at which it was committed
- The successful candidates statement in regard to each offence(s)
- Was the offence(s) disclosed at application stage?
- Its relevance to the position being applied for?
- Whether the applicant has a pattern of offending behaviour
- Whether the applicant's circumstances have changed since the offending behaviour

If the Recruiting Manager deems 'no risk' then the post may be offered to the successful candidate/ existing employee and the recruitment process will continue as normal.

If the Recruiting Manager deems there is a 'risk' between the information disclosed and the proposed role, the Recruiting Manager will need to decide whether to withdraw the

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conditional offer of employment. Human Resources will also consider any implications the positive DBS Check may have on an existing employee's current post.

The decision reached will be clearly documented and advised to the successful candidate/existing employee by the Recruiting Manager. If the appointment cannot be progressed, the candidate will be notified that the offer of employment has been withdrawn as a result of failing to satisfy NHS Pre-employment Checks.

If the successful candidate is an existing employee, HR and the relevant Head of Service will need to consider the Positive Disclosure and whether or not, this has a detrimental impact on the current position within the Trust.

If the information contained in the Positive Disclosure is a potential risk to the existing employee's current post the Trust's Disciplinary Procedure will be followed which may result in disciplinary action being taken up to and including dismissal.

Where information is inconsistent the applicant will be given the opportunity to provide an explanation of the inconsistency to enable an informed decision regarding employment. In some cases it may not be possible for the Trust to employ the applicant until the inconsistency has been resolved with the Disclosure and Barring Services (see 3.21 Disclosure Disputes).

3.12 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.

Employers must seek written assurances from the host/previous employer that appropriate clearances have been obtained within the last three years. Trusts may undertake DBS checks more frequently, but any additional checks must be proportionate to risk. For example, where assurances cannot be obtained or where you are made aware of criminal activity.

Where it is highly likely that the individual will be working in regulated activity with both children and adults at an early stage in their training programme, it is strongly recommended that the initial DBS check includes checks that are made against both barred lists.

3.13 Student Placements/trainees

DBS checks will apply to students who, as part of their professional qualification, are required to carry out a clinical placement. The requirement to check and the level of check is dependent on whether their placement involves them working with children and/or vulnerable adults, the roles and responsibilities of that placement and the frequency and type of contact they have with vulnerable groups.

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DBS checks may be requested by a higher educational institution (HEI) as part of its admissions procedure where a clinical training placement has been arranged and the applicant has been provisionally accepted. Many students/trainees will be required to move frequently to new placements during their training, so it is recommended that they have a DBS check at the start of their training course, rather than each time they move to a new placement. The employing organisation should seek written assurance that the HEI has carried out an appropriate check at the correct level. Where this assurance cannot be obtained, the employer may request a new DBS check.

Where there is a delay in obtaining a disclosure, students may take up their placement providing they are fully supervised and patients are not exposed to unacceptable risks. A DBS Risk Assessment Form must be completed see appendix B.

3.14 Work experience/placements

A minimum age limit for criminal record checks has been set in the Protection of Freedoms Act 2012. This means that employers must not apply for a criminal record check for individuals under the age of 16.

Students who are on work experience placements and are engaging in an activity with vulnerable groups will also not be required to have a DBS check on the basis that the roles they are undertaking will involve them observing or carrying out minor duties under the full supervision of someone who is in regulated activity

3.15 Volunteers

Not all volunteers will be eligible for a DBS check. As with any other member of staff or worker, decisions to undertake a DBS check and the level of check required must be determined by the roles, responsibilities and the level of contact they will have with vulnerable groups.

If a volunteer requires a DBS check because of their roles and responsibilities while volunteering, the Trust should consider whether the position satisfies certain criteria to qualify for a free of charge disclosure.

The definition of a 'volunteer' is outlined within the Police Act 1997 (Criminal Records) Regulations 2002 as: *"A person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative."* For the purpose of a DBS check, it is deemed that 'unpaid' means not in receipt of any payment

3.16 Honorary Contracts

Staff who hold a substantive post within an organisation adhering to the NHS Employment Checks required to work for the Trust do not necessarily need a fresh DBS check. The Trust must seek written assurances from the individual's host/substantive employer that appropriate employment checks have been carried out and any DBS checks are at the

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appropriate level and type. The Trust may request a fresh DBS check if assurances by the host organisation cannot be obtained.

The Trust may refuse commencement of a placement if assurances from the host organisation or a new DBS check cannot be fully satisfied.

3.17 Arrangements for Checking Staff Not Employed by the Trust

Agency staff, locums, independent contractors will be required to provide evidence of a recent (within 1 year) DBS check. When employed through an agency, it is the agencies responsibility to supply evidence of a DBS check, the information provided should be the unique disclosure clearance number and the date of issue.

3.18 Overseas Police Checks

Criminal records are held in the country or jurisdiction where the offence or alleged offence occurred. From 6 April 2017, all Tier 2 (General) visa applicants who want to work in specified health, education or social care sectors must provide a criminal record certificate. This must be from any country (except the UK) where they have lived for 12 months or more (whether continuously or in total) in the last 10 years, while aged 18 or over.

If you don't provide a certificate or a satisfactory explanation about why you have not provided one, your visa application will be refused.

Where the position meets the criteria for a DBS check, even if the applicant claims they have never lived in the UK before, a DBS check should still be obtained after 6 months of them being in the country, in addition to the individual's overseas criminal records to verify that they have no criminal history in the UK

Currently, the DBS cannot access criminal records held overseas. However, in a small number of cases, overseas criminal records are also held on the Police National Computer (PNC) and these will be revealed as part of a DBS check.

3.19 Other Relevant Information Disclosed

Additional information is released under section 115(8) of the Police Act 1997. It is highly confidential information that the police force has authorised to be released to the Trust in the interests of the prevention of detection of crime. There is an indicator with the disclosure that additional information is to be sent but it is released separately from the disclosure and cannot be shared with the applicant. The Trust must wait for the letter before reaching a recruitment decision. Releasing such information is a criminal offence under Part V of the Police Act 1997 and a breach of the DBS Code of Practice. An applicant maybe refused an offer of employment on the basis of additional information; however the Trust cannot declare that additional information has been received. This is irrespective of the contents of the letter or the views of the Trust. In cases where the Trust discovers undeclared information at a later date it is considered misconduct and may result in dismissal.

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3.20 Process

A successful candidate will be issued a conditional offer letter via TRAC (the on line recruitment system) which will include a link to complete the DBS Check online.

The candidate must complete the on line form and register for a DBS Check appointment via the TRAC System. Once the DBS Check has been conducted and relevant documents sighted and confirmed via TRAC by the Recruitment Team the DBS Check will be processed.

In exceptional circumstances, the Recruiting Manager may request an individual to start in post prior to receipt of a satisfactory DBS check. The Recruiting Manager will need to complete a Waiver Form, available from the Transactional HR & Recruitment Team, which will require approval from a Senior Manager, HR Business Partner for Resourcing and the new employee. This form **does not** guarantee that an individual will be able to start in post prior to a DBS check.

If all pre-employment checks are satisfactory a final offer letter/ contract of employment will be issued to the candidate.

If the Trust is notified that the DBS contains information for the successful candidate the process detailed in section --- Positive DBS checks will be applied.

3.21 Update Service

DBS checks have been made more portable with the introduction of Update Service, is available to individuals for an annual direct debit fee of £13, it is free for volunteers. The Update Service is encouraged for new starters to those roles that require an Enhanced DBS check to be done, this allows the Trust (or any other potential employer) to go online and check whether there is any new, known criminality information on any individual who applied for their DBS certificate on or after 17 June 2014 and subscribe with the Update Service. Employees will be required to give consent for the employer to check the DBS Update Service. ESR has an interface with the DBS Update Service, this primarily allows updates to be applied within ESR, these updates will be done automatically every 60 days and triggers updates in ESR where a change is reported by the DBS Update Service.

The online check will not provide detailed information but will indicate where new information exists and therefore prompts a trigger for a new check. In this case, a new DBS application must be made and the employee will be charged the DBS fee.

Existing employees requiring a renewal DBS check are encouraged to join the DBS Update Service when a new DBS Check is carried out.

3.21 Disclosure Disputes

In the event of a disclosure dispute, the Trust will be required to hold the post of the appointee until the matter has been resolved. Where a disclosure has been disputed, the HR Department will store this information for a six month period from the date the dispute was resolved.

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3.22 Suspected Fraud or Corruption

If fraudulent or corrupt activity is suspected in relation to any area of this policy, the Trust's Local Counter Fraud Specialist (LCFS) should be informed, telephone 0151 285 4500.

Alternatively, any suspicions may be reported via the confidential NHS Fraud & Corruption Reporting Line 0800 028 40 60 (Freephone Mon – Fri 8am-6pm), or via the online reporting form www.reportnhsfraud.nhs.uk. All information provided via any of these reporting lines will be treated in strictest confidence, and can be provided completely anonymously. The Trust fully endorses the provisions of the Public Interest Disclosure Act 1998, and disclosure by anyone who has reasonable suspicions of fraud or corruption is encouraged. The Trust's Raising Concerns Policy will be rigorously enforced to ensure that no employee should suffer as a result of reporting reasonably held suspicions.

4. Policy Implementation Plan

The Director of Workforce Development will be responsible for implementation of this policy.

This Policy has been consulted widely throughout the Trust with Managers and staff side partners.

The policy will be implemented on a Trust wide basis. The policy will be made available on the intranet and disseminated to all wards / departments.

Managers have a responsibility to ensure staff have read and understood this policy and procedure. New staff will be informed of the policy as part of their Trust induction.

Staff and management awareness will be provided via divisional and corporate structures. Staff awareness will be raised via the Trust Newsletter, Team Brief and Corporate Communications.

5. Monitoring of Compliance

The effective implementation of this policy will be monitored by the HR and Education Group with delegated responsibility from the People Committee.

6. References

OTHER RELEVANT PROCEDURAL DOCUMENTS

Linked Policies and Procedures:

- Recruitment and Selection Policy and Toolkit
- Temporary Staffing Policy

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- Disciplinary Policy
- Maintaining High Professional Standards
- Fit and Proper Persons Test

FURTHER LINKS

For more general information please go to <http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/>

Guidance on employing ex-offenders can be found at <http://www.homeoffice.gov.uk/agencies-public-bodies/dbs/dbs-checks-organisations1/employ-criminal-record/>

7. APPENDIX A

Categories for DBS Checks

To be checked	Level of Disclosure
All Doctors	E
All Nurses	E
All Allied Health Professionals	E
Pharmacists	E
Health Care Scientists	E
Nursing Assistants HCAs,	E
Support Workers	E
Other Technical	
• Theatre Practitioners	E
• Theatre Technicians	E
Porters/Security	E
Hygiene Assistants (Domestics)	E
Ward Clerks	S
Qualified Accountants	S
Receptionists*	S
Volunteers*	S
Honorary Appointments*	S
Bank Staff*	S/E

E – Enhanced check

S – Standard check

***The levels of disclosure are recommended and managers should review in line with the DBS Decision Tree Appendix D which can also be accessed in the NHS Employers Criminal Record and Barring Checks Document July 2013.**

Appendix B

DBS Check Risk Assessment Form

PART 1 – FOR THE APPLICANT TO COMPLETE

The Trusts has been informed that there is information contained in your DBS Check and the Recruiting Manager will need to ascertain if the information is relevant to your employment. This will not necessarily bar you from working with Liverpool Heart and Chest Hospital it will depend on the nature of the position that you are applying for and your circumstances at the time of the incident(s) or offence(s). We would therefore like to give you the opportunity to provide an explanation for the incident(s) or offence(s) as well as the circumstances around you at the time. We need to know who was involved, when it occurred, what occurred, where the incident(s) or offence(s) was committed and why it was committed.

Please complete the following information. Please be aware that to withhold information or to give false information will be regarded as an attempt to falsify records which constitutes gross misconduct and will lead to dismissal under the Trust's Disciplinary Procedure.

Name:	Date of Birth:
Job/ Position Applied for:	Work Base:
Job Reference:	

Offence(s) or Incident(s)	
Date of Offence(s) or Incident(s):	
Who was involved	
When it occurred	
What occurred	

Where the incident or offence was committed	
Why it was committed.	
How you now feel about the incident or offence	

Please continue on a separate sheet if necessary

Declaration by Applicant

I certify that the information I have provided on this document is true and complete. I understand that to knowingly make a false statement or omit information will result in my job or volunteering application being unsuccessful or, if employed, in my facing possible dismissal or other disciplinary action.

Signature:	
Print:	
Date:	

PART 2 – FOR THE RECRUITING MANAGER TO COMPLETE

Name of Candidate:	Date of Birth
Job Title:	Work Base:
Proposed Start Date:	Recruiting Manager Conducting Assessment:
New Starter Yes/No	Existing Employee Yes/No

Disclosure and Barring Checks	Comments
1. Does the candidate already hold a DBS certificate? If not, please go to Q6.	
2. Was the DBS certificate obtained by Liverpool Heart and Chest Hospital? If not, who is the Registered Body?	
3. Was the DBS certificate issued within the last three years?	
4. Is the DBS certificate "Enhanced level"?	
5. If the person is to carry out a Regulated Activity (see section 3.5 of policy) an Enhanced Check must be carried out which will include checks against the relevant Barred Lists.	
6. Has the candidate been a resident outside of the United Kingdom? <ul style="list-style-type: none"> • If yes, is the candidate able to produce the Police Check or DBS equivalent from other countries lived in? • If no, is a Police Check or DBS equivalent from that country being sought? 	

ASSESSING THE RISKS

Question	Applicable (Please delete as appropriate)	Comments
Did the applicant declare information on the DBS Check and/or the NHS Application form?	Yes / No If 'No' state reason	
Are there any concerns that the information is not consistent?	Yes/ No If 'No' what does the applicant think is incorrect and why?	
Were any offences work-related or committed within the context of a work setting?	Yes/No If 'Yes' give details	
When was the last offence committed	Context in which each offence occurred e.g. where, how, why details of any victims. (Continue overleaf if necessary)	
What is the individual's attitude to the offence/s now?	e.g. regret/remorse/ justified/denial	
Would they do anything differently now?	Yes / No If 'Yes' specify what	
Has the individual's circumstances changed since the conviction/s e.g. location/friends/partner/education?	Yes / No If 'Yes' specify what	
Are there any mitigating circumstances? e.g. immaturity, traumatic life event	Yes / No If 'Yes' specify what	

Question	Applicable (Please delete as appropriate)	Comments
Do the matters disclosed form any pattern e.g. repeat offences or repeat motivation (anger/financial/drugs/alcohol	Yes / No If 'Yes' specify	
Can the applicant demonstrate any efforts not to re-offend? e.g. Rehabilitation course, Anger Management course, help for alcohol/drug abuse.	Yes / No If 'Yes' specify (Community Service is a punishment not rehabilitation)	
Does the post have any direct contact with patient.s	Yes / No If 'Yes' give details	
Can safeguards be implemented to reduce/remove any risk e.g. no unsupervised contact?	Yes / No If 'Yes' specify what	
What supervision is available and how readily?	Give details	

<p>Any further information</p> <p>Is there any other information relevant to this Risk Assessment regarding the candidate, the work itself or the location/environment where the activities will take place?</p>

Likelihood of the Risk Happening		Score
Rare – Not expected to occur. Will only occur in exceptional circumstances	<input type="checkbox"/>	1
Unlikely – Expected to occur at least annually. Unlikely to occur	<input type="checkbox"/>	2
Possible – Expected to occur occasionally. Reasonable chance of occurring	<input type="checkbox"/>	3
Likely – Expected to occur regularly. Is quite likely to occur	<input type="checkbox"/>	4
Almost Certain – Expected to occur daily. Is highly likely to occur	<input type="checkbox"/>	5
Impact / Consequence		Score
Negligible – Minimal damage/nuisance value	<input type="checkbox"/>	1
Minor – Would cause a small problem	<input type="checkbox"/>	2
Moderate – A definite problem	<input type="checkbox"/>	3
Major – Significant problems would result	<input type="checkbox"/>	4
Catastrophic – Major impact or dire consequences or organisational operations brought to a standstill	<input type="checkbox"/>	5

Total Risk:	Likelihood Score:	Click here to enter text.	X	Potential Risk Score:	Click here to enter text.	=	Click here to enter text.
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X	Likelihood					
Impact / Consequence		1 Rare	2 Unlikely	3 Possible	4 Likely	5 Almost Certain
	5 Catastrophic	5	10	15	20	25
	4 Major	4	8	12	16	20
	3 Moderate	3	6	9	12	15
	2 Minor	2	4	6	8	10
	1 Negligible	1	2	3	4	5

Is this person suitable to start work under the conditions proposed above? Yes/No
Comments: (Reasons for decision)

Risk Assessment Completed by:	
Name:	
Job Title:	
Signed:	
Date:	

Head of Resourcing	
Name:	
Signed:	
Date:	

APPENDIX C

POLICY STATEMENT ON RECRUITMENT OF EX-OFFENDERS

As an organisation using the Disclosure and Barring Service (DBS) to assess applicant's suitability for positions of trust, The Liverpool Heart & Chest Hospital NHS Foundation Trust complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a DBS check on the basis of conviction or other information revealed.

The Liverpool Heart & Chest Hospital NHS Foundation Trust is committed to the fair treatment of its staff, potential staff or users of its service, regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical/mental disability or offending background.

We actively promote 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. We select candidates for interview based on their skills, qualifications and experience.

A DBS check is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a DBS check is required, all application forms, job adverts and recruitment information will contain a statement that a DBS check will be requested in the event of the individual being offered the position.

We encourage all applicants to provide details of their criminal record at an early stage in the application process i.e. on the application form. We guarantee that this information is only seen by those who need to see it as part of the recruitment process.

Having a criminal record will not necessarily bar people from working with the Trust. This will depend on the nature of the position and the circumstances and background of the offences. When deciding whether an appointment to a post can be made an individual's previous convictions will be considered, taking into account the following information:

- Whether the offence(s) or matter revealed are relevant to the post in question;
- The seriousness of the offence(s) or other matters revealed;
- The length of time since the offence(s) or other matters occurred;
- Whether the applicant has a pattern of offending behaviour;
- The circumstances surrounding the commitment of the offence(s)

If a candidate fails to disclose a criminal record after subsequently being employed, they may be dismissed on grounds of failure to declare information/fraud as this constitutes an act of gross misconduct

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We ensure that all interview panels for posts within The Liverpool Heart & Chest Hospital NHS Foundation Trust will include at least one person who has been trained in Recruitment & Selection.

At interview, or in a separate discussion, we ensure 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 or dismissal if already in post.

When the Trust is notified that a DBS check contains information we undertake to discuss this with the person seeking the position before considering if it's appropriate to withdraw a conditional offer of employment.

In the event of a disclosure dispute, the Trust will be required to hold the post of the appointee until the matter has been resolved. Where a disclosure has been disputed, the HR Department will store this information for a six month period from the date the dispute was resolved

Appendix D DBS Decision Tree



Before you begin

Not all NHS staff will be eligible for criminal record and barring checks. At the point of advertising a position, employers must make an assessment against the roles, activities and responsibilities of the particular position to determine eligibility.

By prompting key questions, the decision tree is a tool to support employers in making the assessment of when checks must/can be carried out. You should also refer to the legislation and other sources of information referenced to make an informed decision.

NHS employment checks – criminal record and barring checks decision tree

Is the position covered under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended)?

Most individuals are likely to be eligible by virtue of section 13 i.e. any employment which is concerned with the provision of health services and which is of such a kind as to enable the holder to have access to persons in receipt of such services in the course of their normal duties. However, there are other provisions within the Exceptions Order that may be relevant, please refer to the legislation available at www.legislation.gov.uk

Yes

No

Is the position a REGULATED ACTIVITY with children and/or adults as defined by the Safeguarding Vulnerable Groups Act (amended by the Protection of Freedoms Act 2012)?

Adults: any activity involving working or volunteering with adults that is of a specified nature, regardless of the frequency that this activity is undertaken and the setting:

- (i) providing health care
- (ii) providing personal care
- (iii) providing social work
- (iv) assistance with cash, bills and/or shopping
- (v) assistance in the conduct of a person's own affairs
- (vi) conveying (transporting adults to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving care).

For further information about 'regulated activity' with adults please refer to the factual note issued by the Department of Health at: www.dh.gov.uk/health/2012/08/new-disclosure-and-barring-services-definition-of-regulated-activity

Children: any activity involving working or volunteering with children that is of a specified nature:

- (i) unsupervised activities: teaching, training, instruction, care for or supervision of children, or providing advice/guidance on well-being, or driving a vehicle only for children
- (ii) work for a limited range of establishments ('specified places'), with the opportunity for contact with children, e.g. childcare premises. Not work by supervised volunteers. (Please note that children's hospitals are no longer categorised as a 'specified place')
- (iii) providing personal care, for example washing or dressing; or health care by or supervised by a professional
- (iv) registered child minding; and foster-caring.

Working with children under (i) or (ii) is regulated activity only if done frequently (i.e. once a week or more often, or on four or more days in a single 30 day period or overnight).

For further information about 'regulated activity' with children please refer to the factual note issued by the Department for Education at: www.education.gov.uk/childrenandyoungpeople/safeguardingchildren/a00209802/disclosure-barring

Yes

No

Individuals seeking work in regulated activity must be checked against the barred list(s) through the process of an enhanced criminal record disclosure.

You must indicate on the criminal record application form whether the individual is working or volunteering with children and/or adults.

Does the barred list check show the individual is barred from engaging in regulated activity with children or adults?

Yes

No

The individual **must not** be appointed into regulated activity with the vulnerable group from which they are barred. It is an offence for any person who is barred to apply for, or engage in, regulated activity. It is also an offence for an employer to knowingly allow a barred person to engage in regulated activity.

A barred person may undertake a position not in regulated activity where they meet all other pre-employment checking criteria. However, employers should carry out an appropriate risk based assessment taking into consideration all information within the disclosure to assure patient safety.

Employers should ensure that robust safeguards are in place to manage that individual, such as supervision or restricted access to certain areas of the building.

Since 10 September 2012 the new definition of 'regulated activity' has reduced the number of individuals who must be checked against the barred lists. However positions that were eligible for an enhanced disclosure with a barred list check before 10 September will remain eligible for enhanced disclosures without barred list information.

Was the position eligible for an enhanced disclosure before 10 September? i.e. did the position fall into the pre 10 September definition of regulated activity?

Yes

No

Since 10 September 2012 you can continue to obtain an enhanced level criminal record disclosure but WITHOUT barred list checks.

Is any relevant information disclosed, for example criminal convictions?

Yes

No

Carry out risk based assessment to determine whether the conviction is relevant to post, whether they pose any risk or potential risk to patient safety.

If the risk assessment raises patient safety concerns the recruitment should not proceed.

Any provisional offer of appointment should be withdrawn.

If the individual meets all other pre-employment criteria and the risk assessment decision is to recruit, safeguards should be put in place as appropriate.

Confirm appointment

If the individual meets all other pre-employment criteria

Confirm appointment

The position is not 'regulated activity' but does it involve the individual having access to patients in the course of their normal duties?

Please note that access to information about patients or patient records only does not constitute 'access'.

Yes

No

Since 10 September 2012 you can continue to obtain a standard level criminal record disclosure.

Please note
Criminal record and barring checks form only part of the pre-employment process, equally important are verification of identity, right to work, registration and qualification, employment history and references, and occupational health checks. For further information please refer to the NHS Employment Check Standards at: www.nhsemployers.org/employmentchecks

Equality Analysis

Introduction and Guidance

The change in terminology from “equality impact assessment” to “analysis of the effects” is intended to put more focus on the quality of the analysis and how it is utilised in decision making and less on the production of a document. It is not a one-off exercise but an on-going and cyclical process.

It is important that you conduct your equality analysis (EA) from the very beginning of the process of development (be it a strategy, policy, practice, provision or decision). The person who is responsible for the development, or is advising the decision maker, needs to undertake the assessment with appropriate support. If working in partnership a collaborative approach saves time, shares expertise and knowledge and avoids duplication of effort.

You must demonstrate that:

- engagement with the appropriate stakeholders has taken place in **accessible** and **proportionate** ways
- comprehensive equality monitoring of all engagement activities that you have initiated has taken place with all stakeholders (e.g. if a particular provision is targeted at a specific group, e.g. disabled people, it is still important to monitor all equality categories)
- evidence relating to dates and venues and/or methods used to engage is available
- feedback has informed and influenced developments.

In the case of reviewing and updating current practice you must ensure that any lack of engagement or incomplete monitoring in the past is rectified during the updating process.

EA applies to all activities including analysing the cumulative effect of a number of decisions when made together, and the implementation of something that has been developed by an external body e.g. a government department.

The “**protected characteristics**” (PCs) listed in the Equality Act 2010 and covered by the Equality Duty are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Civil partnership and marriage are also covered but not for all aims of the duty. **Protected Groups** (PGs) are based on the protected characteristics. These groups must be considered during the EA process.

Please note that it is not possible to include all the required information in the boxes below. The following is a framework for noting key points within which you must refer to underlying documents and other supporting detail. When completing this you will find it helpful to refer to the “Equality Analysis Checklist” at the end of this document for additional information.

A copy must be kept within your department for audit purposes.

To keep up to date on the latest guidance go to the website of the Equality and Human Rights Commission: www.equalityhumanrights.com

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8. Equality Analysis Framework

Tick Category (after completion of assessment)	Not Relevant (NR)	✓	Relevant (R)	
Signature of Manager/Group Responsible	Janet Doran			
Date	26 th November 2015			

Department/Function	Human Resources
Lead Person	Janet Doran
Contact Details	Janet.doran@lhch.nhs.uk
Name of Strategy/ Policy/ Procedure/Service to be Analysed (including procurement)	Disclosure and Barring Checks
Is this a new or existing Strategy/Policy/Procedure/Service?	New
<p>1. What are the main aims and/or objectives of the strategy/ policy/procedure/service and to what extent is equality a relevant consideration? (e.g. a policy that lists the frequency of checking the temperatures of hospital fridges would have no relevance to equality (NR) but a change or cut back to a current service would have relevance (R)).</p> <p>Take account of the protected characteristics (PC's)/ groups and outline your reasons for your chosen category in as much detail as possible. Tick "R" or "NR" at the top of this page. If "NR" has been chosen finish here once your reasons have been given in the box on the right.</p>	<p>This policy outlines the process by which the Trust conducts mandatory safeguarding checks, when it is applicable to conduct such checks and how the information is treated.</p>

<p>1. How will you scope your equality analysis?</p> <p>2. Fill in details under the headings in the box on the right.</p> <p>You may want to involve other key people and organisations at this stage and you may find that you need to change your plans as you work through the questions.</p>	<p>How do the aims of the development relate to equality? (Consider purpose, operational context, beneficiaries, intended results and needs including those of PGs.)</p> <p>Which groups could be usefully engaged? (Consider ways by which you can engage with stakeholder groups and seek out new sources of information to help fill gaps.)</p> <p>What aspects are relevant to equality? (Consider each part of the development and any related issues.)</p> <p>Which PCs are relevant? (If potential impact on PCs could vary you may need to prioritise.)</p> <p>What equality information is available? (Consider local, regional and national data, other related information e.g. Joint Strategic Needs Assessment (JSNA), Community Strategy and anecdotal information.)</p> <p>What are your information gaps? (There is a shortage of information regarding some PCs)</p>
<p>3. How will you analyse your equality information?</p> <p>Fill in details under each heading in boxes to right</p>	<p>Using information to understand the effect on equality. (Take an overview of the information but be wary of drawing general conclusions e.g. “this benefits everyone”. It may be that outcomes will differ between PCs or targeted interventions are required.)</p> <p>Findings of your analysis. (This can result in 4 decisions: no major change / adjust what was proposed / continue as planned / stop and re-think or remove. If there is a need for an action plan at this stage develop one.)</p> <p>Documenting your analysis. (It is important to record details of your assessment and analysis. Public authorities subject to the specific duties must publish their analysis.)</p> <p>Next steps. (When you have decided on your course of action you may consider it helpful to invite views on your findings. It is important that you can validate the conclusions that you have arrived at.)</p>
<p>4. How will monitoring and review be carried out? EA is an on-going process that does not end once implementation has begun.</p>	

<p>Plan a review timetable taking into account any specific requirements that have been identified and enter in box to right.</p> <p>(NB Ensure that procurement activity of any size identifies the equality, diversity and human rights requirements, including evaluation, monitoring and review arrangements, within tender and contract documents)</p>	
<p>5. Are you ready to have the development signed off and publicised? Although EA is an on-going process there is a stage when adoption and signing off can occur.</p> <p>Fill in details under each heading in boxes to right</p>	<p>Decision makers must be clear about how the EA has informed and influenced content and have due regard to the findings when giving final approval.</p> <p>The specific duties require that equality information is published and recommend that the EA is published alongside the development, policy or decision that it relates to.</p>
<p>6. List the additional supporting evidence and sources of information that have informed this EA in box to the right.</p>	

Equality Act 2010 – Background Information

Protected characteristics (PCs) are: age, disability, gender reassignment, pregnancy & maternity, race, religion or belief, sex and sexual orientation. **Marriage and civil partnership** are only covered by the first aim of the general duty outlined within the Equality Act 2010.

Those covered by the general duty must in the exercise of their functions have regard to the 3 “aims” or “arms” of the duty:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act (*i.e. removing or minimising disadvantage suffered by people due to their PCs*)
- Advance equality of opportunity between people who share a protected characteristic and those who do not (*i.e. taking different steps to meet the needs of people from protected groups (PGs) where these are different from the needs of other people*)
- Foster good relations between people who share a protected characteristic and those who do not (*i.e. encouraging people from PGs to participate in public life or in other activities where their participation is disproportionately low.*)

Disabilities must be catered for and meeting the above requirements may involve treating some people more favourably than others.

The **general duty** applies to all Schedule 19 listed bodies e.g. health bodies, police and transport authorities, government departments. Other organisations that carry out public functions are also covered by the general duty e.g. voluntary sector or private bodies that carry out public functions. There are a few exceptions – if in doubt seek legal advice.

The **specific duties** apply to virtually all bodies listed in Schedule 19 and require the listed body to:

- Publish sufficient information to demonstrate compliance with the general duty across all functions including: information on the effect that its policies and practices have had on people who share relevant PCs, to demonstrate the extent to which it furthered the aims of the general duty for employees and for others with an interest in its functions. (*Public authorities with fewer than 150 employees are exempt from the employee provision*)
- All public authorities must **publish**: evidence of analysis that they have undertaken; details of the information considered; details of engagement they undertook; **prepare** and **publish** equality objectives that must meet one or more aims of the general duty.

- The published information must also be considered before preparing objectives that are specific and measurable; how progress will be measured must be stated. **Information on objectives must be published at least every 4 years** in an accessible format either separately or as part of another document. **Progress must be reported on annually** and it is recommended that this is done incrementally throughout the year.

To keep up to date on the latest guidance go to the website of the Equality and Human Rights Commission: www.equalityhumanrights.com

9. Endorsed By:-

Name of Lead Clinician/ Manager or Committee Chair	Position of Endorser or Name of Endorsing Committee	Date

10. Record of Changes

Section Number	Version Number	Date of Change	Description of Amendment	Description of Deletion	Description of Addition	Reason