

**Criminal Records Disclosure SOP**

Issue Date	Review Date	Version
May 2018	Extended to February 2020	7

**Purpose**

The purpose of this SOP is to provide guidance to all staff on the processes that must be adhered to in order to ensure that DBS requirements are adhered to.

**Who should read this document?**

All staff

**Key messages**

All staff must be appropriately DBS checked where needed, prior to commencement in post

**Core Accountabilities**

<b>Owner</b>	Head of Workforce
<b>Review</b>	HR & Organisational Development Committee
<b>Ratification</b>	Director of People
<b>Dissemination</b>	Head of Workforce
<b>Compliance</b>	Head of Workforce

**Links to other policies and procedures**

Recruitment and Selection Policy  
Safe Recruitment SOP  
Performance and Conduct Policy

**Version History**

<b>3.3</b>	Aug 2009	
<b>4.1</b>	Nov 2010	Update of references to external agencies
<b>5</b>	July 2012	Revision to ensure consistency with revised Workforce Strategy
<b>5</b>	May 2015	Extended by Deputy Director of Workforce to September 2015
<b>5</b>	July 2015	Extended by Assistant Director of Learning and Organisational Development to March 2016
<b>6</b>	May 2018	Reviewed – titles altered
<b>7</b>	August 2019	Extended to February 2020 by Richard Maguire & Lisa White

*PHNT is committed to creating a fully inclusive and accessible service.*

*Making equality and diversity an integral part of the business will enable us to enhance the services we deliver and better meet the needs of patients and staff.*

*We will treat people with dignity and respect, actively promote equality and diversity, and eliminate all forms of discrimination regardless of (but not limited to) age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage/civil partnership and pregnancy/ maternity.*

**An electronic version of this document is available on the Trust Documents Network Share Folder (G:\TrustDocuments). Larger text, Braille and Audio versions can be made available upon request.**

Standard Operating Procedures are designed to promote consistency in delivery, to the required quality standards, across the Trust. They should be regarded as a key element of the training provision for staff to help them to deliver their roles and responsibilities.

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## Standard Operating Procedure (SOP) Criminal Records Disclosure

### 1 Purpose and Scope

University Hospitals Plymouth NHS Trust, as a provider of healthcare services, is exempt from the Rehabilitation of Offenders Act 1997. Under the Care Standards Act 2000, the Trust is required to carry out extensive checking of candidates seeking to work in certain positions. This obligation covers all posts where individuals have access to patients as part of their normal duties.

The Trust uses the Disclosure and Barring Service (DBS) service to determine an individual's criminal record and where appropriate, details of those who are banned from working with children and vulnerable adults. The disclosure record is an impartial and confidential document. The DBS uses the Police National Computer record, which serves England and Wales and also holds the most relevant convictions from Scotland.

The DBS provides two levels of disclosure – standard and enhanced. The Trust uses the disclosure to help assess the suitability of applicants for positions of trust. The decision rests with the Trust as to whether to employ a person whose DBS disclosure reveals a conviction or other information.

As part of the Trust's commitment to valuing people, it will recruit on the basis of an objective and systematic assessment of candidates against the job related factors. Whilst the Trust is exempt from the Rehabilitation of Offenders Act, 1997, having a criminal record will not necessarily bar an individual from employment with the Trust.

This procedure sets out the Trust's approach to seeking disclosure of prospective employees' criminal records. It also sets the requirement that all staff should inform the Trust of any new criminal record arising.

This procedure will apply to those seeking paid or unpaid work with the Trust. It applies to:

- University Hospitals Plymouth NHS Trust staff
- Volunteers
- Honorary Contract Holders (with access to clinical areas, patients, and confidential information)
- Other placements (with access to clinical areas, patients and information)

Where third party employers, or agencies are involved (eg. NHSP, universities, locum and agency staff, contractors and the MOD), the Trust must ensure that this requirement is explicitly written into any service level agreement.

Failure to commission, or take account of the information provided in disclosure reports from the DBS would be a breach of the Trust's obligations under the Care Standards Act, 2000. It would also expose the Trust's patients to the risk of exposure to unsuitable individuals.

In the unlikely event that a serious incident occurred, where the Trust was found to have failed to commission the required DBS checks, the Trust would risk being exposed to potential claims against it and significant adverse publicity.

Failure by prospective staff to reveal information that is directly relevant to the position sought, may lead to withdrawal of an offer of employment.

If there is a genuine suspicion that information has been deliberately withheld in order to gain a position at the Trust, the matter will be immediately referred to the HR Department and the NHS Counter Fraud Service, in accordance with the Trust's Performance and Conduct Policy. Ultimately, it may become a criminal matter.

## **Definitions**

**Criminal Record** - arises from a conviction in a court of law. Criminal records do not normally include speeding or other minor driving or traffic offences. However, for the purposes of this procedure, such offences must be reported to the Trust, if they may impact on the ability of the individual to continue to carry out their work.

**Police Record** - cautions, reprimands and warnings issued by the police, as an alternative to prosecution, usually for less serious offences and usually after an offence is admitted.

**DBS Disclosure** - criminal convictions and other police records relating to a named individual. There are currently two levels of disclosure used within the NHS: standard and enhanced.

**Standard Disclosure** - A standard disclosure applies to any post that is exempt under the Rehabilitation of Offenders Act, 1974 and relates to sensitive areas of employment, such as involving access to patients in the course of their normal duties. The definition used within legislation is:

*"any employment or other work which is concerned with the provision of health services and which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to persons in receipt of such services in the course of their normal duties"*

The standard disclosures will contain details for all convictions held on the Police National Computer (PNC), including current and 'spent' convictions as well as details of any cautions, reprimands or final warnings.

If a position involves working with children or vulnerable adults the disclosure will indicate whether information is held on the Government Department list held by the DoH and DFEE.

**Enhanced Disclosure** – in addition to the information provided in the standard disclosure, the disclosure includes any non-conviction information held by local police, where this is considered by them to be relevant to the position in question.

In a small number of cases an enhanced disclosure may result in the local police disclosing non-conviction information to the employer through a separate letter.

This may include information about a current investigation and is very important in determining whether an applicant is suitable for a particular post. This information will not appear on the applicant's copy of the disclosure and it is a criminal offence for the employer to share any such information with the applicant.

Enhanced is the highest level of disclosure, and to qualify, in addition to providing access to patients in the course of normal duties – the position must also meet one of the criteria set out in regulation made under Section 113B of the Police Act which states that the position must:

*“Regularly involve caring for, training, supervising or being in sole charge of:*

- *a person under 18; or*
- *a person aged 18 or over who is a vulnerable adult – as defined by the Police Act 1997 (Enhanced Criminal Record Certificates; Protection of Vulnerable Adults) Regulations 2002”.*

The definition covers the roles of nurse, doctor, physiotherapist and anyone who is working in a clinical role.

**Basic Disclosure** - By law, employers cannot request a standard or enhanced disclosure on any position that is not exempt from the Rehabilitation of Offenders Act 1974. For all other positions, employers may only request details of any unspent (current) convictions. This is known as a basic disclosure and is currently not a mandatory criminal records check within the NHS.

**Protection of Vulnerable Adults check** – All posts which require an Enhanced DBS will require a check, which assesses whether an individual is listed as unsuitable and barred from working with Vulnerable Adults.

**Protection of Children Act check** - All posts which are based with child only areas such as paediatric wards, community services etc, will require a check, which assesses whether an individual is listed as unsuitable and barred from working with children.

**Registered Body** - University Hospitals Plymouth NHS Trust is a “registered body” with approved signatories who are permitted to apply for a DBS disclosure on behalf of the Trust. A copy of the approved signatories is held with the Head of Workforce.

**Recruitment and Resourcing Team** - This term refers to both the Medical Workforce team (who undertake the recruitment for all medical and dental staff appointments) and the general Recruitment and Resourcing team (who undertake the recruitment process for all other staff grades within the Trust).

## ***Key Duties***

### **Trust Board**

The Board will ensure that it continues to uphold its commitment to equal opportunities. As an organisation using the DBS disclosure service to assess applicant's suitability for positions of trust, the 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 individual subject to a disclosure on the basis of a conviction or other information revealed.

The information contained in the disclosure is considered to be highly confidential. The Trust will restrict access to members of staff registered with the DBS in line with the Data Protection Act. The Trust undertakes to ensure that disclosure information is used solely for the purposes for which it was collected.

The Trust will make every individual subject to a DBS disclosure aware of the existence of the DBS Code of Practice via the NHS Jobs Website and make a copy available on request.

Responsibility for ensuring that this procedure is adhered to across the Trust is delegated to the Director of People.

### **Internal Criminal Records Bureau Panel**

Reporting to the Director of People, the Panel will investigate any matter revealed in a disclosure with the person seeking the position, before withdrawing a conditional offer of employment, or proceeding with any action against an existing employee. See DBS Panel terms of reference (Appendix 2).

### **Managers**

It is the responsibility of all managers and other staff involved in the recruitment process to ensure that all reasonable steps are taken to minimise the risk to patients, staff and other service users, by following these procedures for employment clearances.

### **Employees and prospective candidates**

It is the responsibility of all candidates and employees to declare all cautions, convictions, reprimands and/or warnings and any other information that may be relevant to their DBS check.

Existing staff changing jobs within the Trust will be required to complete disclosure forms in the same way as for an external appointment, depending on the post they apply for. Staff are expected to cooperate fully with any rechecking processes that may be required through the duration of their employment.

All Trust staff are in a position of trust and any undeclared matters relating to DBS are likely to lead to a breakdown of trust. All employees will notify the Trust of any warnings, cautions, reprimands and convictions that may affect their DBS status.

### **Recruitment and Resourcing Team**

The Recruitment and Resourcing Team and Medical Recruitment Team are responsible for verifying the identification required for a DBS check on all new starters. This is carried out at the one-stop-shop appointment. The Recruitment and Resourcing team member checks that the DBS disclosure form has been completed correctly and in its entirety by the applicant, then countersigns the form prior to sending to the Bureau.

Once a satisfactory disclosure is returned, the disclosure number and outcome is recorded on the safe recruitment checklist and on ESR. The paper copy of the disclosure is held in a secure place for a period of 6 months before being destroyed confidentially.

### **Monitoring and Assurance**

The responsibilities in this procedure are legally enforceable and managers (and employees where applicable) failing to uphold their responsibilities may find themselves in breach of internal disciplinary policies and legislation.

Compliance with this procedure in relation to initial appointment will be monitored via monthly audits of a sample of new starters undertaken by the Assurance Team.

NHSP / Framework approved agency compliance with DBS check requirements will be monitored via quarterly audits of a sample of booked shifts undertaken by the Assurance Team.

The results of these audits will be reported to the Recruitment and Resourcing Manager, Medical HR Business Partner and Director of People who will implement corrective actions as required. Audit results and corrective actions will be reported by the Director of People to the HR and Organisational Development Committee on an annual basis.

## **2 Procedure to Follow**

### **The Disclosure and Barring Service**

The DBS provides access to information across England and Wales about criminal convictions and other police records to help employers make an informed decision when recruiting staff. The information provided by the DBS is known as a 'disclosure'.

The DBS has a responsibility to ensure that any information disclosed is accurate and relevant. It must establish any individual's identity beyond doubt and be sure that they are the person to whom the record refers. To do this, the DBS needs written consent from the individual. This is incorporated into the Disclosure Application form.

Organisations using the disclosure service, for standard and enhanced level disclosures, must comply with the DBS's Code of Practice. The Code is intended to ensure and to provide assurance to those applying for standard and enhanced disclosures that the information released will be used fairly. The Code also seeks to ensure that sensitive personal information is handled and stored and retained appropriately.

Anybody who receives Standard and Enhanced Disclosure information must abide by the Code of Practice.

Organisations must also satisfy the DBS that they are complying with the Code, which means co-operating with requests from the DBS to undertake assurance checks, as well as reporting any suspected malpractice in relation to the Code, or misuse of disclosures.

The DBS can refuse to issue standard and enhanced disclosures if it suspects that the Code of Practice is not being adhered to.

A copy of the Disclosure document is sent to both the individual and the Trust. The fees for all DBS Disclosure applications will be paid by the Trust.

### **Rehabilitation of Offenders Act 1997**

The Act sets out to help people who have been convicted of a criminal offence and who have since become law abiding. In general, a person convicted of a criminal offence and who receives a sentence of no more than two and a half years in prison benefits from the Act, if they are not convicted again during a specified period. This is called a rehabilitation period.

In general terms, the more severe a penalty is, the larger the rehabilitation period. Once a rehabilitation period has expired and no further offending has taken place, a conviction is considered “spent”. Thereafter, the person is not obliged to reveal or admit its existence in most circumstances, including when applying for a job.

A conviction, for which a sentence of more than two and a half years was imposed, regardless of the length of time actually spent in prison, can never become “spent”. It remains an “unspent” conviction and must be disclosed, when the person is asked about criminal convictions when applying for a job.

The Trust as a healthcare provider is exempt from the Act. It has the right, where appropriate, to ask job applicants for details of all criminal convictions including those which would otherwise be regarded as “spent” under the Act, see Appendix 1.

### **Posts Requiring Disclosure**

Disclosures are required for all posts in clinical areas. Disclosures are also required in other posts which are not based within clinical areas, but where staff are likely to have access to patients, or their records, as part of their role. The level of disclosure that the Trust will apply for depends on the circumstances of the post.

Within each area, the designated manager, with support from the HR function, will determine the level of disclosure.

### **Checking Criminal Records Abroad**

In addition to the DBS process, the DBS website should be checked for candidates who have spent time abroad residing, working or through education. Candidates should have a Certificate of Good Standing from their country’s police department. The original should be seen by the appointing manager before the successful candidate commences employment. If the candidate doesn’t have a Certificate of Good Standing, they are responsible for obtaining it together with any translation that is necessary and all costs involved in this.

Managers should ensure references are taken which cover necessary employment and/or educational periods abroad. It is important to ensure such referees provide any information on previous convictions and that the appropriate foreign embassy is also contacted for additional details on convictions in that country.

It must be recognised by managers that to ensure these checks are carried out effectively, more time must be allowed within the recruitment process.

### **Volunteers**

Not all volunteers will need to have a DBS check. However, where they have significant and regular contact with vulnerable people in the course of their normal duties, the Trust should undertake the same criminal record checks as they would

when employing paid staff. The Trust will ensure that volunteers are fully aware of organisational policies and procedures governing the protection of vulnerable people and what they should do and to whom they can refer if they have any concerns.

The DBS will issue a disclosure free of charge for volunteers if the applicant satisfies the following criterion:

“a person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out of pocket expenses), doing something which aims to benefit someone (individuals or groups) other than, or in addition to close relatives”.

### **Temporary workers and highly mobile staff**

Temporary staff supplied by an agency, including locums and staff working for NHSP, are required to have DBS checks at least once every 12 months. When directly engaging a temporary worker, the Recruitment and Resourcing team will obtain written assurances from the agency that an appropriate level of check has been carried out within the last 12 months for each individual placement.

PHNT will not necessarily seek to obtain a new DBS disclosure for staff who are highly mobile, such as clinical staff who hold a substantive post with another Organisation but are required to work in this Trust. The Recruitment and Resourcing team will seek written assurance from the substantive employer that the appropriate checks were carried out at the right level.

### **Applicants with existing disclosure – portability**

There will be occasions where a prospective or new employee will already be in possession of a disclosure document originated from a previous employer. University Hospitals Plymouth NHS Trust will accept a portable DBS if it has been conducted at the same level of check required for the new post, by the individual's current employer and within the previous 24 months. The only exception will be for doctors in training.

*NB - doctors in training should not be required to provide a new Disclosure each time he/she moves to a new training post. In general, if a check has been carried out within the last three years, no further check should be required. After three years, an updated check must be requested. This is in line with the Department of Health's 'NHS Employment Check Standards'.*

### **Commencement of Employment**

It is the policy of the Trust that no applicant will be allowed to commence employment until they have completed the disclosure application and had their identity documentation verified.

It is illegal to appoint a prospective employee to a regulated childcare post where a Protection of Children Act check is required until the outcome of the check has been received.

CQC Guidance sets out that employers may, in very exceptional circumstances, make a risk based decision to appoint applicants before the outcomes of a DBS check are received, but this must only be where an Executive Director is satisfied and certifies that there is an urgent need to appoint because of an identified risk to patient safety or welfare, or where the individual is required to undertake induction

training. In any such cases, the employer should ensure an appropriate DBS check has been applied for and safeguards are put in place to manage that individual, such as restricted access to children or vulnerable adults or supervision, until the disclosure has been obtained.

In non child barred checked posts and where identity checks have already been carried out, employment may commence before the disclosure has been returned from the DBS. A risk assessment must be carried out by the line manager taking into account:

- Area which applicant is to be working in.
- Length of time from last DBS clearance.
- Reference from current employer.
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Where this has taken place and it is deemed appropriate to commence employment before the disclosure has been returned, the line manager must undertake to ensure that the applicant will be supervised until the disclosure is received and deemed to be satisfactory. Written, or emailed agreement will be required.

Student nurses from Plymouth University will hold a current DBS certificate and this should be produced prior to commencement of placement.

Offers of employment will be subject to a DBS check.

Upon making a conditional offer of employment, the appointing officer or nominated person from the Recruitment and Resourcing team will notify the successful candidate of the disclosure procedure. The process to verify identity usually takes place at a one-stop-shop appointment arranged with a member of the Recruitment and Resourcing team. Where candidates live more than 30 miles away from PHNT, they are invited to an appointment with the Recruitment and Resourcing Team post interview to minimise any potential delay in verification. Only the original documentation is acceptable. The candidate must complete the DBS form which will then be checked and countersigned by a registered person prior to sending it to the DBS.

### **Ongoing Employment**

It is an employees responsibility to inform their Line Manager of any warnings, cautions or convictions that they are subject to whilst employed by the Trust. Where appropriate, the Line Manager will refer the employee to the DBS panel in order for the disclosure to be considered and a decision made as to the suitability to continue in employment.

### **Notifiable Occupations**

There are certain occupations within the Trust where the police are asked to notify the employer of any criminal offence an employee commits when it happens. This particularly refers to offences involving violence, indecency, dishonesty, alcohol or drugs as these may reflect on a person's suitability to continue in a profession or post.

Cautions given to those whose positions involve substantial access to children should also be reported in relation to such offences. Cautions in respect of other

groups should not be reported unless there are such grounds for doing so. Such grounds could include occasions where the police feel that information they hold present serious cause for concern. In these circumstances information may be passed onto the employer (or professional body) on the authority of a senior ranking Police official.

The DBS Lead signatory for PHT will be contacted in such cases.

### **Storage, Handling, Retention and Disposal of Information**

As an organisation using the DBS disclosure service, the Trust complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and disclosure information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of disclosure information. The Trust has a written policy on these matters, which is available to those who wish to see it on request.

Disclosure information should be kept securely, in lockable, non-portable, storage containers within the Recruitment and Resourcing team with access strictly controlled and limited to those who are entitled to see it as part of their duties.

HR will record DBS Disclosures using the Electronic Staff Record. This record will not describe any spent or unspent convictions that apply to an individual. It will only record that they are suitable or unsuitable for employment together with the date and disclosure number of that check.

In accordance with section 124 of the Police Act 1997, disclosure information is only passed to those who are authorised to receive it in the course of their duties. The Trust maintains a record of all those to whom disclosures or disclosure information has been revealed. It is a criminal offence to pass this information to anyone who is not entitled to receive it.

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

The Trust does not keep disclosure information for any longer than is necessary. Generally, the disclosure is held for up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep disclosure information for longer than six months, the Trust will consult the DBS about this and will give full consideration to the data protection and human rights of the individual before doing so.

Once the retention period has elapsed, the disclosure information will be destroyed by secure means by the Recruitment and Resourcing team. While awaiting destruction, disclosure information will not be kept in any insecure receptacle. No copies of the disclosure will be kept. The Trust may keep a record of the date of issue of a disclosure, the name of the subject, the type of disclosure requested, the position for which the disclosure was requested, the unique reference number of the disclosure and the details of the recruitment decision taken.

### **Acting as an Umbrella Body**

Before acting as an Umbrella Body (one which countersigns applications and receives disclosure information on behalf of other employers or recruiting organisations), the Trust will take all reasonable steps to confirm that the other

organisations will handle, use, store, retain and dispose of disclosure information in full compliance with the DBS Code. The Trust will ensure that any body or individual, at whose request applications for disclosure are countersigned, has such a written policy and, if necessary, will provide a model policy for that body or individual to use or adapt for this purpose.

### **3 Document Ratification Process**

The design and process of review and revision of this document will comply with the Trust's formal policy on policy and procedural documents (The Development and Management of Trust Wide Documents).

The review period for this document is set as three years from the date it was last ratified, or earlier if developments within or external to the Trust indicate the need for a significant revision to the procedures.

This document will be approved by the HR and Organisational Development Committee and ratified by the Director of People.

Non-significant amendments to this document may be made, under delegated authority from the Director of People. These must be ratified by the Director and should be reported, retrospectively, to the Committee.

#### **Dissemination and implementation**

Following approval and ratification, this document will be published in the Trust's formal documents library and all staff will be notified through the Trust's normal notification process, currently the 'Vital Signs' electronic newsletter.

Document control arrangements will be in accordance with the Trust's formal policy on policy and procedural documents (The Development and Management of Trust Wide Documents).

### **4 Reference material**

NHS Employment Check Standards: Criminal Records Checks, July 2010 (NHS Employers)

**Recruitment of ex-offenders****Appendix 1****1. Introduction**

University Hospitals Plymouth NHS Trust is committed to the fair treatment of our employees and potential employees and users of our service, regardless of colour, race, nationality, ethnic origin, gender, marital status, disability, religious beliefs, sexual orientation or of a typical background.

**2. Procedure**

Whilst the Trust as a healthcare service provider is exempt from the Rehabilitation of Offenders Act 1974, having a criminal record will not necessarily bar an individual from working with us. It will depend on the nature of the position applied for and the circumstances and background of any criminal record.

The Trust actively promotes equality of opportunity for all, with the right mix of talent, skills and potential. Applications are welcomed from a wide range of candidates, including ex-offenders. Candidates are selected for interview based on their skills, qualifications and experience.

A formal disclosure is requested through the Criminal Records Bureau (DBS) for posts that have access to patients as part of their normal duties. Candidates will be advised of this requirement during the recruitment process.

Due to the nature of our service all potential employees are required to declare *unspent* criminal convictions/cautions/reprimands or warnings through the application process. In addition, for those posts where a DBS disclosure is required, all *spent* convictions/cautions/reprimands or warnings must be declared (as defined in the exemption order of Rehabilitation of Offenders Act 1974).

The Trust requests that this information is provided on the job application. We guarantee that this information is only seen by those who need to see it as part of the recruitment and selection process.

At interview, and/or through a meeting with the Trust's DBS Panel, we will ensure that an open and measured discussion takes place on the subject of any offences or other matters that may be relevant to the position. A decision will be made regarding an applicant's suitability for employment through these processes. Failure to reveal relevant information could lead to withdrawal of an offer of employment. If relevant information comes to light after employment commences it may lead to dismissal under the Trusts Disciplinary procedure.

Information provided through the DBS process may be shared with appointing manager through the Trust's DBS Lead Signatory.

Any Trust employee involved in the DBS/recruitment process will be suitably trained to identify and assess the relevance and circumstances of offences.

THIS WRITTEN STATEMENT IS MADE AVAILABLE TO ALL APPLICANTS AT THE OUTSET OF THE RECRUITMENT AND SELECTION PROCESS, THIS INCLUDES MEDICAL & DENTAL STAFF.

**1. Accountability**

1.1 Director of People.

**2. Purpose**

2.1 To manage DBS disclosures which identify convictions, cautions, reprimands and final warnings for all applications of employment for staff and also for existing staff, who have substantial unsupervised access to children and vulnerable adults, in line with the Trust's DBS Procedure. Under the 2004 Children Act, all Trusts have a duty to put in place arrangements to safeguard and promote the welfare of Children.

2.2 The DBS Panel was established to consistently and professionally manage an applicant's or existing employee's suitability for employment. The Panel will decide whether an application can be accepted, deferred or rejected, and consider disclosures for existing staff that may come to light during employment. Where an applicant has been offered a post subject to pre-employment checks such as the DBS disclosure, and the DBS Panel reject the application (due to unsuitability for employment) then a withdrawal of offer of employment or dismissal from the Trust will take effect, in line with the Trust's DBS Procedure.

2.3 To effectively communicate with Directorates, in line with strict confidentiality rules.

**3. Membership**

3.1 Head of Workforce (Lead Signatory for PHT)

Deputy Director of Nursing

Head of Staff Health and Wellbeing

3.2 The Panel will agree nominated deputies for those occasions when panel members are unable to attend.

3.3 Directorate Representatives may be asked to attend, in line with strict confidentiality rules.

3.4 The group will review the membership regularly to ensure that it best reflects the requirements of its purpose.

**4. A Quorum**

4.1 A quorum will consist of not less than two panel members, to include the Head of Workforce. Where a deputy is required to cover absence of a Panel member, ideally two of the three panel members should be from the regular membership as 3.1 above.

**5. Panel Procedure**

5.1 The Head of Workforce will appoint a secretary to prepare agendas, maintain action notes and deal with any other matters concerning the administration of the group. The Chair will approve the action notes of all meetings.

- 5.2 Where the Recruitment Officer / HR Assistant receives a DBS disclosure which identifies criminal convictions, cautions, reprimands or warnings, it will be hand delivered to the Recruitment and Resourcing Manager (with DBS Lead Signatory status) or nominated deputy, on the day it is received.
- 5.3 The Recruitment and Resourcing Manager, in conjunction with the DBS Panel members will decide if the DBS disclosure is so serious as to warrant suspension (in cases where individuals have commenced work under supervision or for existing employees).
- 5.4 The applicant will be notified in writing that they are required to provide written mitigation for their offence(s), within 5 working days upon receipt of the letter (appendix a).
- 5.5 The applicant will be offered the opportunity to attend a DBS Panel Hearing in person if necessary, with a trade union representative or friend (not acting in a legal capacity). The appropriate recruiting manager may be involved in this process, if deemed appropriate. The DBS Panel will investigate the circumstances around the convictions, consider the employee's circumstances, or applicant's mitigation, and decide whether to accept or reject the individual for employment or defer the decision, or recommend formal action for existing employee's in line with the Performance and Conduct Policy.
- 5.6 All Panel members must agree the decision. If the decision is split, the matter will be referred to the Director of People.
- 5.7 The Panel will consider the potential impact and risk assess the decision made. This will be recorded and made available for the Director of People.
- 5.8 If the decision is to reject the individual for employment / dismiss from employment, then the individual will have the opportunity to appeal against the decision.

## **6. Appeals Process**

- 6.1 Should an individual wish to appeal against the decision of the DBS Panel, they should submit their appeal in writing to the Director of People, within 5 working days from the date of the decision.
- 6.2 For job candidates who have not commenced employment, an Appeal will only be considered where an individual can produce evidence that:
  - the current Trust process was not followed;
  - some other material irregularity, related to the case, had occurred;
  - relevant information was not available at the time the panel heard the case.
- 6.3 Appeals may not be made against professional judgements made by the Panel in good faith.

## **7. Frequency of Meetings**

- 7.1 Meetings will be scheduled weekly, however, this will be reviewed depending upon the level of DBS disclosures.
- 7.2 Extraordinary meetings may be called at the request of any member of the group or the Chair

## **8. Duties and Responsibilities**

- Support and enable the Director of People to meet legal and safer employment responsibilities within the organisation.
- To enable the Trust to meet and discharge its responsibilities in terms of actions required from Key publications and guidance e.g. The Children Act – 1989 & 2004 & Working Together to Safeguard Children – 2006
- Members must deal with all matters relating to DBS information in a confidential manner.
- To ensure appropriate review and updating of the Trust's DBS SOP in line with Legislation and Department of Health regulations and requirements.
- To ensure the Trust has systems and evidence in place to meet DBS legal requirements.
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## **9. Review**

- 9.1 These terms of reference will be reviewed annually to ensure that they remain fit for purpose.