

Tameside College Policy on Disclosure & Barring Service Checks (inc Security of Data and Employment of Ex-Offenders)

1. Overview

DBS stands for the Disclosure & Barring Service and it is the organisation which is an executive non-departmental public body of the home office. It was formed in 2012 and replaced both the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA).

The DBS is responsible for:

- processing requests for criminal records checks AND
- deciding whether it is appropriate for a person to be placed on or removed from a barred list AND
- placing or removing people from the DBS children's barred list and adults' barred list for England, Wales and Northern Ireland.

Not all employees and visitors to the College require a DBS check and this policy defines the various categories who are eligible for checking ie those who regularly care for, train, supervisor or are in sole charge of persons aged under 18 (see Appendix 1 for various categories of staff and their eligibility for a DBS check).

In addition, all new staff providing education at Tameside College who have lived outside the United Kingdom are subject to such additional checks as are deemed appropriate where the required DBS Certificate is not considered sufficient to establish suitability to work with children and young people.

The college is also under a legal obligation to ensure that supply staff have undergone the necessary checks to assess their suitability for the post.

2. Recruitment and Vetting Checks

Safeguarding children and vulnerable adults is absolutely paramount and therefore the college has built good safeguarding practice into routine procedures and practice. It is vital therefore that, running in parallel with this policy, the college adheres to robust recruitment and vetting procedures that minimise the risk of employing people who might abuse children and vulnerable adults, or are otherwise unsuited to work with them. (See separate Safer Recruitment and Selection Procedure).

The college ensures that the full range of checks are carried out so as to minimise the possibility of children and young people under 18, and vulnerable adults, suffering harm from those whom they consider to be in positions of trust. Recruitment and vetting checks are a key element in the work to ensure that these groups of learners are safeguarded and the risk of harm from those who are in contact with them in whatever capacity is minimised.

2.1 What checks are required?

The college is required to carry out the following recruitment and vetting checks on intended new appointees:

- identity checks (2.1.1 below)
- Barred List (formerly List 99) checks for posts in Regulated Activity (2.1.2)
- DBS Certificate.
- checks to confirm qualifications that are a College requirement for the post.
- checks to confirm the right to work in the United Kingdom, and
- where the appointee has lived outside the United Kingdom, further checks as are considered appropriate where obtaining a DBS Certificate is not sufficient to establish suitability to work with children or adults requiring personal care.

ALL of the above checks must be completed BEFORE a person's appointment. In the case of DBS checks, the College must have sight of the original certificate supplied by the applicant before employment commences (except for Section 4 below). In accordance with legislation, a central record (see Section 6) is kept to show that the above checks have been carried out for all relevant employees.

The requirement to carry out the checks also applies to supply agencies (see Section 5) providing individuals to work for the college. In the case of agency staff provided to the college, the college will confirm with the agency that necessary and the appropriate checks have been carried out and are satisfactory. The college will ensure that the contract or arrangement with the supply agency imposes an obligation on the agency to carry out the same checks as FE colleges do for their staff. The college will also ask if the outcome of the DBS Certificate contains additional information and obtain a copy of the DBS Certificate from the agency where it discloses such information.

In addition to the above **mandatory** checks, the college will carry out the following non-mandatory checks on intended new appointees and for all short-listed candidates in regulated activity positions:

- professional and character reference checks
- checks on previous employment history

2.1.1. Identity

It is important to be sure that the person is who he or she claims to be. On 1st September 2012, compulsory checking guidelines were introduced which have tightened up the list of valid documents that are acceptable as proof of ID. There are three routes to follow for identity verification and any applicant not able to satisfy these routes may ultimately be invited to attend a police station for fingerprinting. Guidelines for checking ID are attached at Appendix 3.

2.1.2 Barred Lists

The Barred Lists (formerly List 99) check is undertaken for staff in Regulated Activity as part of an Enhanced DBS check, before they begin work. It is also conducted separately in the cases of an intended appointee who has not yet obtained a DBS Certificate as part of the risk assessment process for allowing for commencement of employment. The Barred List is maintained by the DBS and contains details of people whose employment in relevant employment has been barred or restricted by the Secretary of State. It is an offence for relevant employers to knowingly appoint someone to a post from which they have been barred. A person whose employment has been restricted by the Secretary of State may only work in a post which does not contravene the terms of the restriction.



2.1.3 Level of DBS Check

Any positions which involve regularly caring for, training, supervising or being in sole charge of children or young people under the age of 18 and/or adults, who require a certain level of personal care are positions which are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and as such, the college will apply for an Enhanced DBS Certificate and also conduct a Barred List check. All other positions within the College establishment will be subject to an Enhanced DBS Check but without the eligibility to apply for a Barred List check (see matrix of posts on the College's current establishment at Appendix 1)

A new Enhanced DBS application will be required for all newly appointed staff. Since June 2013, prospective employees have been able to subscribe to the DBS Update Service which allows them to grant access to their status to numerous interested parties. The applicant is still required to present the original DBS Certificate for inspection by the College prior to appointment. Following this, the College is then able to obtain information about an individual should their status change in any way.

3. Recruitment of Ex-Offenders

As an organisation using the DBS to assess candidates' suitability for positions of trust, the College complies fully with the DBS Code of Practice and undertakes to treat all candidates fairly. It undertakes not to discriminate unfairly against any subject of a DBS certificate on the basis of conviction or other information revealed.

The College is committed to the fair treatment of its staff/potential staff, regardless of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation 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 all candidates for interview based on their skills, qualifications and experience.

All posts within Tameside College have been risk assessed as satisfying the criteria for obtaining an Enhanced DBS certificate as per the Exceptions Order of the Rehabilitation of Offenders Act 1974. All application forms, job adverts and recruitment briefs contain a statement that a check will be requested in the event of the individual being offered the position.

We therefore encourage all candidates called for interview to provide details of their criminal record at an early stage in the application process. We request that this information is sent under separate, confidential cover, to a designated person within Tameside College and we guarantee that this information will only be seen by those who need to see it as part of the recruitment/placement process.

We ensure that those who are involved in the recruitment/placement process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders eg the Rehabilitation of Offenders Act 1974.

At interview, or in a separate discussion, we will 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/placement.

Southport College will make every subject of a DBS check aware of the existence of the DBS Code of Practice and make a copy available on request.

Having a criminal record is not necessarily a bar to working with the College. This will depend on the nature of the position and the circumstances and background of the offences.

4. Employing/Placing Ex-Offenders

An Enhanced DBS check will show details of convictions, cautions, reprimands, final warnings or non-conviction information. It will also show, for posts that fall within Regulated Activity (as defined in the Schedule 4 of Safeguarding Vulnerable Groups Act 2006 {amended by the Protection of Freedoms Act 2012}), whether the person is barred from working or seeking work with vulnerable groups including children.

It is an offence for a person barred from working with vulnerable groups including children to apply for such work and also for an employer to knowingly employ a barred person in such a capacity.

All applicants for posts within Tameside College are required to complete a declaration of criminal record. Students enrolling on courses that require a work placement involving contact with vulnerable groups including children are informed in enrolment literature of the requirement to complete a DBS check. The applicant then has the opportunity to provide more information, in complete confidence.

If the applicant is offered the appointment, at this stage, a full risk assessment will be undertaken to determine the relevance of the criminal record to the post applied for.

Where the applicant is still under probation or youth justice supervision, the College reserves the right, with the applicant's consent, to seek advice from a relevant probation officer or youth justice worker about suitability for the post applied for.

The College also reserves the right to amend the offer of employment to allow for the outcome of the risk assessment to be implemented eg to temporarily amend the job description for the post so that the applicant may be given greater opportunity during their initial probationary period to demonstrate their suitability for the post.

Any subsequent decision to withdraw an offer of employment/placement because of, or partly because of, a criminal record will relate to an aspect of the person/placement specification which is seen to be unmet. In cases such as these, the applicant will be advised of why the offer has been withdrawn.

For a student, with a criminal record, applying for a DBS check in order to complete a placement as part of their study course, a separate risk assessment procedure will be followed as determined by the Department.

5. Security of Data

General principles

As an organisation using the Disclosure & Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, the College complies fully with the Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate 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 certificate information.

Storage and access

Certificate information is never kept on an applicant's personnel file and is always kept separately and securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

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

Usage

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

Retention

Once a recruitment (or other relevant) decision has been made, the College does not keep certificate information for any longer than is absolutely necessary. This is generally for a period of 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 certificate information for longer than six-months, the College will consult the DBS about this and will give full consideration to the Data Protection Act and Human Rights Act and inform the individual subject before doing so. Throughout this time, the conditions regarding appropriate, safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed, the College will ensure that any DBS certificate information is immediately destroyed by secure means, ie by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (eg waste bin or confidential waste sack). We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate.

However, notwithstanding the above, the College may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificate and the details of the recruitment decision taken.

6. The Single Central Record

In addition to the Enhanced DBS check, the **Single Central Record** also indicates that the following have been completed:

- Identity checks;
- Qualification checks for any qualifications required for the job;
- Checks of right to work in the United Kingdom;
- Barred Lists checks;
- Further overseas records checks where appropriate

The record also shows the date on which each check was completed or the relevant certificate obtained, and also shows who carried out the check. The record will show whether or not the person's position involves them regularly caring for, training, supervising, or being in sole charge of persons aged under 18 and/or whether the position involved the provision of personal care for adults.

7. Is a DBS Certificate necessary for everyone that visits or works in the college?

It is not necessary to obtain a DBS Certificate for visitors who will only have contact with children on an ad hoc or irregular basis for short periods of time. However, all visitors are required to sign in and out at the main Reception and to display an appropriate visitors/contractors ID badge and coloured lanyard at all times. The majority of visitors should be escorted whilst on the premises by a member of staff or appropriately vetted volunteer.

Examples of people who are not required to have a DBS Certificate include:

- visitors who have business with the college or who have brief contact with children with a member of staff present; eg governors, external auditors, interview candidates.
- visitors or contractors who come on site only to carry out emergency repairs or service equipment and who would not be expected to be left unsupervised on college premises;
- volunteers and parents who only accompany staff and children on one off outings or trips that do not involve overnight stays, or who only help at specific one off events e.g. college open day etc;
- people who are on site before or after normal college hours and when children are not present, e.g. local groups who hire premises for community or leisure activities.
- Visitors who are customers of the College's Reflections Restaurant and Hair & Beauty Salons.

8. If the DBS Certificate is not available before the individual commences employment

Risk Assessment: Supervision Pending outcome of DBS application

In exceptional circumstances, if it has not yet been possible for the applicant/employee to complete the DBS application process, and this might disrupt the care of students or have a detrimental effect on the service provided by the College, the Principal has the discretion to allow an individual to begin work pending confirmation of the outcome of the DBS Check. However, the Principal can only allow the employee to commence work in the event that the individual is appropriately supervised AND that all other possible checks have been completed.

For the member of staff who is subject to the regulations but without a completed DBS Certificate, it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision clearly identified. The arrangements should be reviewed regularly by the appropriate line manager until the DBS Check is completed and the outcome recorded by the College.

In these circumstances, the Line Manager of the individual is required to complete a Risk Assessment and submit it via the HR Department who will in turn forward it to the Principal. Only the Principal or their nominated deputy during a period of absence may authorise that the individual commences employment having had regard to the information supplied on the Risk Assessment form.

It is only when the Principal formally approves the proposed supervisory arrangements, and the necessary pre-employment checks have been completed by the HR Department, may the individual commence employment with the college.

9. Agency or Supply Staff

In the case of agency staff provided to the college, the college will confirm with the agency that necessary and appropriate checks have been carried out and are satisfactory. The college will ensure that the contract or arrangement with the supply agency imposes an obligation on the agency to carry out the same checks as FE colleges do for their staff. The college will also ask if the outcome of the DBS Certificate contains additional information and seek to obtain a copy of the DBS Certificate via the agency where it discloses such information.

If the contents of the DBS Certificate have not been received by the agency, the college will require notification of its content by the agency as soon as it is received, prior to any agency/supply work commencing.

10. Volunteers

Volunteers will normally require a DBS Certificate because of the frequency of their volunteering activity and the contact they have with students under the age of 18 or their requirement to provide personal care. Others may not and the College is not required to check existing volunteers continuing with their old duties, unless the College considers that there is cause for concern. For new volunteers however, or those changing duties the College will consider obtaining an relevant DBS Certificate.

In coming to a decision, the college will consider:

- the duration, frequency and nature of contact with children or level of provision of personal care, and then
- what the college knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers;
- whether the volunteer is well known to others in the college community who are likely to be aware of behaviour that could give cause for concern;
- whether the volunteer has other employment, or undertakes voluntary activities where referees would advise on suitability; and any other relevant information about the volunteer or the work they are likely to do.

This information will allow the college to make a risk assessment, and use professional judgement and experience in deciding whether a DBS Certificate is necessary. Under no circumstances will a volunteer for whom a DBS Certificate has not been obtained (perhaps he or she does not require a Disclosure due to infrequent contact with children) be left unsupervised with children or vulnerable adults.

11. Contractors and Other Workers (excluding Agency Staff)

11.1 Building and Maintenance contractors (external)

Students are not allowed in areas where builders are working, for health and safety reasons, so these workers should have no regular contact and will not be required to undergo a DBS check. However, such regular visitors will be clearly identifiable by wearing an appropriately coloured lanyard (see separate document Security - College Identification Badges)

11.2 Other Workers (eg Visiting Tutors)

The College may engage the services of other workers to undertake a specific role that involves contact with students such as overseeing the production of an event. Such workers whose role falls within the description of regulated activity would be required to obtain a DBS Certificate prior to taking up their role. Heads of Department should liaise with the Personnel Department before engaging the services of such workers.

11.3 Students on Work Placements

The College provides placements for internal and external students, mainly for teacher training courses but also for other types of placements. The provisions for ensuring appropriate checks have been undertaken are in a separate College document - Work Placements Internal and External.

11.4 Third Party Providers

The College maintains contracts with a number of third party companies to provide training for students. The third party providers will be required to provide written evidence that their staff undertaking this training, have undergone necessary and appropriate checks in line with the College's Safer Recruitment guidelines.

12. Applicants for Teacher Training Courses

See separate College procedure for Work Placements Internal and External which contains guidance on applicants for initial teacher training.

13. Fraudulent Applications

Fraud or deception in connection with an application for employment may amount to a criminal offence (Obtaining Pecuniary Advantage by Deception) or attempting to obtain employment in regulated activity by a person on The Barred Lists. In such cases the college will in addition to any planned disciplinary action, report the matter to the police. The case will also be reported to the Secretary of State.