



DISCLOSURE AND BARRING SERVICE (DBS) GUIDANCE

This information relates to DBS checks for staff members. For information or guidance relating to student DBS checks, please see <https://www.essex.ac.uk/staff/dbs/about-dbs>

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What is a DBS check?

A Disclosure and Barring Service check or DBS check is the search of an individual's criminal history. A DBS check may display convictions, reprimands, cautions or warnings depending on the level of DBS check requested. Also known as a disclosure, a DBS check can also disclose information on whether an individual is barred from working from children and/or adults. For Enhanced DBS checks, the local police force may consider to disclosure 'Approved Information' held on the Police National Computer (PNC).

Depending on the role type and activity there are different levels of check that can be requested:

1. Basic DBS check

contains details of all unspent convictions only, can be requested by the applicant.

2. Standard DBS check

contains details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC), can only be requested by an employer for specific job roles

3. Enhanced DBS no barred list check

contains details of any spent or unspent convictions, cautions, reprimands or warnings recorded on the Police National Computer (PNC), plus a check of the records held by the local police force. Can only be requested by an employer for specific job roles

4. Enhanced DBS with Children's' barred list check

Under 18s Vetting and Barring List – this includes the same information as an Enhanced check plus a check of the relevant Vetting and Barring Lists controlled and maintained by the DBS, together with a

check of Section 142 of the Education Act 2002 (previously called List 99). These lists contain the names of all those people who are **barred** from working with people under 18. This will be included (if requested) at Stage 3 of the application process with the DBS and will appear on the Disclosure if they are. Can only be requested by an employer for specific job roles

5. Enhanced DBS with Adults barred list check

Vulnerable Adults Barred List – this includes the same information as an Enhanced check plus a check of the relevant Vetting and Barring Lists controlled and maintained by the DBS. These lists contain the names of all those people who are **barred** from working with Vulnerable Adults. This will be included (if requested) at Stage 3 of the application process with the DBS, and appear on the applicant's Disclosure if they are. Can only be requested by an employer for specific job roles

6. Enhanced DBS with Children and Adults barred list check

Includes the same information as an enhanced DBS check and checks of both barred lists

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Can a DBS be requested for any job?

Standard and Enhanced Disclosures can only be requested by an organisation that is entitled by law to ask an individual to reveal their full criminal history, including spent convictions - this excludes protected cautions and convictions that will be filtered* from a criminal record check - also known as asking 'an exempted question'. An exempted question applies when the individual will be working in roles defined as Regulated Activity by the DBS. These are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 2 1975. The minimum age at which someone can be asked to apply for a criminal record check is 16 years old. An employer must not apply for a criminal records disclosure unless the job or role is eligible for one.

A basic disclosure check can be requested by any organisation wishing to complete their due diligence on employees or volunteers. A basic criminal record check can be requested on all roles and are not limited to any industry or sector.

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What is regulated activity?

Regulated Activity is a term used to describe certain job functions carried out by an employee as defined by the Disclosure and Barring Service (DBS). These requirements are important as they determine eligibility for an Enhanced Level DBS check and a check of the DBS Barred Lists.

Regulated Activity is broken down into two separate groups 'Activity with Children' and 'Activity with Adults' (formerly termed Vulnerable Adults). Unfortunately, the DBS do not provide a definitive list of roles or positions with the corresponding levels of check that should be requested. Such a list does not exist. However, the DBS do provide guidance on the types, and frequency, of activity that can be classed as Regulated Activity.

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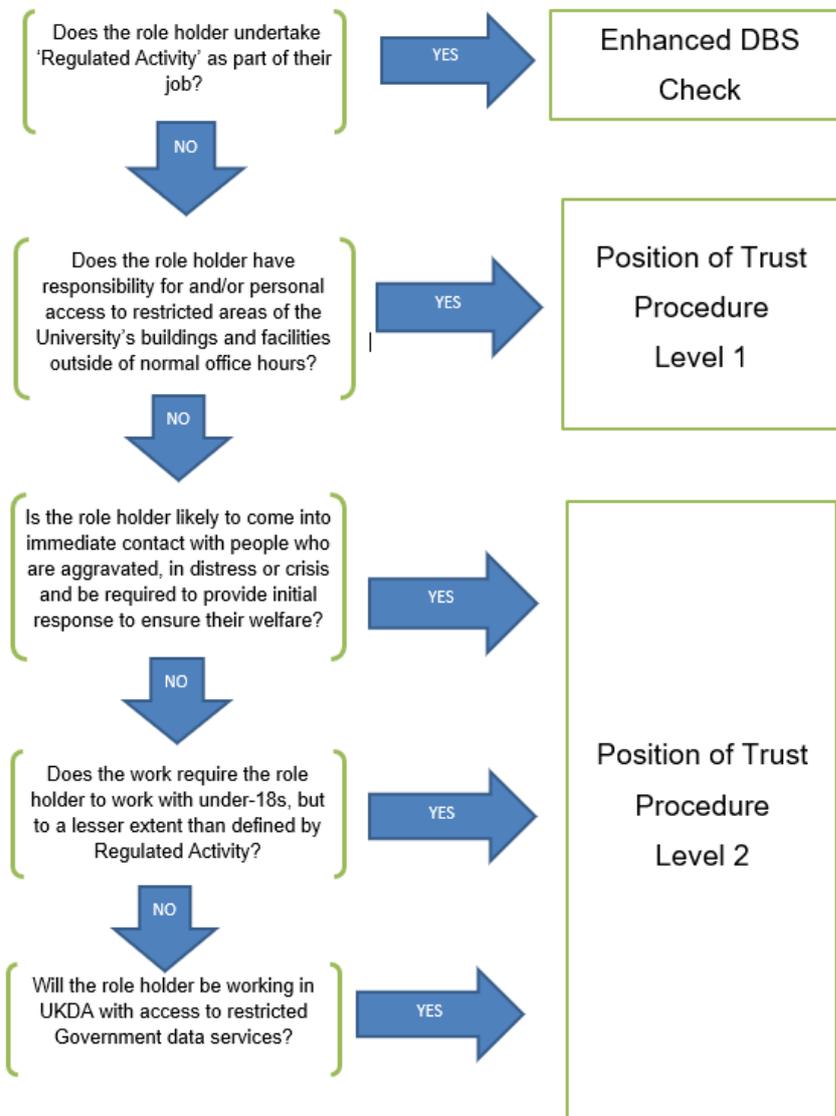
What is a position of trust?

The University recognises that there may be job roles that are considered to be positions of trust, but that do not require the role holder to undertake "regulated activity" as part of their work and therefore do not qualify for a full Disclosure and Barring Service criminal record check. We therefore have a Positions of Trust: Employee Vetting Procedure, which is in place to ensure that the recruitment of staff to such positions supports the University's commitment to safeguarding. This includes roles such as housekeepers and also some positions related to work on Government contracts.

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How do I know if a role is eligible for a check?

The following flowchart will help to determine if a role is eligible for a check, and at what level.



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What is required for each level of check?

If a position meets the [regulated activity](#) criteria, then an enhanced DBS should be requested via our DBS supplier.

For a level 1 position of trust applicants will be subject to a higher level of referencing than standard. References will be required to cover a minimum of three years of the applicant's history prior to application without breaks (employment or education references only). Referees will also be asked to give a judgement of the individual's suitability to a post in light of the related duties that deem the job to be a position of trust. Applicants will also be asked to disclose any unspent criminal convictions, and sign a criminal record declaration form.

For a level 2 position of trust, in addition to the Level One checks, applicants are required to apply for a Basic Disclosure Certificate. A Basic Disclosure contains information from police forces of convictions considered 'unspent' under the Rehabilitation of Offenders Act 1974. Applicants apply for them in their own name directly from the Disclosure and Barring Service

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The Recruitment Process

Where a DBS Disclosure check is to form part of the recruitment process this must be identified from the outset by the Hiring Manager. This requirement will then be made clear in recruitment literature (the job advert, job description and person specification). Please see flow chart above to determine if a check is required.

Where a post is eligible for a Disclosure and Barring Service check and is exempt from the Rehabilitation of Offenders Act 1974, applicants are required to declare any cautions, convictions, reprimands and final warnings that are not protected (i.e. that are not filtered out) as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013).

Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment. Any information declared will be treated in the strictest of confidence and only disclosed to managers where appropriate.

Usually a job applicant has no legal obligation to reveal spent convictions. If an applicant declares a conviction that has become spent, the employer must treat the applicant as if the conviction has not happened. A refusal to employ a rehabilitated person on the grounds of a spent conviction is unlawful under the Rehabilitation of Offenders Act (ROA) 1974.

For posts that require a Disclosure, successful candidates will receive guidance on the application process in their formal offer of employment. The candidate is asked to provide original ID documents from an approved list to People and Culture. Employment will be offered on a conditional basis, subject to a satisfactory Disclosure.

When all relevant checks have been completed the DBS will send a hard copy of the Disclosure Certificate to the individual. If the Certificate is satisfactory and any information provided does not give cause for concern, confirmation of the appointment will be sent from People and Culture to the Hiring Manager and to the individual concerned. If the Disclosure provides information relating to a conviction or other activities relevant to the post this will be discussed in confidence with both the individual and their manager (see [6 below](#)).

The DBS imposes a charge for processing Disclosure applications. In most cases this will be covered by the University.

While it is acknowledged that DBS Disclosures play a vital role in assessing an individual's suitability for regulated work, it is important to note that other pre-employment checks should also play a part in this process, such as references (including one from the individual's previous employer), and exploring any gaps in the individual's employment history at interview stage.

For positions of trust, we only ask the successful candidate(s) to disclose convictions which are not yet spent under the Rehabilitation of Offenders Act 1974, at offer stage.

Individuals appointed to posts that require satisfactory DBS clearance will not normally be able to commence in post until their Disclosure has been returned and has been deemed to be satisfactory. Depending on the particular requirements of a post and the nature of the involvement with children and/or vulnerable groups, it may be possible for the individual to start work prior to receipt of the Disclosure providing they are closely supervised. In such cases the Hiring Manager, in consultation with People and Culture, will need to complete a risk assessment to ensure that appropriate safeguarding mechanisms are in place. If this is not possible, the individual's start date may need to be postponed.

The University will not accept previous or existing Disclosures. We will undertake a new DBS Disclosure check which will be specifically relevant to the University post in question. See also DBS update service at point 6 below.

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DBS checks for existing members of staff

It is important to note that while Disclosures are primarily used in the recruitment and selection process, there may be occasions where a change in duties requires a Disclosure check to be undertaken for an existing member of staff. If an existing member of staff thinks they require a DBS Disclosure, their line manager should refer to flowchart above to determine if a check is required and contact People and Culture to begin the process.

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Re-Checking existing members of staff

In the majority of cases the University does not require staff to be re-checked on a regular basis. However individuals subject to DBS Disclosure are required to notify People and Culture of any cautions/convictions/warnings received during their employment with the University. In accordance with requirements imposed on us by certain regulatory bodies, checks may be carried out annually for certain post holders, for example when working in hospitals or clinical settings.

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The DBS update service

The DBS update service allows applicants to keep their DBS certificates up to date and allows employers to check a DBS certificate. Registration to the service costs £13 per year and can be applied for on the following web page <https://secure.crbonline.gov.uk/crsc/apply?execution=e1s1>.

If an individual has already applied for a DBS check, they have up to 30 days after the certificate has been issued to register for the update service.

The update service allows the University to check if anything has changed on an individual's certificate. If the level of certificate is appropriate then a new DBS check would not be required, and the results are available immediately.

With the permission of the individual the University will be able to carry out a 'status check' on an existing Certificate through this service as long as the original Certificate matches the DBS check needed for the current post. For example it will need to be for the same workforce where the same type and level of criminal record check is required.

The outcome of a valid Status check will be one of the following:

- **This Certificate did not reveal any information and remains current as no further information has been identified since its issue.** This means that the individual's Certificate contains no criminality or barring information and no new information is available.
- **This Certificate remains current as no further information has been identified since its issue.** This means that the individual's Certificate did contain criminality or barring information and no new information is available.
- **This Certificate is no longer current. Please apply for a new DBS check to get the most up to date information.** This means that the individual's Certificate should not be relied upon as new information is now available and you should request a new DBS check.

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Recruitment of Ex-Offenders

As an organisation using the Disclosure & Barring Service to assess applicants' suitability for positions of trust, the University aims to comply fully with the DBS Code of Practice and undertake to treat all applicants for positions fairly. We undertake not to discriminate unfairly against anyone who is the subject of a Disclosure on the basis of conviction or other information revealed.

We are committed to the fair treatment of our staff, potential staff or users of our services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical / mental disability, or offending background.

We recognise the contribution that ex-offenders can make as employees and volunteers and welcome applications from them. A person's criminal record will not, in itself, debar that person from being appointed to this post. Any information given will be treated in the strictest confidence. Suitable applicants will not be refused posts because of offences which are not relevant to, and do not place them at or make them a risk in, the role for which they are applying.

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Assessing information contained within a Disclosure

For new staff

If a Disclosure contains information relating to a conviction, caution, warning or reprimand, it will be forwarded to the Head of Resourcing, who will consider:

- Whether the conviction is relevant to the position applied for.
- The seriousness of any offence revealed.
- The age of the applicant at the time of the offence(s).
- The length of time since the offence(s) occurred.
- Whether the applicant has a pattern of offending behaviour.
- The circumstances surrounding the offence(s), and the explanation(s) offered by the person concerned.
- Whether the applicant's circumstances have changed since the offending behaviour.

We undertake to discuss any matter revealed in a Disclosure with the person seeking the position, and will also involve the line manager before any decision is made to withdraw a conditional offer of employment. Any decision to withdraw the offer will be taken by the Head of Resourcing, and the relevant Head of Department/Section.

Current staff in a new or changed role

The process will be the same as above. Where a member of staff's role responsibilities change but they are not required to re-apply for their job, they are encouraged to declare to People and Culture any unspent or spent convictions in advance of a Disclosure check in order that the relevance can be discussed with them.

Any decision to withdraw the offer of the work will be taken by the Head of Resourcing, the relevant Head of Department and the Director of Employee Relations and Reward in consultation with the member of staff concerned.

Appeals

Should a current or prospective member of staff wish to appeal a decision not to employ them on the basis of information contained within a DBS criminal record check, they must put this in writing to the Head of Resourcing. Their concerns will be heard by a panel chaired by the Director of Employee Relations and Reward, and comprising the Head of Department and the Head of Equality, Diversity and Inclusion. The panel will also seek to interview the applicant or member of staff, or to obtain a written statement so that they are able to represent their view.

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Handling, storing and disposing of Disclosure certificates

As an organisation using the Disclosure and Barring Service to help assess the suitability of applicants for positions involving regulated activity, the University of Essex complies with their Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information.

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Confidentiality

Information provided on any Disclosure Certificate is both sensitive and confidential. It is therefore essential that anyone who is party to that information should handle it appropriately. The University adheres to the DBS Code of Practice and 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, which is contained in this document. The information obtained throughout the process is managed in conjunction with the privacy policy for recruitment and the retention of records procedures.

Under data protection law the University is permitted to gather and hold information about criminal convictions where it is necessary for the purposes of employment law.

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People and Culture
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