

Staff Criminal Convictions, Disclosures and Barring Policy

1. Scope and Purpose

- 1.1 This policy outlines our arrangements on the recruitment of staff with criminal convictions, the use of disclosures, the storage and use of information on convictions which has been disclosed by the Disclosure and Barring Service (DBS).
- 1.2 This policy applies to all staff groups, including contractors, individuals who have an honorary contract with Anglia Ruskin, temporary workers, volunteers for ICE projects and individuals engaged by Anglia Ruskin University on a self-employed basis. The policy will be given to applicants at the outset of the recruitment process where a disclosure will be required as part of the pre-employment checks.

2. Recruitment of Staff with Criminal Convictions

- 2.1 The Rehabilitation of Offenders Act 1974 (ROA) provides that ex-offenders are not usually required to disclose to prospective employers, convictions defined as 'spent' under the Act. It is our policy to require applicants to disclose any 'unspent' criminal convictions as part of their application, except in the case of applications for jobs which are eligible for a disclosure where all convictions should be disclosed. Having a criminal record will not necessarily bar an applicant from working for us; the nature of a disclosed conviction and its relevance to the job will be considered.
- 2.2 Where a conviction has been disclosed in an individual's application for a job with us, a discussion will take place to consider and determine the relevance of the offence to the position. Failure to reveal information relating to unspent convictions could lead to withdrawal of an offer of employment or disciplinary action for existing staff.

3. The Disclosure and Barring Service

- 3.1 The DBS assists employers in making safe recruitment/employment decisions by identifying candidates who are unsuitable for certain work, particularly work which involves undertaking Regulated Activity. It may also be relevant for occupations which are exceptions to the ROA.
- 3.2 Anglia Ruskin University is a registered user of the DBS and will comply with their code of practice and undertakes to treat all applicants/employees fairly and consistently. We will not discriminate unfairly on the basis of conviction or other information revealed in a disclosure.
- 3.3 A disclosure will only be requested after a risk assessment has indicated that one is proportionate and relevant to the position concerned. The DBS provide guidance on the [eligibility for disclosures](#). However where there is a legal or a contractual requirement to check (e.g. from OFSTED or through an NHS contract) it is envisaged that the existing requirements for

disclosures will apply. Where a disclosure is required for a new position, the advertisement will include a clear statement to this effect.

3.4 Types of Disclosure

There are two different levels of disclosure; Standard and Enhanced. In addition with an enhanced disclosure it is possible to obtain a barred list check to identify whether an individual is barred from working with either children or certain adults. The DBS will remove certain specified old and minor offences in line with the DBS filtering rules.

It is also possible to obtain a basic check from Disclosure Scotland for those roles which are not eligible for a Standard or Enhanced check.

Appendix 1 indicates those jobs within Anglia Ruskin University which are likely to meet the requirements for a disclosure.

3.4.1 Standard Disclosures

A standard disclosure can only be obtained for positions included in the ROA 1974 (Exceptions) Order. A standard disclosure will contain details of any spent and unspent convictions, cautions, reprimands and warnings from the police national computer.

A standard disclosure will not reveal whether an individual is barred from working with different groups including children so is therefore unlikely to be used within Anglia Ruskin University.

3.4.2 Enhanced Disclosures

An enhanced disclosure can only be obtained for positions listed in the ROA 1975 Exceptions Order **and** in Police Act Regulations or for positions which meet the pre September 2012 definition of regulated activity.

An enhanced disclosure will contain the same details as a standard disclosure as well as a check of police records centrally.

3.4.3 Enhanced Disclosures with Barred List Checks

An enhanced disclosure with a children's and/or adults barred list check can be obtained for positions which meet the current definition of regulated activity and a small number of positions listed in the Police Act Regulations. The definitions of regulated activity for children and adults, were updated in the Protection of Freedoms Act 2012 and are detailed in Appendices 2 and 3.

The barred list check will identify if the individual has been barred from working with the appropriate vulnerable group.

3.5 Disclosure Certificate

If the disclosure identifies convictions or other relevant information the following information should be considered:

- The seriousness of the offence and its relevance to the safety of other employees/students/members of the public.
- The length of time since the offence occurred.
- Whether the offence was a one-off or part of a history of offending.
- Any relevant information offered by the applicant about the circumstances that led to the offence being committed.
- Whether the individual has disclosed the offence.

The Chair of the appointment panel or Dean/Director will make a decision in conjunction with HR Services about whether any action needs to be taken. For new appointments if the decision is not to appoint, a letter will be sent to the applicant withdrawing the offer of employment and stating the reasons for this decision.

3.6 Re-checking of DBS Status

All individuals who require a disclosure will need to be rechecked every 3 years and/or after a break in service. Certain groups of staff, e.g. those who require a research passport may be required to have a check more frequently.

The DBS Update Service allows individuals to keep their DBS Certificate up-to-date and take it with them from role to role or within the same workforce where the same type and level of check is required. There is a fee for subscribing to the update service although it is free for volunteers. Staff who due to the nature of their role are required to have on-going regular DBS checks will be able to reclaim the cost of subscribing to the Update Service

The DBS update service allows us to undertake a status check to see if any information has come to light since the certificate was issued. Re-checks can be done using the update service where appropriate.

3.7 Portability of Disclosures

If an individual already has a check of the same type and level and has subscribed to the Update Service we will accept disclosures obtained by other organisations.

4. **Barring**

4.1 The DBS will assess relevant information on individual applicants and, where they believe this indicates that the individual poses a risk, bar them from working in a regulated activity with children and/or adults. They will not bar every single individual with a criminal conviction only those who pose an obvious risk.

4.2 A person who is barred from undertaking regulated activity will be breaking the law if they work or volunteer, or try to work or volunteer with those groups. If we knowingly employ someone in a job undertaking regulated activity who is barred from undertaking regulated activity we will also be breaking the law.

We are required to refer information about individuals who may pose a risk to the DBS. This will be undertaken in line with the DBS guidance on making

referrals.

5. Secure Storage, Handling, Use, Retention and Disposal of Disclosures & Disclosure Information

- 5.1 Disclosure information is stored securely with access controlled and limited to those who are entitled to see it as part of their duties.
- 5.2 Disclosure information will only be shared with those who are authorised to receive it in the course of their duties.
- 5.3 Once a recruitment (or other relevant) decision has been made, we do not keep disclosure information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. In some circumstances it will be kept longer than 6 months, for example; if you are a Tier 2 worker.
- 5.4 Once the retention period has elapsed, we will ensure that any disclosure information is destroyed securely.

We will only keep a photocopy of the disclosure with the individual's permission. We will keep a record of the date of issue of a disclosure, the name of the subject, the type of disclosure requested (including whether barred list checks were obtained), the position for which the disclosure was requested, the unique reference number of the disclosure and the details of the decision taken.

6. Review

This policy will be reviewed regularly, and in any case no later than 30 June 2016.

Approved by CMT on 17 June 2013

Reviewed December 2013

Terminology updated September 2015

Updated following a change to the DBS process March 2016

APPENDIX 1

Jobs requiring a DBS Check

Job Title	Faculty/Service	Type of Check	Children's Barred List Check	Adults Barred List Check
Academic staff/Associate Lecturers ¹ /Visiting Tutors in Education (including EYPS Consultants) who regularly go into schools.	FHSCE	Enhanced	Yes	No
Academic staff/Associate Lecturers/Visiting Tutors in Social Work who supervise trainee social workers on placements.	FHSCE	Enhanced	Yes (if undertaking social work with children)	Yes (if undertaking social work with adults)
Academic staff/Associate Lecturers/Visiting Tutors in Nursing/Midwifery who undertake link activity or other types of regulated activity.	FHSCE	Enhanced	Yes (if have contact with children)	Yes (if have contact with adults)
Clinical Skills Tutors	FHSCE	Enhanced	Yes (if have contact with children)	Yes (if have contact with adults)
Academic staff/Associate Lecturers/who teach/supervise students who under the age of 18 at least once a week or on at least 4 days in a 30 day period	Any	Enhanced	Yes	No
Disabled Students Allowance Assessors	Student Services	Basic	No	No
Outreach & Recruitment Staff	CMIDS	Enhanced	Yes	No
Nursery Staff (including volunteers)	Student Services	Enhanced	Yes	No
ICE Volunteers	Chaplaincy	Enhanced	Yes	Yes
Associate Chaplain	Chaplaincy	Enhanced	No	Yes
Posts which required a DBS check because of a legal/contractual requirement with an external body e.g. OFSTED/NHS.	Any	Enhanced	Yes (if have contact with children)	Yes (if have contact with adults)
Counsellors and Mental Health Advisors	Student Services	Enhanced	No	Yes

¹ Previously known as Hourly Paid Lecturers (HPLs)

APPENDIX 2
Regulated Activity for Children

The Protection of Freedoms Act 2012 amends the definition of regulated activity relating to children from 10 September 2012.

Type of Regulated Activity	Description of Activity	Frequency Required
Unsupervised Activities	<p>These activities are teaching, training, instructing, caring for or supervising children or providing advice/guidance on wellbeing or driving a vehicle solely for children.</p> <p>N.B. If work is regularly supervised by a person in Regulated Activity then the work is not considered to be regulated activity. Regularly supervised means that it must be on-going rather than concentrated during the first few weeks of activity.</p>	<p>This will be regulated activity if carried out regularly. Regularly means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30 day period (or in some cases overnight between 2am and 6am).</p>
Working for a limited range of establishments (specified places)	<p>These establishments give the opportunity for contact with children including schools, children's homes, children's detention centres and childcare premises.</p> <p>N.B. If a volunteer is regularly supervised by a person in Regulated Activity then the work is not considered to be regulated activity. Regularly supervised means that it must be on-going rather than concentrated during the first few weeks of activity. Within a specified place all employees are considered to be undertaking regulated activity.</p>	<p>This will be regulated activity if carried out regularly. Regularly means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30 day period (or in some cases overnight between 2am and 6am).</p>
Healthcare	<p>Healthcare for children provided by, or under the direction or supervision of a regulated health care professional</p>	<p>This will be regulated activity if only carried out once</p>

Personal care	Personal care for children involving hands-on physical assistance with washing and dressing, eating, drinking and toileting; prompting and supervising a child with any of these tasks because of their age, illness and disability or teaching someone how to do these tasks.	This will be regulated activity if only carried out once
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Registered childminders, registered foster carers and day-to-day management or supervision of any person engaging in regulated activity is also regulated activity.

There is no requirement for an organisation to check staff who may have contact with students on work experience unless the individual staff member is assigned to specifically mentor, supervise and look after the placement.

Individuals who go into different schools or similar settings to work with different groups should not be required to register unless their contact with the same group is frequent or intensive

Regulated Activity for Adults

The Protection of Freedoms Act 2012 amends the definition of regulated activity relating to adults from 10 September 2012. The new definition removes the word 'vulnerable' relating to adults, the focus is on the activities needed by the adult, not where the activity takes place and the frequency test has been removed (an individual only needs to engage in the activities once to be carrying out regulated activity).

Type of Regulated Activity
Healthcare for adults provided by, or under the direction or supervision of a regulated health care professional (a person who is regulated by a body mentioned in subsection (3) of section 25 of the National Health Service Reform and Health Care Professions Act 2002).
Personal care for adults involving hands-on physical assistance with washing and dressing, eating, drinking and toileting; prompting and supervising an adult with any of these tasks because of their age, illness or disability; or teaching someone to do one of these tasks
Social work – provision by a social care worker of social work which is required in connection with any health services or social services
Assistance with an adult's cash, bills or shopping because of their age, illness or disability arranged via a third party
Assisting in the conduct of an adult's own affairs under a formal appointment
Conveying adults for reasons of age, illness or disability to, from, or between places, where they receive healthcare, personal care or social work arranged via a third party

Day-to-day management or supervision of any person engaging in regulated activity is regulated activity but activity carried out in the course of family relationships, and personal, non-commercial relationships is not regulated activity.

First aid provided by an employee as an ancillary part of their job is also not regulated activity.