



Quality Controlled Document

Policy: Disclosure and Barring Service Policy (DBS)

Date: December 2022

Approved by: Director of HR

1. Scope

- 1.1 This policy applies to all Gloucestershire College employees/potential employees, students, volunteers and Governors who within the requirements of the associated legislation, are obliged to have a Disclosure and Barring Service (DBS) check and/or barred list check and who are found to have a criminal conviction or are on the Disclosure and Barring Service barred list.
- 1.2 This policy also applies to all subsidiary companies of Gloucestershire College namely, Gloucestershire Facilities Management (GFM) and Gloucestershire Professional Services (GPS).
- 1.3 Gloucestershire College and its subsidiary companies, are dedicated to safeguarding and providing a safe working culture and this policy is in line with Keeping Children Safe in Education and DBS guidance.
- 1.4 The legislation relating to DBS checks set out the eligibility requirements for DBS checks, rather than making them a requirement. It is for the College, as the employer, to decide when and whether to undertake a DBS check (and at what Level) by considering the nature of the activities undertaken by its employees and work location and whether they fall within the eligibility criteria. The College would therefore need to consider whether each employee falls within the scope of the eligibility criteria before carrying out a DBS check.

2. Policy Statement

- 2.1 The College has a duty to provide a secure and safe environment in which all learners and staff can obtain the best possible benefit from studying or working in the College. Part of the College's duty is to ensure that it does not employ or make use of the service of a person who has a criminal conviction or record of behaviour that could pose a threat to the safety and wellbeing of learners and staff.

- 2.2 This policy will outline the process for ensuring that approved checks are made on College employees and those carrying out services for the College as required.
- 2.3 There is also a duty on the College to ensure that learners in work placements who come into contact with children and/or vulnerable adults are safe to do so. This policy will outline the process for ensuring those learners, on identified courses, are checked in an appropriate manner.
- 2.4 This policy aims to provide guidance on the employment of ex-offenders. It focuses on the requirements of the legislation, in particular the Rehabilitation of Offenders Act 1974 (ROA), the Police Act 1997, the Protection of Children Act 1999, Safeguarding Vulnerable Groups Act (2006), as amended by the Protection of Freedoms Act (2012), Safeguarding Children and Safer Recruitment in Education (2007), the Data Protection Act (2018) and the Equality Act (2010).
- 2.5 The ethos of the policy is that recruiters must adopt an open mind and make objective assessments based on merit and ability to do the job and where appropriate a full assessment of the risks involved.
- 2.6 This policy is a requirement of the Disclosure and Barring Service Code of Practice.
- 2.7 The College engages with eSafeguarding, an online DBS checking service, to undertake all criminal checks. eSafeguarding is an umbrella body for the Disclosure and Barring Service.

3. Aims and Objectives

- 3.1 Gloucestershire College aims to promote equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from diverse candidates. Criminal records will be taken into account for recruitment purposes only when the conviction is relevant. Having an 'unspent' conviction will not necessarily bar candidates from employment or study. This will depend on the nature of the position and the circumstances and background of the candidate's /student's offence(s).
- 3.2 Recruitment and selection decisions will be based on the following criteria:
 - (i) The applicants/students attitude, abilities, skills, experience and qualifications as measured against the person specification/entry criteria.
 - (ii) The nature of the conviction and its relevance to the job/course in question.
 - (iii) Potential risks to students and the public, other members of staff/students and the service being provided.
 - (iv) Risk to the College's reputation, leading to a potential loss of confidence by members of the public.

4. Assessing DBS Checks

4.1 In respect of assessing DBS checks and the Barred List, Gloucestershire College will:

4.1.1 Ensure that requesting and handling of DBS checks is always dealt with confidentially and with discretion.

4.1.2 In relation to employees, only request a disclosure / Barred List check in cases where an assessment has indicated that one is relevant to the position concerned.

4.1.3 Ensure that assessments of posts/work related activity focus on:

- The guidance provided regarding regulated activity relating to children and vulnerable adults.
- The nature of the job; the workplace environment; exposure to money; exposure to property; contact with children (meaning a person under the age of 18 years), young people and vulnerable adults.

4.1.4 When a new post is created, it is the responsibility of the Hiring Manager, with support from the HR team, to ensure that an appropriate risk assessment of the post / work related activity has been undertaken to identify the level of check that is required.

4.1.5 In line with Keeping Children Safe in Education guidance, the College encourages applicant honesty by stating and ensuring that applicants are considered on merit and ability, in addition to factors such as previous criminal convictions.

4.1.6 The recruitment process includes requests for conviction records from all shortlisted candidates. Candidates are required to complete and return a declaration prior to interview. Failure to do so will mean candidates are unable to progress their application. The declaration provided to shortlisted candidates is included in Appendix 1. If a candidate answers "Yes" to any of the questions in the declaration they are required to submit details to the Director of HR directly, either via email or in an envelope marked 'private and confidential'.

4.1.7 All applicants are required to comply with Data Protection and Human Rights legislation.

4.1.8 The College's ensures access to DBS information is given on a need-to-know basis only.

4.1.9 In relation to students, the College requests a disclosure/Barred List Check if programme requirements indicate this is necessary.

4.1.10 The following levels of checks may be carried out by the College dependent on role:

- Enhanced

Details of an individual's convictions, cautions, reprimands or warnings on Police central records and includes both 'spent' and 'unspent' convictions. Any information held locally by Police forces that it is reasonably considered might be relevant in the post applied for.

- Enhanced with a DBS Barred List Check

All roles that require the employee to work on site on a regular basis and therefore have the "opportunity for contact with children" will require an Enhances with Barred list check.

Child and Adult workforce levels and child and adult barred list check requirements are determined in line with Keeping Children Safe in Education and Department of Health definition of regulated activity (Adults) [DH Title \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)

DBS Adult First- an individual can be checked against the DBS Adult barred list while waiting for the full criminal record check to be completed.

5. Requirements for Employees

- 5.1 Gloucestershire College has identified posts which require a disclosure and are identified as undertaking regulated activity and the level of check that is required. This applies to all employees, volunteers, Governors and agency staff.
- 5.2 When considering the relevance of a criminal record or placement on the Barred List, a decision on employment will be based on:
 - Any potential risk to students and others
 - The seriousness of an offence(s)
 - An examination of circumstances leading up to an offence
 - Repeat offences
 - The length of time since an offence(s) took place
 - An individual's attempt to rehabilitate themselves
 - The ability to manage risks and provide safeguards
 - The level of supervision required and available
 - The country in which an offence was committed
- 5.3 If a person will not provide their authorisation for a Disclosure to be carried out when it is essential for the post, then any conditional offer of employment will be withdrawn.

- 5.4 Current employees must notify the Director of HR if they receive a caution, a conviction and/or are placed on the Barred List, and/or if circumstances have arisen whereby they may be charged with an offence. They must disclose all relevant information to the College in respect of any potential or actual caution and/or charge, including;
- Whether or not they have been charged with an alleged offence and the surrounding circumstances; and
 - Whether they have any upcoming court date(s) at which the alleged offence will be considered given that such hearings are held in public.
- 5.5 Any decisions regarding their employment status will be made under the principles of this policy.
- 5.6 Final decisions on whether or not a conviction is a barrier to employment will be made by the Director of HR, who may involve the Principal in this decision as necessary.

6. Requirements for Students

- 6.1 Early Years students at Levels 3 and Foundation Degree need to undergo DBS checking as a requirement of their training placements. Health and Social Care students at 3 are also required to do this for the work based learning element of their courses. Level 2 Early Years and Health and Social Care learners MAY require a DBS check if their CPD/ work experience requires it.
- 6.2 PGCE students who are undertaking their learning through the University will require DBS checking to be undertaken by the University. It is the responsibility of the Head of School or department to ensure that the College has had sight of the original certificate and a record of the certificate reference number is retained in the student's records.
- 6.3 PGCE Students who are undertaking their learning through Gloucestershire College require DBS checking to be undertaken by the College. It is the responsibility of the Head of School to ensure that the College has had sight of the original certificate and a record of the certificate reference number is retained in the student's records.
- 6.4 If a student is to undertake paid work for the College, the full recruitment process will need to be adopted prior to any work being undertaken. It is the responsibility of the Hiring Manager to ensure that the correct paperwork is passed to the HR department for processing. The student will then be considered an employee of the College.
- 6.5 If a student is unable to access an on-line DBS check via eSafeguarding, a paper application can be made. In this circumstance the student will be

asked to provide a written declaration that they have read the Privacy Policy via <https://www.gov.uk/government/publications/dbs-privacy-policies>

The written declaration will be retained for no more than three months.

7. Requirements for Agency Staff

- 7.1 Where it is necessary to engage agency staff at the College, it is a requirement of the recruitment agency to undertake a DBS check, dependent on the College's risk assessment and requirement.
- 7.2 It is College policy that the agency check must have been undertaken within the previous 3 months and employment references have been requested and received for the agency member of staff prior to placement at the College.
- 7.3 Should a Recruitment Agency not comply with the College's request, the placement will not be authorised and the agency member of staff will not be engaged to work at the College.

8. Risk Assessments

- 8.1 When a new post is created, it is the responsibility of the hiring manager to ensure that an appropriate risk assessment of the post / work related activity has been undertaken to identify the level of check that is required.
- 8.2 Where a DBS application is in progress with eSafeguarding and the College is awaiting receipt of the check, a risk assessment can be completed to bridge the gap.
- 8.3 A risk assessment may only be considered if all other pre-screening processes are satisfactory and complete including, employment references.
- 8.4 The risk assessment does not substitute the on going, day-to-day safeguarding of students. New staff must be supervised and should be observed and supported to ensure they understand, know where to find and become familiar with and adhere to, the College policies, procedures and rules etc.
- 8.5 When completing a risk assessment, the hiring manager will be asked to confirm the following measures:
 - **Please describe the environment that the new person will be working within e.g. are they working in an open plan area and are visible to other staff and or within a closed restricted area. (Please provide as much detail as possible i.e. Open plan workshop/office environment, level of student interaction and frequency of contact) – Please describe the normal arrangements.**
 - **KCSIE advises “Where a school or college allows an individual to start work in regulated activity relating to children before the DBS certificate is available, it should ensure that the individual is appropriately supervised”**

- Please describe how you will appropriately supervise the individual, describe how the normal working arrangements can be amended.
 - Consider the following;
 - *Is the person transferring from similar position (regulated role) with less than a 3 months gap? a lower level of supervision may be required.*
 - *If the person has not been in a regulated role previously, or the gap is more than 3 months a higher level of supervision will be required – Lecturers will not be able to be left unsupervised with learners.*
 - *In each situation please demonstrate the level and frequency of supervision and monitoring controls pending receipt of a DBS disclosure.*
 - **Please provide details of additional safeguarding measures that will be implemented to manage the potential risk identified** (e.g: restricted duties, working with other staff at all times, induction, training, access to personal student data)
- 8.6 Where an individual is allowed to start work in regulated activity, before a DBS check has been completed, a separate barred list check will be undertaken by the HR Operations Manager via <https://teacherservices.education.gov.uk/EmployerAccess/GetTeacherList>
- 8.7 All risk assessments are authorised by either the HR Operations Manager or the Director of HR following a full review of pre-screening checks.

9. Provision of Information for Employees

- 9.1 All applicants and employees involved in the recruitment process will be given the opportunity to request a copy of this policy.
- 9.2 All job descriptions/person specifications for positions where Disclosures are requested, will contain a statement that a Disclosure will be requested in the event of a successful application, to ensure applicants are aware of the situation.
- 9.3 A copy of the DBS Code of Practice will also be provided on request.
- 9.4 Application forms and accompanying material will contain a statement to the effect that a criminal record will not necessarily be a bar to obtaining a position, in order to reassure applicants that Disclosure information will not be used unfairly.
- 9.5 A submission will only to be made to the Disclosure and Barring Agency once an applicant has been provided with a conditional offer of employment or is to undertake voluntary work.
- 9.6 Disclosure information and a barred list check will be taken up in regards to current employees in the event that the nature of their employment changes in such a way as to make a Disclosure or barred list check necessary e.g. now have access to children, young people or vulnerable adults when they previously did not or where advice is given by a Government or other Statutory Agency.

10. Handling, Use, Storage, Retention and Disposal of Information

- 10.1 An opportunity will be provided to all applicants to discuss any offences or other matters that might be relevant to the position.
- 10.2 The Director of HR or a nominated member of the HR Management team will discuss any matters revealed in Disclosure information, with the applicant, before deciding whether to withdraw an offer of employment.
- 10.3 Failure to reveal information that is directly relevant to the position sought may lead to withdrawal of an offer of employment.
- 10.4 Recipients of Disclosure information (counter signatories) will ensure that Disclosure information is not passed to persons not authorised to receive it under section 124 of the Police Act (1997).
- 10.5 Disclosure information will only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 10.6 Upon receipt of the Disclosure Certificate, the applicant must produce the original certificate to the HR Department, within 5 working days of receipt. The applicant will be asked to sign to give their consent to allow the College to retain a partial copy of the Disclosure Certificate on file. Failure to produce the original certificate to the HR Department within 5 working days of receipt may result in any provisional offer of employment being withdrawn.
- 10.7 Disclosure information will be kept on the applicant's electronic file on a secure network. Access will be strictly controlled and limited to those who are entitled to see it as part of their duties. HR will keep a record of all Disclosures received. Gloucestershire College recognises that it is a criminal offence to pass this information to anyone who is not entitled to receive it.
- 10.8 DBS application information may be retained for a period of up to six months after the date on which the recruitment decision is taken, after which time it will be destroyed. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will be enforced.

Approved by: Director of HR
Date for Revision: December 2023

Appendix 1



Self-Declaration Form

As an educational provider, we are required to complete certain safeguarding checks for everyone that works for us, the nature of which depends on the specific role. Generally, we are permitted to ask whether an applicant has any convictions, cautions, reprimands or final warnings which would not be filtered in line with current guidance, as defined by The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020). This Order sets out the circumstances in which an individual can be asked about spent convictions (but not protected convictions or protected cautions) and when an employer can consider these. This includes *"any employment as a teacher in a school or establishment for further education and any other employment which is carried out wholly or partly within the precincts of a school or establishment for further education, being employment which is of such a kind as to enable the holder to have access to persons under the age of 18 in attendance at the school or establishment for further education in the course of his normal duties."* We consider that the vast majority of our roles fall under this definition, but more guidance on the above can be found on the DBS guidance and/or from the Nacro/Unlock websites as mentioned below.

The amendments to the Exceptions Order 1975 (2013) provide that certain spent convictions and cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account. Guidance and criteria on the filtering of these cautions and convictions can be found on the Disclosure and Barring Service website.

Please confirm the following:

<i>Do you have any unspent conditional cautions or convictions under the Rehabilitation of Offenders Act 1974? (Y/N)?</i>	YES	NO
<i>Do you have any adult cautions (simple or conditional) or spent convictions that are not protected as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020? (Y/N)?</i>	YES	NO

The amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) provides that when applying for certain jobs and activities, certain convictions and cautions are considered 'protected'. This means that they do not need to be disclosed to employers, and if they are disclosed, employers cannot take them into account. Guidance about whether a conviction or caution should be disclosed can be found on the Ministry of Justice website.

More guidance on the above can be found on 'Nacro' or 'Unlock' which are charities that can provide guidance to help individuals understand the amount of information they need to disclose about any criminal history they may have.

If you have answered 'yes' to any of the above questions, details of offences, penalties, dates and country in which they occurred, or of allegations made against you, must be submitted in a sealed envelope marked Private and Confidential for the attention the Group Director of HR and Corporate Services or sent via email to Carly.Rosser-Mayo@gloscol.ac.uk marked as confidential. Please include your full name and the job title of the role you are applying for within your disclosure.

Criminal records will only be taken into account for recruitment purposes when the record is relevant. Unless the nature of the work demands it, you will not be asked to disclose convictions which are 'spent' under the Rehabilitation of Offenders Act 1974. A copy of the DBS code of practice is available on request. Having a criminal record will not necessarily bar you from employment, but this will depend on the circumstances and background of your offence(s).

Please be aware that a full criminal background check of the successful candidate will be carried out through the Disclosure & Barring Service. If the role you are applying for includes regular contact with children (as stated in the job profile and person specification, this will include an enhanced DBS check (including children's barred list information, for those who will be engaging in regulated activity with children).

The purpose of this self-declaration is so that candidates will have the opportunity to share relevant information and allow this to be discussed and considered at interview before the DBS certificate is received.

I declare that the information provided on this form is correct. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role at Gloucestershire College and any of its subsidiaries.

Signed:	
Name:	
Dated:	
