

Minimum requirements

3.1 Determining eligibility for a check

3.1.1 Employers must undertake an eligibility assessment to determine if a check needs to be carried out and if so, the correct type and level of check required for the role.

3.1.2 Requirements under the criminal record regime are complex and can be difficult to understand. Not all NHS roles will be eligible for a DBS check. The trigger for a check and the level of check required is determined by the type of activities the individual in that role will be required to undertake and the level of access this will give them to persons in receipt of health services. It is therefore essential for employers to provide as much information as possible to ensure recruiting managers understand the eligibility criteria for each level of DBS check and applicants have clarity on what type of information they need to declare.

3.1.3 Employers may find it helpful to refer to our online [DBS eligibility tool](#). The tool asks a series of questions to identify whether a role meets the criteria for a DBS check. You can also find a series of [scenario-based examples](#) to demonstrate how different responsibilities can impact on the level of check required. Further information on DBS eligibility is available on the [gov.uk website](#).

3.1.4 For background information see **Appendix 1** which contains a list of all the key pieces of legislation which either permit or legally require employers to obtain a DBS check.

3.2 When to request a DBS check

3.2.1 Where a role meets the eligibility criteria, employers should undertake a DBS check at the end of the recruitment process and once the provisional offer of appointment has been made. It is important to make clear that any offer of employment remains conditional until all satisfactory checks have been completed, including a DBS check. The disclosure certificate will be sent directly to the individual, employers will therefore need to ask individuals to present their original copy of the

disclosure certificate at the earliest opportunity, to reduce delays in them taking up appointment.

3.2.2 Where individuals are subscribed to the DBS update service, the employer will need to check the individual's criminal record status online. Employers must seek the individual's permission to access their information online and ask them to present their original disclosure certificate. Be mindful that there are requirements to obtain a new DBS check where individuals are changing roles and the new role changes the type and level of DBS clearances required, regardless of their subscription to the update service.

3.3 Taking up a position before the check outcome is known

3.3.1 Employers may, in exceptional circumstances, make a risk-based decision to allow an individual to take up their role before the outcome of their DBS check is known. Exceptional circumstances include where individuals are required to complete a period of induction or training in advance of them starting in their role. Where practical, it may also include allowing individuals to start work or volunteer in a limited capacity, for example, restricting duties to non-regulated activity until the outcome of the check is known.

3.3.2 If recruiting into a regulated activity with adults, employers may wish to consider obtaining a quick check against the barred list through a DBS Adult First check.

3.4 Existing staff changing roles within the same organisation

3.4.1 There is no requirement for employers to obtain a new DBS check on existing members of staff who are changing roles within the same organisation and where the new role does not change the type or level of

DBS clearances required. Any request for a repeat check should be proportionate to risk and will be dependent on whether local policy requires periodic checks or subscription to the DBS update service.

3.4.2 Employers should make it clear to all staff that they have a duty under the NHS Terms and Conditions of Service to notify any organisation they are employed or volunteering with, if they subsequently become subject to any convictions, police cautions, conditional cautions or other similar offences, at any point during their term of appointment. It may be in an employers' best interest to outline similar requirements for volunteers or temporary/contracted workers.

3.5 Students

3.5.1 Students undertaking vocational placements as part of a professional qualification are likely to be eligible for a DBS check. The employer offering that placement will need to determine the level of check required based on the activities the individual will be required to undertake and the risks associated with those responsibilities.

3.5.2 Employers may choose to pass the responsibility to undertake a DBS check to the educational establishment where the applicant has been provisionally accepted on a training placement. Where doing so, they must seek written assurances that the educational establishment has carried out an appropriate check at the correct level. Where the necessary assurances cannot be provided, the employer will require a new check either by obtaining one themselves or requiring the educational institution to obtain one.

3.6 Work placement/experience

3.6.1 The Protection of Freedoms Act 2012 legislates that DBS checks must only be conducted on individuals who are aged 16 or over. When offering work placements/experience to individuals under the age of 16,

the host organisation should rely on other sources of evidence gained through their check process to assess a young person's suitability.

3.6.2 Eligibility for a DBS check for those aged 16 and over will need to be based on the type of duties individuals will be undertaking while on placement and the level of access this will permit them to have with persons in receipt of health services. Quite often, work placements are only for very short periods of time, therefore the host organisation may decide that it would not be practical or proportionate to seek a DBS check. In such cases, the reasons for not carrying out a DBS check must be recorded and retained on file and appropriate safeguards put in place to manage that individual.

3.6.3 Individuals on work placements or experience should not be allowed to engage in a regulated activity. Observing clinical practise is not a regulated activity and therefore an enhanced with barred list check is not required. The host organisation should consider whether the duties or contact with persons in receipt of health services would meet eligibility for other levels of DBS check (i.e., basic, standard or enhanced without barred list).

3.6.4 In all cases, the host organisation must ensure that all individuals invited to carry out a work placement or experience are suitably supervised for the full term of their stay within the organisation and only permitted to carry out duties which are appropriate to their level of knowledge, skills, and experience.

3.7 Informing applicants about check requirements

3.7.1 Employers must be able to demonstrate that they are only asking for information that is strictly necessary for them to gain assurance of an individual's suitability for the role they are recruiting to. This is of utmost importance to ensure compliance with the General Data Protection Regulation (GDPR).

3.7.2 Clearly stating the type of checks that will be undertaken as part of the recruitment process allows individuals to make an informed decision about whether to apply. Being clear about automatic exclusions that apply to regulated activity i.e., if they appear on the adults or children's barred list(s), will be helpful to ensure time and resources are not wasted on requiring individuals to go through an interview process, only for their application to be rejected further down the process.

3.7.3 Providing information about your organisation's policy on recruiting individuals who have a criminal record will also help reassure applicants that your organisation is committed to adhering to fair recruitment practice. The DBS have provided a [sample policy on recruiting ex-offenders](#) which you can adopt for this purpose.

3.7.4 Providing applicants with a point of contact within your organisation is also recommended in case they have any questions about the recruitment process. Given the complexities of the criminal justice system, signposting them to charity bodies such as [Nacro](#) or [Unlock](#) will also be necessary to ensure they understand what criminal record information they need to declare and their rights when doing so.

3.7.5 If information about an applicant's criminal record is discussed verbally, we would recommend that this is carefully recorded and stored separately and securely on the applicant's file in line with GDPR guidelines. This is in case of any challenge about the recruitment process or final recruitment decision is raised later down the line.