



Disclosure & Barring Service (DBS) Procedure

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Yes

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Principal's Signature

1. Criminal Record Checks

The amendments to the Exceptions Order 1975 (2020) provide that certain spent convictions and cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account. However certain types of posts, particularly those that involve working with children or adults in a vulnerable position or other positions of trust or sensitive areas, are exempt from these provisions, and in these cases all convictions, cautions, reprimands or final warning that will not be filtered in line with the current guidance must be declared.

Shipley College staff will be required to complete an enhanced DBS check as work is considered as "regulated activity" under the definition as outlined in Keeping Children Safe in Education. We notify all candidates within our job adverts that Enhanced DBS' are carried out.

As DBS only sends a copy of the Disclosure Certificate to the applicant, the College will request sight of the original from the individual.

For Shipley College's policy on the recruitment of staff with criminal records see Appendix 1 & 2.

2. Types of disclosure and barred list checks

The different levels of criminal records check that Shipley College carries out are:

- Enhanced DBS check through the Disclosure & Barring Service
- Enhanced DBS check with Children's and Adult Barred list check

3. After recruitment

As part of an employee's induction, new employees should be made aware of their commitment to safeguarding children and adults whilst employed at Shipley College. It is mandatory for all roles that new staff complete the relevant safeguarding training within 6 weeks of employment.

All staff will be expected to undertake refresher training for mandatory training and will receive further training regarding any other important safeguarding related matters. Keeping Children Safe in Education updates must be completed annually.

If, for operational reasons, someone is asked to start prior to a DBS check being returned, the manager must first complete a DBS Risk Assessment. Once a disclosure is received the Risk Assessment will be void.

The risk assessment asks for confirmation that:

- The pre-employment checks have been completed. For example, the identity of the job applicant is confirmed, references have been taken and at least one reference has been received and verified.
- The manager has introduced sufficient safeguards for the individual not to have unsupervised access to children or adults. Only a current Shipley College employee who has a satisfactory DBS check may provide supervision

Only if the Principal formally approves the proposed supervisory arrangements may the individual commence employment with the College.

4. Applicants with adverse disclosures

If a DBS check reveals details of convictions which may render the applicant unsuitable for the applied post – termed 'Cause for Concern' – the HR Manager will discuss the situation with the applicant, in line with the relevant legislation and College policy.

When assessing any disclosure or declared conviction information received, consideration will be given to a range of issues and, in some cases, the HR Manager may wish to seek legal advice prior to discussing it with the applicant.

Having a conviction will not necessarily bar someone from employment with Shipley College, who will only take a criminal record into account when the conviction is relevant. Protection of the applicant's rights and interests must be weighed against the rights and interests of the College, students, employees and the public, including Shipley College's duties and responsibilities towards these or other groups.

The HR Manager & SMT will not allow personal prejudices to 'cloud' judgement and good practice. They will consider the relevance of offences and be aware that no two offences are exactly alike.

If the candidate has made a false declaration on their application form then Shipley College will not be able to confirm the appointment. If the disclosure certificate contains information that was not revealed by the candidate or additional information from the Police is received, it will be necessary to hold a further discussion with the candidate and undertake a further review against any risk assessment before deciding to confirm or withdraw the offer of employment and legal advice will be sought at this point.

The College checks the Barred List as part of the Enhanced DBS process and applicants are made aware of this within the recruitment process. If the checks reveal that a candidate is on the Barred List for Regulated Activity, the College will make a referral to DBS to notify them of an individual's attempt to apply for barred work.

Should the HR Manager and SMT deem the individual's conviction still warrants the offer of employment continuing, a Risk Assessment will be completed and signed by the Principal stating the matters taken into consideration when making the decision and any special measures to be put in place. The risk assessment to be stored securely and later destroyed, in accordance with retention and disposal policies.

5. Enhanced DBS and barred list checks for employees

If a post requires an Enhanced DBS check, Shipley College can legally re-check their staff as regularly as they wish to. This will be done through the online update service. If the online status check reveals a change in the disclosure status then a re-check will be required.

Shipley College will re-check those employees that work in Regulated Services if:

- There is a significant change in their role and duties
- Their actions or activities give 'cause for concern'
- An employee has disclosed a conviction since their last DBS check

The grounds for 'cause for concern' could include allegations of suspicious or inappropriate behaviour made by a child or other person or a colleague, parent, carer or member of the public. In such instances, a full investigation of any such allegations will be conducted in accordance with the College's Disciplinary Policy. As part of the investigation process, the employee may be required to undergo an Enhanced DBS check or Enhanced check for Regulated Activity with consideration and legal advice taken in respect of human rights and employment legislation.

Where, due to changes in legislation, occupational groups become subject to regulation for the first time, Shipley College will write to existing employees in those groups informing them of the requirement to obtain an Enhanced DBS check. All employees will be expected to comply. Any existing employee refusing to comply with the request for an enhanced DBS check will be advised that their deliberate and unreasonable refusal to carry out lawful and safe instructions issued by an appropriate manager and/or to comply with a contractual agreement will lead to the employee being subject to a disciplinary investigation.

6. Portability

A satisfactory DBS certificate will be accepted in the instance where a candidate:

- Was carrying out the same or similar role in the previous institution and has not had a break in service from that role exceeding 3 months

Or

- Is registered on the update service

For those applicants that have worked or been resident overseas, including UK citizens who have worked or lived overseas, Shipley College may require the Statement of Good Conduct, depending on the length of time overseas.

N.B. This does not apply to members of the UK armed forces and their families that were stationed overseas.

7. Employees with adverse disclosures

Where existing employees who have not been previously checked, or whose post requires a re-check and subsequently have an adverse disclosure result, the HR Manager will discuss the situation with the employee, in line with the relevant Code of Practice. Employees, whether previously checked or not, are informed of their duty to inform management if their conviction status changes during their employment. All employees are also asked to complete a criminal conviction declaration annually to confirm there have been no changes in their criminal conviction status.

It may be appropriate to move the employee to an alternative post with no access to children and/or vulnerable groups, property/ information/ resources etc., depending on the nature of the disclosures and pending the outcome of a full investigation.

It may be that there are no suitable duties the employee could undertake during this period which do not bring them into contact with children/adults. If this is the case, the HR Manager will give consideration to suspending the employee on full pay pending the outcome of the disciplinary investigation.

The employee may confirm or refute the information provided by the DBS. Where this is the case, the HR Manager, in conjunction with the employee's line manager,

may pursue a range of options and this may include further checking with the DBS.

When completing the Risk Assessment Proforma it should be considered whether the conviction is relevant to the post and evidence of previous convictions should not be used to dismiss a person for poor job performance. The track record of the individual should be carefully assessed and should be considered positively if it is satisfactory. If the disclosure results are considered to be of a serious nature and prove to be correct then the HR Manager/SMT may consider various options. Options include:

- Termination of employment
- Redeployment pending the availability of a suitable vacancy
- The introduction of additional safeguards

Only after a full appraisal of the situation, including the risks involved and other alternative employment options investigated, should dismissal be considered and then only after seeking legal advice. If the HR Manager & SMT decide to consider termination of employment then an investigation must take place, the employee must be informed in writing and a hearing held in line with the College's Disciplinary Procedure.

If the disclosure results are considered not to be serious and do not impinge on an employee's ability to work in their existing role then the HR Manager should inform the employee accordingly in writing, following a risk assessment. The risk assessment will need to be approved by the Principal and must document justifications for decisions made in relation to that particular case and detail any special measures that need to be observed.

8. Referral to the Disclosure and Barring Service (DBS)

The Safeguarding Vulnerable Groups Act 2006 sets a legal duty for Shipley College to refer information to the DBS if a member of staff/volunteer/contractor is dismissed or removed from working with children and/or adults (in what is legally defined as Regulated Activity) because they meet the referral criteria. Shipley College has a duty to refer information to the DBS as a Regulated Activity Provider and will forward information to the DBS in all cases where an individual is dismissed or removed from regulated activity (or would have been removed had they not already left) because they harmed or posed a risk of harm to vulnerable groups including children. In cases where the College believes the person has committed a criminal offence, information will also be forwarded to the police at the earliest opportunity.

9. Employees Supervising Young People on Work Experience

If, as part of an employee's duties, they are asked to supervise young people (under 16s) on work experience at Shipley College this is regulated activity and an enhanced DBS check with Children's Barred List is required.

10. Agency workers

The agency is legally the employer of any agency workers and the responsibility to obtain a relevant Basic Disclosure, DBS check, or an Enhanced check for Regulated Activity is theirs. This check can then be used within any organisation that the agency provides workers to work within, provided that it is for the same

workforce and relevant barred list check. Shipley College undertakes annual audits of the agencies to ensure they are compliant with the College's safeguarding requirements.

When using an agency worker, the Line Manager should ask to see written confirmation from the agency (this should be no more than one year old), to ensure that each worker supplied to them has had a satisfactory DBS check.

11. Contractors

The organisation providing the contractor is legally the employer of any contractors and the responsibility to obtain a relevant DBS check or Enhanced check for Regulated Activity is theirs. This check can then be used within any organisation that contractors are provided to. If contractors are procured, Shipley College will ensure that all Safeguarding requirements are included within the procurement documentation. An audit of the contractor's organisation will be undertaken on an annual basis to ensure compliance with these requirements. Contractors who do not hold a DBS must be supervised throughout their attendance on site and these visits will be made where possible out of term time to minimise contact with students.

12. Volunteers

A volunteer is described as a person who performs an activity which involves spending time that is unpaid (except for travelling and approved out of pocket expenses) doing something which aims to benefit someone (individuals or groups) other than, or in addition to, close relatives.

Volunteers who assist on a regular basis in a role which meets the parameters for requiring a DBS check are required to undertake a DBS check, and if the role is also classed as Regulated Activity they will be eligible for an Enhanced check for Regulated Activity.

The check is provided free.

Volunteers who do not meet the parameters for a DBS check will be risk assessed and supervised within College.

N.B. Some people can be referred to as volunteers but do not actually meet the DBS criteria to get a free disclosure check. To qualify for a free of charge disclosure, the applicant must not benefit directly from the position the DBS application is being submitted for. The applicant must not:

- receive any payment (except for travel and other approved out of pocket expenses);
- be on a placement/work experience;
- be on a course that requires them to do this volunteer job role; and/or
- be in a trainee position that will lead to a full-time role post qualification.

Volunteer roles should be properly described under 'role of applicant' on the DBS disclosure form e.g. "volunteer classroom helper" and therefore must be provided correctly on the "New Starter Form".

13. Gender recognition certificates

The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate. When a full gender recognition certificate has been issued, the person is legally considered to be of the acquired gender.

If the person is required to undergo a DBS check as part of the recruitment process they must disclose any previous names and/or gender to the DBS who have established a special application procedure/dedicated contact officer to maintain confidentiality:

DBS - email: sensitive@dbs.gsi.gov.uk

Gender confidentiality will be maintained where the individual has no criminal convictions and where there is no other information held by any Police Authority, as a clear disclosure certificate is the ultimate result. However, if they did have convictions under their previous gender that were considered relevant to the post/position, then the individual's gender change would become evident through the provision of conviction information on the DBS disclosure certificate showing both gender names.

14. Data protection

Shipleigh College will ensure that sensitive personal information is held securely, and only seen by those entitled to see it in the course of their duties. See Appendix 3 on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information.

The HR Manager will record that a check has been carried out, including unique disclosure number and date, on the successful applicant's personnel record in the HR system as part of the College's Single Central Record.

Under section 124 of The Police Act 1997 it is a criminal offence to pass disclosure information about a spent conviction to anyone who is not entitled to receive it. Serious misuse of a person's criminal record could result in a prison sentence of up to six months or a fine of up to £1,000, or both.

15. Complaints

Applicants unhappy with any aspect of the DBS process, including the application of this policy, should initially raise their concerns through the appointing manager or the HR Manager. Where this fails to produce a satisfactory resolution, applicants have the right to complain to the College Principal.

The above complaints procedure is intended to deal with the College's own internal processes. Complaints relating to mistaken identity or the nature of the information given in a criminal record disclosure can only be dealt with by the Disclosure and Barring Service.

Appendix 1 - Recruitment of Ex-offenders

The code of practice published under section 122 of the Police Act 1997 advises that it is a requirement that all registered bodies must treat DBS applicants who have a criminal record fairly and not discriminate automatically because of a conviction or other information revealed.

Shipley College Policy Statement on the Recruitment of Ex-offenders

- As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the Disclosure and Barring Service (DBS), Shipley College complies fully with the code of practice and undertakes to treat all applicants for positions fairly.
- Shipley College undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.
- Shipley College can only ask an individual to provide details of convictions and cautions that Shipley College are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended)
- Shipley College can only ask an individual about convictions and cautions that are not protected.
- Shipley College is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
- Shipley College has a written policy on the recruitment of ex-offenders, which is made available to all DBS applicants at the start of the recruitment process.
- Shipley College actively promotes equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from a wide range of candidates.
- Shipley College selects all candidates for interview based on their skills, qualifications and experience.
- An application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position.
- Shipley College ensures that all those in Shipley College who are involved in the recruitment process have been suitably trained to identify and assess the

relevance and circumstances of offences and that this training is updated every two years.

- Shipley College also ensures that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.
- At interview, or in a separate discussion, Shipley College ensures 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.
- Shipley College makes every subject of a criminal record check submitted to DBS aware of the existence of the code of practice and makes a copy available on request.
- Shipley College undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

Appendix 2 - The Recruitment of Staff exempted from the Rehabilitation of Offenders Act

The rehabilitation of Offenders Act 1974 exists to support the rehabilitation into employment of reformed offenders who have not reoffended. Following a specified period (depending on the sentence) some convictions may become spent. As a result the offender is regarded as rehabilitated. This means they are treated as if they had never committed or been charged or prosecuted for the offence. Therefore they are not required to declare their spent cautions or convictions in a job application.

All cautions and convictions may eventually become spent with the exception of prison sentences (See Table of Rehabilitation Periods for more information). A person does not have to reveal a conviction unless an exception applies (See Exceptions to the Act).

Consecutive and Concurrent Sentences

An offender may receive more than one sentence at the same time the total rehabilitation period will depend on whether the sentences run concurrently (at the same time) or consecutively (one after the other). If Concurrent sentences are imposed, then the longest applicable rehabilitation period will apply to all sentences e.g. A four month and six month prison sentence ordered to run concurrently will count as a single term of six months (carrying a buffer period of two years from the end of the sentence. This gives a total rehabilitation period of two years and 6 months before both convictions can be considered spent.)

If consecutive sentences are imposed, then the sentences will be added together to calculate the rehabilitation period. E.g. a four month and six month prison sentence will count as a 10 month sentence (carrying a buffer period of four years from the end of the sentence, giving a total rehabilitation period of four years and ten months before the convictions can be considered spent).

Protection of rehabilitated person

The unauthorised disclosure of information about a spent conviction is illegal. Unauthorised disclosure is where an official with access to information about the person's criminal record discloses this information other than in the course of official duties. Serious misuse of a person's criminal record could result in a prison sentence or a fine or both.

Exceptions to the Act

Various occupations, professionals and types of employment are exempt from the Rehabilitation of Offenders Act 1974. The Exceptions Order overrules the employment rights an ex-offender would otherwise have in respect of spent convictions. Ex-offenders have to disclose information about spent, as well as unspent convictions, provided the employer states clearly on the application form or at the interview that the job applied for is exempted. Exempted occupations fall into the following categories:

- Work involving matters of national security, e.g. some civil service posts, defence contractors etc.
- Work that brings the person into contact with vulnerable groups such as the infirm, elderly, mentally ill and young people under the age of 18.

- Professionals that have legal protection e.g. healthcare professionals, accountants.
- Posts concerned with the administration of justice and law enforcement e.g. Police officers, lawyers, probation officers.

Rehabilitation periods

Sentence	Rehabilitation period for Adults	Rehabilitation period for Under 18s
Custodial Sentence of over 4 years	Never Spent	Never Spent
Custodial Sentence of over 30 months (2 ½ years) and up to 48 months (4 years)	7 years	3 ½ years
Custodial Sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial Sentence of 6 months or less	2 years	18 months
Fines	1 year	6 months
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
Simple caution, youth caution	Spent immediately	Spent immediately

What is a spent conviction?

Some sentences can become spent after fixed periods from the date of conviction. The length of a rehabilitation period will depend on the sentence as outlined in the table above.

Suspended Sentences

A suspended prison sentence is treated as one that has taken effect and the rehabilitation period is the same as for the full sentence.

Filtering of Old and Minor Cautions and Convictions

Filtering is the term the DBS use to describe the process which will identify protected convictions and cautions and ensure that they are not disclosed on a DBS certificate. Reviews carried out in 2013 and 2020, have changed the Rehabilitation of Offenders Act 1974 (Exceptions), resulting in certain old and minor cautions and convictions will no longer be disclosed on a DBS certificate.

Up to date information of the filtering of cautions and convictions can be found on the [DBS website](#). In summary, all cautions and convictions for specified serious violent and sexual offences, and other specified offences of relevance for posts concerned with safeguarding children and vulnerable adults, will remain subject to disclosure on a DBS check.

All convictions resulting in a custodial sentence, whether or not suspended, will remain subject to disclosure, as will all convictions where more than one conviction is recorded.

Appendix 3 - Policy Statement on the Secure Storage, Handling, Use, Retention & Disposal of Disclosures Information

Purpose

As an organisation using the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, Shipley 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 General Data Protection Regulation (GDPR), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.

This policy applies to all employees and all applicants who apply to work at Shipley College.

Storage and access

Certificate information should be kept 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. We maintain a record of all those to whom certificates or certificate information has been revealed and 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 necessary. This retention will allow for the consideration and resolution of any disputes or complaints, or be for the purpose of completing safeguarding audits.

Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed, we will ensure that any DBS certificate information is immediately destroyed by secure means, for example by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. 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, we 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 certificates and the details of the recruitment decision taken.