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This policy applies to all College activity including ESF contracts.

STUDENT DISCLOSURE AND BARRING SERVICE (DBS) CHECKS

1. INTRODUCTION

1.1. RECRUITMENT OF EX-OFFENDERS POLICY STATEMENT (STUDENTS)

1.1.1. Leicester College actively promotes equality of opportunity for all and welcomes applications from a wide range of applicants including those with criminal records. Student Risk Assessment is an important part of the Admissions process for all prospective students at Leicester College. The purpose of Risk Assessment is to identify and assess any applicant whose known behaviour or record of offences indicates that they may be a risk to themselves, other students, staff, visitors, or the College environment. Student Risk Assessment is one way in which the College works to provide a safe and inclusive environment.

1.1.2. As part of the College's Student Application and Risk Assessment procedures, students are required to disclose if they have any ****'unspent' convictions'**, including any ***pending court cases**, or if they are charged with any criminal offence either at application stage or during their course. Students on a course whereby a work placement with young and/or vulnerable people is required are required to declare a full criminal record, both 'spent' and 'unspent' cautions and convictions.

**There are some instances where a student is on bail has conditions that may affect attendance at college. There may be issues highlighted by the alleged matter that may require support. Or they may require an initial meeting with the Risk Assessment Manager to ensure that there are no risks presented, either to the student or to other students. The Risk Assessment Team will treat the alleged*

matter for monitoring only, if the case is dismissed, all details relating to the alleged matter will be destroyed and legally cannot be used.

**** If a student is undertaking a work placement as part of their course and requires a DBS check, they will need to disclose 'spent' and 'unspent' convictions and cautions that aren't 'protected'. Please contact the Risk Assessment Manager for further information.**

1.2. LEGISLATION

- 1.2.1. Standard and enhanced DBS checks can only be undertaken if the specific role, or the specific activities carried out within the role, are included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (access to standard DBS certificates) and are also covered by the Police Act 1997 or Police Act 1997 (Criminal Records) regulations (access to enhanced DBS certificates). These laws only provide eligibility for DBS checks, they do not make them a requirement.
- 1.2.2. The Protection of Freedoms Act came in to force on the 1st May 2012. The Act is broken down in to 7 parts. Part 5 of the Act relates to the changes with the Criminal Records Bureau (CRB) now the Disclosure and Barring Service (DBS) and Independent Safeguarding Authority (ISA).
- 1.2.3. Under the new Act, the CRB and ISA has merged to form the Disclosure and Barring Service; providing a more streamlined checking service, scaling back checks to the 4.5million people who work '***closely and regularly***' with children and vulnerable adults. The definition of Regulated Activity changed as did the categories of people who now fall within the definition of Regulated Activity – Adults, and Children.
- 1.2.4. This was in response to the Court of Appeal ruling in January 2013, the Government brought in changes to the way that the system works. These arrangements are set out in [The Police Act 1997 \(Criminal Record Certificates: Relevant Matters\) \(Amendment\) \(England and Wales\) Order 2013](#) ("the Order").
- 1.2.5. Regulated activity is defined in Schedule 4 of the Safeguarding Vulnerable Groups Act (2006) as amended by the Protection of Freedoms Act (2012). It relates to activities for, towards, and/or on behalf of anyone who at that time may be considered 'vulnerable'. Regulated Activity is different depending on whether it is for a child or an adult. It covers activities like personal care, healthcare, child-minding, even if done just once for an adult. In addition, for children, Regulated Activity includes *all roles in schools, children's homes and

centres, nursery, and childcare premises. * For full definition on Regulated Activity see page 5-7.

1.2.6. Under the terms of '*Regulated Activity*' (Protection of Freedoms Act 2012), these positions qualify for an Enhanced Disclosure and Barring Service (DBS) Check, and therefore fall under the Exceptions Order of the Rehabilitation of Offenders Act 1975. Applicants must disclose 'spent' and 'unspent' convictions and cautions which would not be 'filtered' in line with current guidance. These are treated as according to the 'Protection of Freedoms Act 2012' 'Filtering' rules.

1.2.7. **Legislation introducing a new filtering mechanism to restrict the disclosure of old and minor convictions came in to force on 29th May 2013.** This followed a Court of Appeal ruling in January 2013 that the current mandatory and blanket disclosure of all cautions and convictions on a DBS Certificate was incompatible with Article 8 of the Convention of Human Rights. The Home Office and DBS have been working together to develop a set of filtering rules, which means that certain old and minor convictions and cautions will no longer be disclosed on the DBS Certificate.

1.3. FILTERING: WHAT WILL BE FILTERED?

1.3.1. **Cautions**

- A Caution received when a person is 18 years or over will not be disclosed on the Certificate if six years have elapsed since the date of issue – and if it does not appear on the list of specified offences (which must always be disclosed).
- **A Caution received when under 18 (i.e., their youth equivalent) will not be disclosed if 2 years have elapsed since the date of issue** – but only if it does not appear on the list of specified offences (which must always be disclosed).

1.3.2. **Common offences that are eligible for filtering:**

- Common assault
- Drunk and disorderly conduct
- Harassment
- Theft (where no violence is involved)
- Drugs offences that involve simple possession
- Contact The Risk Assessment Manager for further information on filtering.

1.4. DECLARING A CRIMINAL RECORD: ELIGIBILITY TO ASK 'AN EXEMPTED QUESTIONS'

- 1.4.1. An 'exempted question' is a valid request for a person to reveal their full criminal history. *This excludes protected cautions and convictions that will be filtered from a criminal record check.*
- 1.4.2. Access to the DBS checking service is only available to Registered Bodies who are entitled by law to ask an individual to reveal their full criminal history (*other than protected cautions and convictions*), including 'spent' convictions - also known as asking 'an exempted question'.
- 1.4.3. An exempted question applies when the individual will be working in specific occupations, for certain licenses and specified positions. These are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.
- 1.4.4. Students' on courses that involve a work placement with vulnerable groups (that fall under 'Excepted Positions') are required to disclose both 'spent' and 'unspent' cautions and convictions, other than 'protected' cautions and convictions which have qualified for filtering. These must be declared to the College's Risk Assessment Team. Failure to do so could result in exclusion from the College.
- 1.4.5. ***For further information on filtering, or declaring contact the Risk Assessment Team or go to the DBS: <https://www.gov.uk/government/publications/dbs-filtering-guidance>***

1.5. REGISTERED BODY

- 1.5.1. When an individual applies for a criminal record check through the Disclosure and Barring Service (DBS), their identity must be verified by the Registered Body. Leicester College is a 'Registered Body' and as such we legally have to comply with the DBS Code of Practice. The Code of Practice is published under section 122 (2) of the Police Act 1997 and in particular the Police Act 1997(Criminal Records) (Registration) Regulations 2006. It is intended to ensure and to provide assurance to those applying for standard and Enhanced DBS Checks that the information released will be used fairly. The Code also seeks to ensure that sensitive personal information is handled and stored appropriately and is kept for only as long as necessary. Failure to comply would lead to the College losing its Registered Body registration, and possibly facing criminal charges; it is a criminal offence to submit applications for people who we are not 'entitled' under legislation to ask.
- 1.5.2. **For further details see: Appendix A: Code of Practice and Policy Appendix B: Handling of DBS Certificate Information**

1.6. BARRED LISTS

- 1.6.1. Prior to 2012, individuals guilty of certain offences and/or who posed substantial risk to children or vulnerable adults were barred from working with these groups and their details included in one or more lists established for this purpose:
- Protection of Vulnerable Adults (PoVA) list
 - Protection of Children Act (PoCA) list
 - List 99
- 1.6.2. In December 2012 when the Independent Safeguarding Authority (ISA) and the Criminal Records Bureau (CRB) merged to form the Disclosure and Barring Service (DBS). Since this time, these lists have been maintained by the Disclosure and Barring Service (DBS).
- 1.6.3. Inclusion in one or both barred lists results from information about relevant convictions or cautions and/or any other referral information which is assessed typically using a comprehensive risk assessment process and the outcome suggests the person may pose a future risk of harm.
- 1.6.4. An employer or registered body is breaking the law if they knowingly employ or allow you to engage in regulated activity with a group that you are barred from working, participating in work placements or volunteering with.
- 1.6.5. For anyone applying for positions involving regulated activity, barred list information (child, adult, or both) will be included as part of the enhanced disclosure certificate (now known as an “enhanced check for regulated activity”). As outlined in Regulated Activity, there are specific rules for working with children - known as working in a regulated activity with children.
- 1.6.6. These are different from the rules for regulated activities for adults. In order to request a barred list check, these must be met.
- 1.6.7. All DBS certificate checks must be seen by the DBS Team. Where there is something contained on a DBS certificate, it must be referred to the Risk Assessment Manager. Contact details at the end of the Policy.

1.7. REGULATED ACTIVITY¹: BARRED LIST CHECK

- 1.7.1. Regulated activity is work that a barred person must not do. The Safeguarding Vulnerable Groups (SVGA) Acts 2006 set out the activities and work which are 'Regulated Activity', which a person who has been barred by the Disclosure and Barring Service (DBS) must not do.
- 1.7.2. Those who will be working in Regulated Activity will be eligible for an Enhanced Disclosure and Barring Service (DBS) with a *barred list check, as those posts will be the ones offering unsupervised, regular, or close contact with adults and/ or children. **There are specific rules for working with children - known as working in a Regulated Activity with children. These are different from the rules for Regulated Activities for adults.*
- 1.7.3. The definition of regulated activity for adults identifies the activities provided to an adult which, if any adult requires them, will mean that the adult will be considered vulnerable at that particular time. The SVGA no longer labels adults as 'vulnerable' because of the setting in which the activity is received, nor because of the personal characteristics or circumstances of the adult receiving the activities.
- 1.7.4. Those working in an activity which is being removed from Regulated Activity, **for example in a supervised capacity with children, will still be eligible for Enhanced DBS Checks, but without a barred list check.** Students enrolling on to courses that include a work placement with children and, or adults will be subject to an enhanced DBS check prior to commencing a work placement. Some will be in Regulated Activity and also qualify for barred lists checks.
- 1.7.5. An individual that will be *supervised by someone in Regulated Activity, is not in Regulated Activity. **This means that the supervision will be 'regular, day-to day'. The supervision must take place 'on a regular basis', which means that the supervision must not for example be concentrated to the first few weeks and then tail off thereafter, becoming exception not the rule.* The supervision must take place on an on-going basis by a person in Regulated Activity, whether the individual has just started, or has been doing the role for some time.
- 1.7.6. The supervision will be '**reasonable to, in all the circumstances to ensure the protection of children**'. The following factors need considering:
- Ages of the children, including whether their ages differ greatly.
 - Number of children the individual will be working with

¹ DfE Statutory guidance: Regulated Activity (children) supervision of activity with children which is regulated activity when unsupervised. December 2013.

- Whether other workers are helping to look after the children
- The nature of the work/ opportunity for contact with children
- How vulnerable the children are.
- How many workers would be supervising the children.

1.8. REGULATED ACTIVITY: CHILDREN²

1.9. In determining whether a person is in 'regulated activity for children' the following needs considering. This does not cover all aspects of regulated activity relating to children or cover all exceptions:

1.9.1. **Activity of a specified nature**

- Teaching, training, instruction, care for or supervision of children (except if the person undertaking the activities is under regular supervision) if carried out by the same person frequently or overnight.
- Advice or guidance (except legal advice) provided wholly or mainly for children which relates to their physical, emotional or educational well-being if carried out by the same person frequently or overnight.

1.9.2. **Activity within specified establishment**

- any activity that is for or on behalf of the establishment with the opportunity for contact with children if carried out frequently:
- excepted is work by volunteers under regular supervision or occasional or temporary contract work that is not an activity of a specified nature listed above.
- specified establishments are schools, pupil referral units, academies, nursery schools, further Education (FE) establishments mostly for children, institutions for the detention of children, children's homes, children's centres (in England), children's hospitals (in Northern Ireland) and childcare premises including nurseries.

1.9.3. **Healthcare of a child** (any frequency)

- healthcare provided to a child by a health care professional or by a person acting under the direction or supervision of a healthcare professional.

² Any frequency means that doing the activity once or more is regulated activity.

Supervision as defined in statutory guidance on supervision.

Frequently means once a week or more or four or more times in any 30 day period.

Overnight means once or more between 2am and 6am with the opportunity for face to face contact with children

Source: DBS Summary of Regulated Activity with Children

- a health care professional who is a person regulated by a professional healthcare regulator (i.e., a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002).
- health care includes: all forms of health care provided for children and includes physical, mental and palliative health care; diagnostic tests and investigative procedures and procedures similar to surgical or medical care, but not provided in connection with a medical condition.

1.9.4. **Personal Care of a child** (any frequency)

- physical help with eating or drinking for reasons of illness or disability.
- physical help with toileting (including menstruation), washing, bathing or dressing for reasons of age, illness or disability.
- prompting together with supervision when a child is otherwise unable to decide for themselves in relation to any of the above personal care activities.
- training or advice given to a child in relation to any of the above personal care activities.
- Registered child-minding; and foster-carers.

1.10. **Regulated Activity: Adults**

- In contrast to the definitions involving children, activities with regulated activity involving adults there are no special rules regarding places or frequency. However, **if any of the roles below are undertaken once, you are undertaking regulated activity.**
- There are six categories of people who fall within the new definition of regulated activity - adults. The new definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead, the definition identifies activities which, if any adult requires them because of their age, illness or disability, lead to that adult being considered vulnerable at that particular time. These are:
 - Any healthcare professional providing healthcare to an adult because of their age, illness or disability.
 - Providing personal care – physical assistance or training, instructing or providing guidance because of their age, illness or disability
 - Providing social work because of their age, illness or disability
 - Assistance with cash, bills, and shopping because of their age, illness or disability
 - Assistance in the conduct of a person's affairs because of their age, illness or disability

- Conveying; a person who transports an adult because of their age, illness or disability.

1.11. **No longer in Regulated activity:**

- Activity supervised at a reasonable level.
- Healthcare not by (or directed or supervised by) a health care professional.
- “treatment/therapy” (instead “healthcare”)
- Establishments: occasional or temporary services, e.g. maintenance (not teaching etc.)
- Volunteers supervised at reasonable level.
- All “positions” removed, e.g., governors
- Inspectorates removed.

- 1.12. To view all of the DBS eligibility Guidance either go to our SharePoint site where you can access the links:
[https://myleicestercollegeac.sharepoint.com/sites/teams/curriculumandquality/curriculumprogrammesteam/SitePages/Disclosure-and-Barring-Service-\(DBS\).aspx](https://myleicestercollegeac.sharepoint.com/sites/teams/curriculumandquality/curriculumprogrammesteam/SitePages/Disclosure-and-Barring-Service-(DBS).aspx)

Or you can access the document guides through the DBS website: <https://www.gov.uk/government/publications/dbs-guidance-leaflets>
<https://www.gov.uk/government/publications/dbs-identity-checking-guidelines>

2. PURPOSE

- 2.1. For the purpose of this Policy, Enhanced Disclosure and Barring Service Checks are referred to as 'DBS Checks'.
- 2.2. The College is a Registered Body, and as such allows us to undertake DBS Checks. We have a Code of Practice and legal requirements that we must comply with, this also extends to our work placement partners. See Appendix A.
- 2.3. As a Registered body we must complete a minimum of 100 paper form applications every year. If we were to lose our Registered Body status, we would no longer be able to process students who do not have the required ID and need to go down the fingerprint route.
- 2.4. As a Registered Body conducting DBS Checks, the College is required to inform students requiring DBS Checks of the Code of Practice. <https://leicestercollege.ac.uk/college-life/student-dbs-disclosure-and-barring-service-checks/>
- 2.5. The DBS Team within Student Services carry out the DBS Checks for cohorts of students who attend mandatory work placements with children and/ or adults as part of their course.
- 2.6. The minimum age for DBS Checks is 16. We cannot request a Check for students that are under 16 at the time of the application.
- 2.7. The *Student Risk Assessment (Criminal Convictions) Policy* (SS012) details the College's Risk Assessment process and procedures, for working within existing equalities legislation for the recruitment of ex-offenders on courses at the College. It also details the process for positive DBS Certificates.
- 2.8. The *Handling of DBS Certificate Information* Appendix B, details the College's obligations on the secure storage, handling, use, retention, and disposal of DBS and certificate information.
- 2.9. The College's Privacy Notice in relation to risk assessments states how we use, store and process their information. We process general College student information for DBS in line with the Leicester College Privacy Notice. For Positive DBS Checks, these fall under the *Student Risk Assessment (Criminal Convictions) Policy* (SS012) and the Risk Assessment Privacy Notice.
- 2.10. DBS have a Standard and Enhanced Privacy Policy. All students undergoing a DBS Check must have read and understood the Policy and either signed a paper Declaration Statement to confirm or completed it through an electronic copy. See Appendix D
- 2.11. Programme Leads are required to complete and submit the online DBS Check Proforma detailing their course requirements. This includes the date student's

going on placement, the number of hours, frequency, the level of Check, whether it's for a Child, Adult or Child and Adult workforce, and whether a barred list check (adults and, or children) is required. They are also required to confirm that each course meets legislation for requesting a DBS Check and that have used the DBS eligibility tool. See Appendix C. To check eligibility, follow: <https://www.gov.uk/find-out-dbs-check>

- 2.12. The College funds the costs for DBS Checks for 16-19's. If a student loses their Certificate, they will need to pay for a new one.
- 2.13. Students 19 or over on 1st September (i.e., at the start of their course), will be required to pay £38 for the DBS Check. **This fee is non-refundable.** If the work placement commences at the start of the course, the fee must be paid before enrolling. For paper applications, payment must be made at the Student Services area on any campus before attending a DBS appointment, otherwise, for electronic applications payment is taken online. Failure to pay the DBS fee will delay their application and could affect their course.
- 2.14. The DBS Team actions the proforma targeting course codes in order of priority, prioritising the Checks to ensure that where possible, students have completed the process, or are in the process of completing their Checks and have their DBS Certificate in time for the commencement of work placements at the start of term. Delays are normally because of students not attending appointments, lack of ID verification, or processing delays.
- 2.15. Only original copies of documents can be accepted. Certificate hard copies must be checked, we do not accept photos of certificates, and do not support checking them through teams.
- 2.16. DBS ID checklists are completed with every application form, this lists the three routes of ID and all the acceptable forms of ID within the routes. The DBS team ticks which ID they have seen from which Route. This allows us to evidence what ID we have seen. The ID checklist is uploaded to the database. No copies of student's identification are kept.
- 2.17. The College's Countersignatory, Sophie Strevens-Robinson, is responsible for signing off all paper applications. If there are errors on the application form, DBS return the form and we must submit a new one, incurring an additional £38 fee. Errors also affect our compliance results. Each year we are Compliance checked by the Disclosure and Barring Service. We must demonstrate through our existing processes and systems that we are fully compliant with DBS legislation. If we are found to be non-compliant, we would lose our registration status and no longer be able to process applications.
- 2.18. The DBS Team and work placement coordinators, have responsibility for checking all DBS Certificates. Students are not permitted to attend a work placement without a satisfactory DBS Certificate and clearance from the DBS Team. The DBS team will work with curriculum staff and work placement coordinators to arrange attending classes to check all certificates. Students

presenting their Certificate to a member of staff other than the DBS Team, should contact the DBS Team - **see also Positive Disclosure process.**

- 2.19. If a student has a positive DBS Certificate, that means is has something on it, and they must not start a work placement without the necessary clearance from the Risk Assessment Team and Curriculum Director. See, *Positive DBS Checks Procedure.*
- 2.20. The DBS Team maintains a restricted DBS database that is linked to the College EBS system. The DBS Team and relevant work placement co-ordinators have access. The DBS database imports student details from EBS which is used to contact and track students requiring Checks. Form reference and disclosure numbers are kept on the database for tracking purposes. No information on positive disclosures is kept on the database.
- 2.21. DBS checks are valid for two years, this covers students who are returning for a second year. Students returning for a third year will need a new DBS Check.
- 2.22. Many students will do more than one placement during their two years and could do placements within both child and adult workforce. In these cases, as long as the placements and type of work meets the DBS Eligibility criteria, a DBS Check will be done to cover both placements.
- 2.23. DBS offers an Update Service; The Disclosure and Barring Service (DBS) Update Service allows applicants to keep their DBS certificates up-to-date and allows employers to check a DBS certificate online, so that they can take it with them from role to role within the **same** workforce, as long as the check is the **same workforce and level**. Registration costs £13 per year (payable by debit or credit card only). Students can choose to register to this service but must do it within 30 days of receiving the certificate. Information is on the College's website.
- 2.24. Leicester College does not support the use of 'portability'. Leicester College *does not ordinarily accept DBS Checks from other organisations. If a student has a Certificate with another provider, students will need to pay for a new check unless they are signed up to the Update Service or are on a *STALIS or similar course where their place of work is also their placement. Students will need to speak to the DBS team to check if their existing DBS is the same level and workforce required.
- 2.25. Students on STALIS or similar courses where they have an existing Certificate with their place of work, where they will also be doing their work placement, it is at the discretion of the Curriculum Director whether the existing employer's DBS Check can be accepted for these purposes only.
- 2.26. Under no circumstances should DBS Certificates be reproduced, photocopied, scanned, copied, or shared with anyone not entitled to see it, as this is a breach of the DBS Code of Practice.

3. DBS PROCEDURE

- 3.1. Over 500 students usually require DBS Checks each year prior to starting a work placement which is integral to their course. We only conduct DBS Checks for students who go on a mandatory work placement.
- 3.2. As the process can take a considerable amount of time to complete, the DBS Team commence the process every May. The team initially targets students that have an 'accepted offer'. The team targets students by order of priority according to the DBS proforma on placement start dates.
- 3.3. The DBS Team contacts students with an initial email outlining why they need DBS, and what they will need to do in terms of completing an application and getting the right forms of ID. The College does not set what ID can be accepted, this is set by the Disclosure and Barring Service which is the organisation responsible for disclosure checks. The College has its own DBS area on the website, students are sent the link to the information <https://leicestercollege.ac.uk/college-life/student-dbs-disclosure-and-barring-service-> this has information on DBS, the Code of Practice, all the routes of identification that can be accepted and what documents they will need to produce. This is then followed up by a call from the DBS team who will go through the ID, make a note of what they have, support, and advise with what to do if they haven't got the necessary ID. Students must produce original documents at their appointment. Without the correct ID the team is unable to submit an application.
- 3.4. Students are required to provide a minimum of **3** original identity documents from either Route 1, or **5** from Route's 2 or 3. Route One Primary Documents are the gold standard ID and include Passport, Birth Certificate, Driving Licence, and Biometric Residence Permit. Without these documents, an application cannot be processed. Some students do not have the required ID documents and are unable to provide the necessary documents. In these cases, the DBS Team will action an external ID verification (for 18+ only), if ID cannot be verified through this route (under 18), we apply for a fingerprint ID. However, this significantly delays the application process. Students should be advised by staff at welcome events, and at the Experience Day what Identification evidence is needed so they can prepare these ready for their appointment.
- 3.5. The DBS team will also check that non-UK nationals have the right to study status, students who are non-UK nationals will either need an EUSS Share Code to confirm their right to study before their applications can be progressed, or a Fee Assessment to confirm their residency duration. This is recorded on the Learner Log of EBS. No applications for non-UK can be submitted without these checks.
- 3.6. We are now using an online application process for most of the DBS Checks. We currently use an Umbrella company called E-Safeguarding. The DBS Team are responsible for creating a student record on the system. Students are sent a link from E-Safeguarding to complete an online application form.

Following the completion and submission of the application, they are contacted to book an appointment with the DBS team to verify their details and ID. Once the team has entered in the ID information seen, verified the details, they submit the application. The details are countersigned by E-Safeguarding and submitted to DBS. Certificates are normally received within 2 weeks.

- 3.7. The DBS Team submit around 100 paper applications a year. This process is longer, but required when students cannot obtain the documents needed and must go down the finger-print route. As a Registered Body, we are required to submit 100 applications a year to retain our Registered Body status to conduct DBS Checks.
- 3.8. DBS has a sensitive applications team that help with transgender applications. The DBS Team is able to guide transgender applicants through the confidential process.
- 3.9. Students persistently failing to comply with the process will be referred to the Programme Leads for follow-up. Staff are encouraged to emphasise to students the importance of attending their DBS appointment at both the pre-application, application, and enrolment stage.
- 3.10. The majority of students requiring checks are within Child Care and Health and Social Care areas. The DBS Team liaise closely with the relevant work placement co-ordinators who proactively encourage students to attend appointments with the DBS Team to complete their applications, to bring in their Certificates, and where relevant support students' progressing through the finger-printing process. Work placement coordinators also work with students to find a placement.
- 3.11. Completed paper applications are sent to the Countesignatory for checking, authorising and signing and are then sent to DBS. The information is checked and verified by DBS and requests are made to local police forces where the applicant has lived for the past five years. The Police National Computer (PNC) and information held locally by police forces are cross referenced and checked, and if required, checks are made against the children's and/or adults barred lists. Once the checks have been completed, a DBS Certificate is issued to the student.
- 3.12. DBS guidance states that paper applications can take **up to 6 weeks to process**. It is the **student's responsibility to follow this up with DBS** if they have not received the DBS Certificate within **6** weeks. The DBS has a Tracking Service to check the progress of a DBS check; students will need the form reference number, and their date of birth. The details of the tracking service including the reference number and DBS Contact details are given to students at their DBS appointments.
- 3.13. When a student receives their DBS Disclosure, they must contact the College's DBS Team, or work placement co-ordinator to book an appointment to show their DBS Certificate. Only when the Certificate has been verified by the DBS Team, or work placement coordinator can a student commence a

work placement. Students with a positive Certificate are referred to the Risk Assessment Manager for processing under the *Student Risk Assessment (Criminal Convictions) Policy* (SS012).

- 3.14. If a student loses their DBS Check, they will need to re-apply and pay £38 for a replacement.
- 3.15. The College DBS Check is valid for two academic years provided the student stays in continuous learning at the College. If there is a break in learning during those two years, the student will need to pay £38 for a new DBS Check.
- 3.16. If a student has subscribed to the DBS update service, the College will be able to access the update service to carry out free, instant online status check on the student's DBS certificate, provided it is for the right workforce, level and if applicable, barred list, we can accept it. The student will need to satisfy a robust ID check before this can be actioned. For more information on this go to: <https://www.gov.uk/government/publications/dbs-update-service-applicant-guide>
- 3.17. Staff are not permitted to give out student DBS certificate numbers as this is in breach of DBS Policy.
- 3.18. All information relating to a student's DBS Check **MUST** be handled, stored, and kept strictly in accordance with the DBS Policy Statement on the Secure Storage, Handling, Use, Retention and Disposal of DBS Check information. For more information on this Policy see Appendix B.
- 3.19. The DBS processes students DBS Checks in line with this policy and College's Privacy and Risk Assessment Notice's. If a student has a positive disclosure, it is referred to the Risk Assessment team. The Risk Assessment team has a Policy and Privacy Notice that explains how we process, store, and retain criminal conviction information. All students going through the Risk Assessment process are given a copy of the Privacy Notice.

4. POSITIVE DBS CHECKS

- 4.1. Certain convictions and cautions are subject to filtering rules (Pages 2-3), this means that in some cases old and minor convictions and cautions will no longer show on a DBS Certificate and cannot be taken into consideration. However, some offences will never be removed. These include the most serious sexual and violent offences. For further information on filtering contact the Risk Assessment Manager.
- 4.2. If the DBS Certificate is **positive**, this means that the student has a criminal record that isn't subject to the filtering rules. When a student presents a positive disclosure, the Risk Assessment Manager should be notified. The Risk Assessment Team will then process that disclosure as part of the *Student Risk Assessment (Criminal Convictions) Policy*, refer to Policy SS012. ***It is a mandatory requirement that students declare a criminal record***

when applying or enrolling on to a course. See Student Risk Assessment (Criminal Convictions) Policy (SS012).

- 4.3. Students with positive DBS checks are not permitted to commence with a work placement without clearance from the Risk Assessment Team and relevant Director. Supported Learning operate a slightly different process due to the vulnerability of the students. In these instances, any student with a positive DBS certificate will be referred to the Director, and the Risk Assessment Team will liaise regarding the Risk Assessment and work placement.
- 4.4. Section 3 of the *Student Risk Assessment (Criminal Convictions) Policy* (SS012) details the links between Risk Assessment and DBS procedure.
- 4.5. The Risk Assessment Privacy Notice covers how we process conviction information, including those referred through the DBS processes. Every student going through the process is sent a copy of the Privacy Notice.

5. POSITIVE DBS CERTIFICATE PROCEDURE

- 5.1. If the Risk Assessment Team needs to risk assess a student, they contact the student with an appointment. The relevant work placement coordinator will be notified. The student is not permitted to start on work placement until they have been cleared through the process.
- 5.2. If a student has serious conviction/s or extensive criminal record they have failed to disclose, the Risk Assessment Team will remove the student from the course pending investigation of the criminal record and Risk Assessment. The student may also be immediately excluded for failing to declare, or on the basis of 'risk' (see the *Student Risk Assessment (Criminal Convictions) Policy* (SS012)).
- 5.3. If the student **is previously known** to the Risk Assessment Team, it may not be necessary to see the student. In these cases, the Risk Assessment Manager will liaise with relevant work placement co-ordinator.
- 5.4. If a student **is not cleared** through the Risk Assessment process, the Risk Assessment Team will inform the work placement coordinator and Programme Lead and proceed to withdraw the student. In some circumstances, it may be possible to transfer to another course as an alternative where risk is not the identified concern.
- 5.5. If a student **is** approved through the process, the Risk Assessment Manager will inform the work placement coordinator and Programme Lead who will decide if the student is suitable to go on work placement. If it is decided that the student **is** suitable for a work placement, arrangements should then be made for this to commence. The student will receive approval in writing from the Risk Assessment Team. They will need to produce the letter with their positive DBS certificate on commencement of the work placement. It is then up to the Individual placement to decide if they will take them.

- 5.6. If the work placement coordinator, or Programme Lead decides that student is **not** suitable for a work placement, they should make arrangements to meet with the student to discuss their future options; the Risk Assessment Manager may also attend. Where possible, students who are not considered suitable for a work placement should be offered the opportunity to transfer course. A careers appointment should also be offered.
- 5.7. If a member of staff involved with a DBS Certificate needs to contact a provider about a possible work placement for a student who with a positive DBS certificate, **under no circumstances** should the student's details be disclosed, as it would be in **breach of DBS and Data Protection rules**.

6. SHARING INFORMATION ABOUT STUDENTS WITH POSITIVE DBS CERTIFICATE

- 6.1. The College doesn't make or keep any copies of DBS Certificates. We only share relevant DBS certificate information with staff on a strict need to know basis, in the course of their specific duties relevant to recruitment and vetting processes. See the Risk Assessment Policy for further details on students with positive disclosures.
- 6.2. The following staff are permitted to be aware of the details contained within a student's positive DBS certificate to enable them to carry out their roles effectively. This will however, be shared on a need-to-know basis by the Risk Assessment Manager:
- *Disclosure and Barring Service Team Administrators
 - The relevant Director and *staff involved with work placements.
 - Deputy Principal Finance and Corporate Services
 - Director of Student Services and Marketing

7. SHARING OUR PROCEDURES WITH WORK PLACEMENT PROVIDERS

- 7.1. Leicester College is a Registered Body and is responsible for ensuring that work placement providers are aware we have a Policy and are aware of the Code of Practice. In particular, work placement providers **must not** be copying or keeping information from a Student's DBS Certificate. Work Placement Providers are supplied with the information on the Code of Practice in Appendix E.
- 7.2. Directors and staff involved with work placements are encouraged to share the College's Risk Assessment procedures with work placements, so that they are familiar with the process we carry out to ensure that students we send on work placements are low risk. Work placement providers should be advised that students who have been cleared to attend, will have a Risk Assessment clearance letter.
- 7.3. If a student arrives at a work placement with a positive DBS certificate, but without a clearance letter from the Risk Assessment Team, the work

placement should be advised not to accept the student and to contact the Risk Assessment Team straight away.

7.4. See DBS Procedure flow chart Page 22

8. CONTACTS

8.1. For more information on the College's Student Disclosure and Barring Service Checks

[https://myleicestercollegeac.sharepoint.com/sites/teams/curriculumandquality/curriculumprogrammesteam/SitePages/Disclosure-and-Barring-Service-\(DBS\).aspx](https://myleicestercollegeac.sharepoint.com/sites/teams/curriculumandquality/curriculumprogrammesteam/SitePages/Disclosure-and-Barring-Service-(DBS).aspx)

DBS TEAM

To contact the DBS team, please use the team's email;
dbsteam@leicestercollege.ac.uk

- **Nita Topiwala – DBS ADMINISTRATOR**

Telephone: 0116 224 4101

Email: ntopiwala@lec.ac.uk

Room: Student Services Ground Floor A Block APC

- **Hazel Neale – DBS ADMINISTRATOR**

Telephone: 0116 2442152

Email: hneale@lec.ac.uk

Room: Student Services Ground Floor A Block FPC

For more information on Criminal Convictions and Positive Disclosure Checks contact:

- **Sophie Strevens-Robinson – Risk Assessment Manager**

Telephone: 0116 224 2225 Internal 2225

Email: [sstrevens-robinson@lec.ac.uk](mailto:ssstrevens-robinson@lec.ac.uk)

Secure: Sophie.robinson@cjism.net

Room: 0.03b

Mobile: 07771763479

For more information on the Disclosure and Barring Service:

Applicants should refer to this site for guidance on how to complete their DBS application: www.gov.uk/dbs

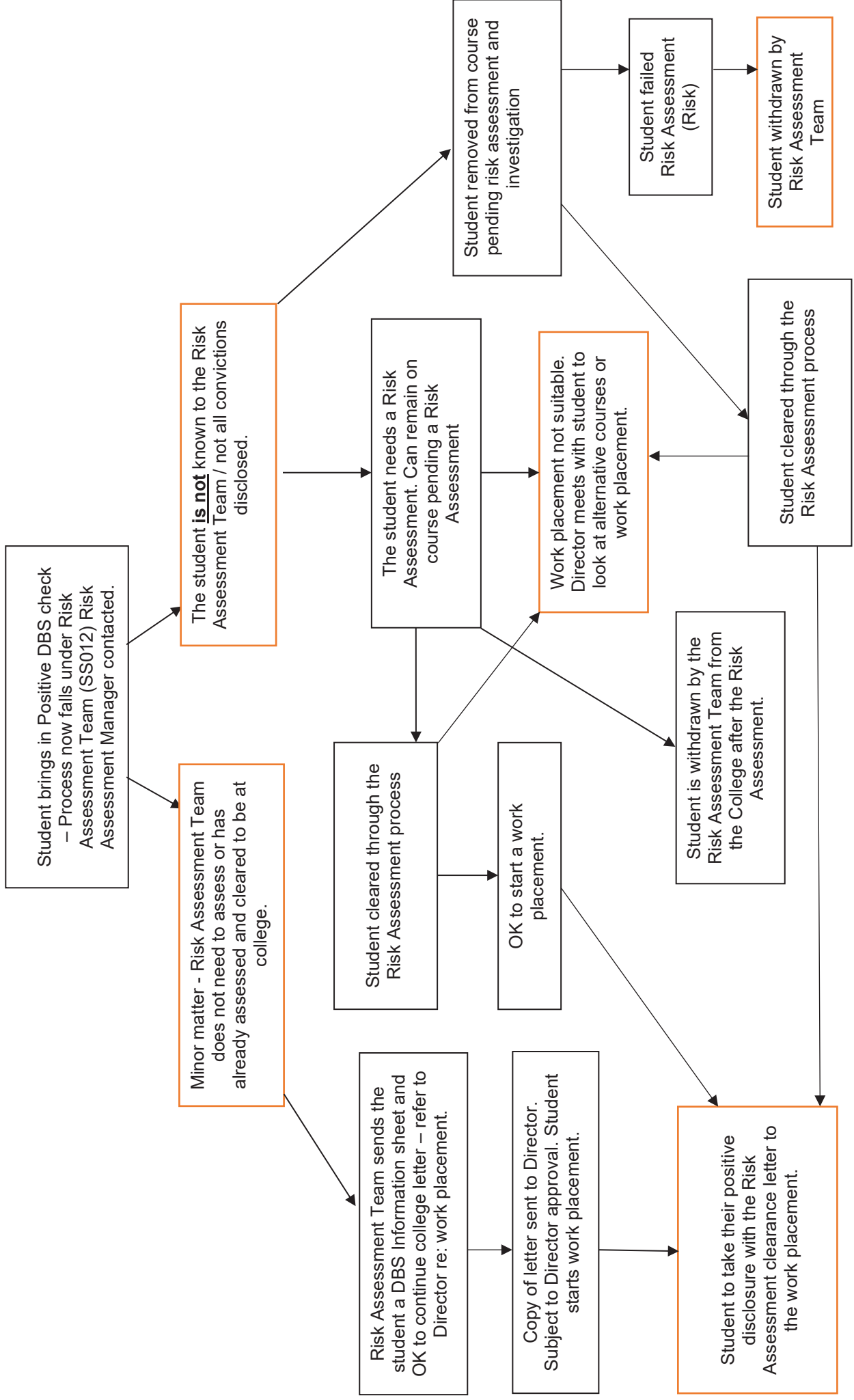
- **By email**

Email customerservices@dbs.gsi.gov.uk including name, postcode, contact telephone number and full details of your enquiry in the email.

- **By telephone**

Weekdays 8am – 6pm and Saturdays: 10am – 5pm (closed Sunday and public holidays) **Call 0300 0200 190.**

POSITIVE DBS CHECKS PROCEDURE





DBS CODE OF PRACTICE

- 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), Leicester College complies fully with the [code of practice](#) and undertakes to treat all applicants for positions fairly
- Leicester College undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.
- Leicester College can only ask an individual to provide details of convictions and cautions that Leicester College are legally entitled to know about. Where a DBS Check 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)
- Leicester College can only ask an individual about convictions and cautions that are not protected.
- Leicester 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.
- Leicester 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.
- Leicester College actively promotes equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records.
- Leicester 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 Check will be submitted in the event of the individual being offered the position.

- Leicester College ensures that all those in Leicester College who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.
- Leicester 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, Leicester 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.
- Leicester 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
- Leicester College undertakes to discuss any matter revealed on a DBS Certificate with the individual seeking the position before withdrawing a conditional offer of employment / or course.

For the full revised Code of Practice for Disclosure and Barring Service registered persons November 2015 go to: <https://www.gov.uk/government/publications/dbs-code-of-practice>



HANDLING OF DBS CERTIFICATE INFORMATION

Secure Storage, handling, use, retention and disposal of DBS Checks and Barring Service (DBS) Certificates and Certificate information.

POLICY STATEMENT

General Principles

As an organisation using the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, Leicester 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.

2.2 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.

2.3 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.

To note: those registered care homes which are inspected by the Care Quality Commission (CQC), those organisations which are inspected by Ofsted and those establishments which are inspected by the Care and Social Services Inspectorate for Wales (CSSIW) may be legally entitled to retain the certificate for the purposes of inspection.

In addition, organisations that require retention of certificates in order to demonstrate 'safer recruitment' practice for the purpose of safeguarding audits may be legally entitled to retain the certificate. This practice will need to be compliant with the Data Protection Act, Human Rights Act,

General Data Protection Regulation (GDPR), and incorporated within the individual organisation's policy on the correct handling and safekeeping of DBS certificate information.

2.4 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.

2.5 Retention

Once a recruitment (or other relevant) decision has been made, we do 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.

2.6 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.

2.7 Acting as an umbrella body

Before acting as an umbrella body (an umbrella body being a registered body which countersigns applications and receives certificate information on behalf of other employers or recruiting organization's), we will take all reasonable steps to satisfy ourselves that they will handle, use, store, retain and dispose of certificate information in full compliance with the [code of practice](#) and in full accordance with this policy.

We will also ensure that anybody or individual, at whose request applications for DBS certificates are countersigned, has such a written policy and, if necessary, will provide a model policy for that body or individual to use or adapt for this purpose.

Appendix C

Leicester College Student DBS Check Confirmation



Course Code:
Programme Lead:
Director:
Level of Check:
Workforce:
With or without Adult and / or Child Barred List:

Before an organisation considers asking a person to apply for a criminal record check through DBS, they are legally responsible for ensuring that they are entitled to submit an application. This means that we are responsible for checking that each position is eligible under the current legal provisions before submitting a check. This information has been previously emailed and is available on the DBS team Share Point site.

You have asked the DBS Team to conduct DBS Checks for students' for the course code above. You therefore confirm for the course that:

- It meets the criteria for requesting a DBS Check included in the Rehabilitation of Offenders Act 1974 (exceptions) Order 1975 and those prescribed in the Police Act 1997 (criminal records) Regulations.
- It meets the Adult, and or Child or Other Workforce criteria – as part of those prescribed in the Police Act 1997 (criminal records) Regulations.
- It meets the criteria for Regulated Activity Schedule 4 of the Safeguarding Vulnerable Groups Act (2006), as subsequently amended by the Protection of Freedoms Act (2012).
- It meets the criteria for Enhanced Disclosure Check with *Barred list Check (*if requested)
- Where needed, you have checked eligibility using the DBS eligibility tool using this link: [Find out if you can check someone's criminal record - GOV.UK](https://www.gov.uk/find-out-dbs-check) or <https://www.gov.uk/find-out-dbs-check>
- You will be able to provide full details of the work placement role, and explain how the relevant legislation supports the eligibility of the position applied for.

Completed online at the point of requesting DBS check/s

LEICESTER COLLEGE

**DISCLOSURE & BARRING SERVICE (DBS) CHECKS
DBS GDPR PRIVACY POLICY STANDARD AND ENHANCED CHECKS**



As part of your course at the College, you are required to have a DBS Check.

DBS have a Privacy Policy for requests to process Standard and Enhanced Checks. It explains how your data is processed in line with the GDPR, and how the processing meets the requirements of the GDPR. It is important that you have read, and understand how your data is used and kept.

You were sent an Information Sheet about DBS Checks, which had a link to the Privacy Policy <https://www.gov.uk/government/publications/standard-and-enhanced-dbs-check-privacy-policy/standard-and-enhanced-dbs-check-privacy-policy>. It asked that you read the Policy.

Before we can submit your DBS Check, we need you to complete the Student Declaration statement below, that confirms that you have read the DBS Privacy Policy for Standard and Enhanced Checks, and understood it.

STUDENT DECLARATION:

I confirm that I have been supplied with details of how to access the DBS Privacy Policy for Standard and Enhanced Checks.

I confirm that I have read, and understood the DBS Privacy Policy for Standard and Enhanced DBS. I understand that if I would like a copy for my records, one will be supplied upon request.

NAME:

PERSON CODE:

DATE:

SIGNED:

Appendix E

Freemen's Park Campus

Direct dial (0116) 224 2138 / 07717 557 864

Reference [DBS-WORKPLACEMENT](#)

Date 14 June 2023

PRIVATE

Dear Work Placement,

Re: DBS Certificates

As a Registered Body we have a duty under DBS regulations to ensure any third parties are aware of the Data Protection Principles and provide them with guidance on secure handling and storage of information.

Each year, the Home Office Compliance check Registered Bodies. This involves demonstrating to the Home Office in a series of checks, that all aspects of administering DBS are followed. A breach of DBS regulations could result in that Registered Body losing its registration to administer DBS checks.

For DBS and Data Protection purposes, information passed to a Registered Body by DBS remains the responsibility of the Registered Body even if passed to a third party.

Each student will have received a copy of the College's Privacy Notice detailing how we use their information. They will also be required to sign a Declaration statement to confirm they have read and understood the Standard and Enhanced DBS Check Privacy Policy. Please ensure that any student information held is covered in your Privacy Notice.

Leicester College is responsible for Certificates issued to students, and as a partner of the College handling Leicester College Certificates, there are regulations that must be adhered to. Any breach would face action from the Home Office and the ICO

The DBS Code of Practice requires that Registered Bodies must ensure that:

1. Have a written policy on the secure handling of information which, in the case of Umbrella Bodies, should be made available to their clients. The College DBS Policy is on the website and available upon request
2. Store DBS Certificate information securely i.e. name and certificate number, whether it is clear or positive
3. Retain DBS Certificate information, for no longer than is necessary and for a maximum of six months following the recruitment decision unless a dispute is raised or, in exceptional circumstances, where DBS agreement is secured

4. **Ensure that no reproductions of the DBS Certificate or its content are made, including photocopies or scanned images**
5. Only share DBS Certificate information with relevant persons in the course of their specific duties relevant to recruitment and vetting processes
6. Dispose of DBS Certificate information in a secure manner
7. Ensure that DBS guidance on the portability of DBS Certificates and their contents is followed.

We are aware that Work Placement providers need to check and record Certificates for their records. However, Leicester College's DBS Certificates must not be photocopied, copied, or scanned. We recommend that only the date of disclosure, Certificate number, the level and whether it's clear or positive is recorded.

If you have any queries, please email the DBS team at: db_team@leicestercollege.ac.uk

We thank you for your support.

Yours sincerely,

SOPHIE STREVENS-ROBINSON
RISK ASSESSMENT AND DBS MANAGER

GLOSSARY

Enhanced DBS Check- an Enhanced DBS Check is the highest level of check available and only available for Regulated Activity and positions listed under Police Act 1997 for positions that can involve caring for, training, supervising or being in sole charge of children or vulnerable adults. It searches the applicant's criminal history for spent and unspent convictions, cautions, warnings and reprimands that haven't qualified for filtering, with an adult and children's barred lists check.

Registered Body – Leicester College is registered with the Disclosure and Barring Service to process DBS Disclosure Checks. As a Registered Body we have to comply with the DBS Code of Practice. A breach in the Code of Practice would result in our Registered Body status being withdrawn and we could be subject to legal action.

Exempted Questions – Registered Bodies have access to DBS Checking service and are entitled by law to ask an individual to reveal their full criminal history. Other than Protected Cautions and Convictions.

Minimum Age – The minimum age you can request a DBS Check is 16

Volunteer Certificates – The College is not permitted to accept volunteer certificates. Students are getting a qualification and therefore the fee must be paid. DBS only allows the use of volunteer certificates where a person is gaining nothing. In these cases the certificate is free but cannot be used for a position where they gain something i.e. job, training, qualification.

Code of Practice – issued under Section 122 (2) of the Police Act 1997. Organisations (Resisted Bodies) must comply with the Code of Practice. The Code of Practice ensures that the 'sensitive' information disclosed by DBS is handled and stored appropriately and only kept as long necessary. ***For the full Code of Practice go to: Home Office Revised Code of Practice for Disclosure and Barring Service for Registered Persons November 2015.***
<https://www.gov.uk/government/publications/dbs-code-of-practice>

GDPR – The General Data Protection Regulation

***Spent Convictions** – must be treated as they never happened. A refusal to accept a rehabilitated person on the grounds of spent conviction is unlawful under the Rehabilitation of Offenders Act 1974
*Under the Rehabilitation of Offenders Act 1974 (exceptions) order 1975, certain areas of employment can legally ask about 'spent' convictions.

DBS Check/ Certificate/ Disclosure – This document is issued following an application for a DBS Check which contains the personal information provided by the applicant and the result of the checks undertaken against relevant data sources. It details convictions and cautions that have not qualified for filtering. Where local police records contain additional information that may be relevant to the post the applicant is being considered for, the Chief Officer of Police may release information for inclusion on an enhanced check. In some cases, this could be sent separately to the Countersignatory.

Tracking Service – both the individual and Registered Body can track an application, including when it was issued.

Update Service – Individuals can join the service to allow them to re-use their DBS certificate when applying for similar jobs at the same level of check. Employers can logon to view the Check which saves going through the application process.

Portability – When an individual takes a Check from one organisation to another. Leicester College does not support the use of portability.

Standard and Enhanced DBS Check Privacy Policy – Before submitting a DBS Check, each student must sign the DBS GDPR Standard and Enhanced DBS Check Privacy Policy Declaration, to say that they have read and understood the Policy.