

**TRUST-WIDE NON-CLINICAL POLICY DOCUMENT**

**POLICY AND PROCEDURE FOR  
 DISCLOSURE AND BARRING  
 SERVICE CHECKS**

<b>Policy Number:</b>	HR16
<b>Scope of this Document:</b>	All staff and unpaid honorary contract individuals who's post/remit require a DBS check
<b>Recommending Committee:</b>	HR Policy Group
<b>Approving Committee:</b>	Executive Committee
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<b>Lead Executive Director:</b>	Executive Director of Workforce
<b>Lead Author(s):</b>	Resourcing Manager

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2016 – Version 1

Quality, recovery and wellbeing at the heart of everything we do

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CHECKS**

**Further information about this document:**

Document name	<b>POLICY AND PROCEDURE FOR DISCLOSURE AND BARRING SERVICE CHECKS (HR16)</b>
Document summary	<b>Details the approach to ensuring that appropriate Disclosure and Barring Services checks are carried out appropriately.</b>
Author(s) Contact(s) for further information about this document	<b>Resourcing Manager Telephone: 0151 473 2760 Email: <a href="mailto:leanne.williams@merseycare.nhs.uk">leanne.williams@merseycare.nhs.uk</a></b>
Published by Copies of this document are available from the Author(s) and via the trust's website	<b>Mersey Care NHS Foundation Trust V7 Kings Business Park Prescot L34 1PJ Your Space Extranet: <a href="http://nww.portal.merseycare.nhs.uk">http://nww.portal.merseycare.nhs.uk</a> Trust's Website <a href="http://www.merseycare.nhs.uk">www.merseycare.nhs.uk</a></b>
To be read in conjunction with	<b>Disciplinary Policy Recruitment and Selection Policy</b>
<b>This document can be made available in a range of alternative formats including various languages, large print and braille etc</b>	
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**Version Control:**

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Version 1 – Approved and Published	Approved by HR Policy Group	July 2016

**SUPPORTING STATEMENTS** – this document should be read in conjunction with the following statements:

### **SAFEGUARDING IS EVERYBODY'S BUSINESS**

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and vulnerable adults, including:

- being alert to the possibility of child/vulnerable adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/vulnerable adult;
- knowing how to deal with a disclosure or allegation of child/adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child/vulnerable adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or vulnerable adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

### **EQUALITY AND HUMAN RIGHTS**

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

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## 1 PURPOSE AND RATIONALE

- 1.1 **Purpose** – The purpose of this policy is to set out and explain the Trust’s commitment to ensuring that appropriate Disclosure and Barring Service (DBS) checks are carried out and to provide Line Managers with a framework and guidance in relation to DBS checking & use of the information provided by the Disclosure and Barring Service.
- 1.2 **Rationale** – The Policy will also ensure that the Trust meets its obligations under the NHS Employment Check Standards and include those that are required by law; those determined by the Department of Health policy in relation to compliance with the Governments core standards outlined in the Standards for Better Health; and those required for access, in the NHS Summary Care Records.
- 1.3 The Trust is registered with the Care Quality Commission (CQC) and therefore required to comply with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and the Care Quality Commission (Registration) Regulations 2009. The CQC Essentials Standards of Quality and Safety outline 16 core standards which it must meet and this includes having robust recruitment processes. The Trust must provide evidence of compliance with the check standards as part of the CQC annual regulatory framework.

## 2 OUTCOME FOCUSED AIMS AND OBJECTIVES

- 2.1 For this policy the aims and objectives are as follows.
- (a) To promote the use of relevant DBS checks and prevent inappropriate and illegal checks
  - (b) Outlines the responsibilities of managers and employees
  - (c) Outlines the procedure to be followed.

## 3 SCOPE

- 3.1 This policy applies to all staff whose post requires them to have DBS clearance, including permanent, temporary, secondments, bank/agency staff, medical staff, honorary contracts and volunteers. Executive Directors and Non Executive Directors will also be included as directed by the Fit and Proper Persons Test introduced in November 2014.

## 4 DUTIES

- 4.1 Chief Executive Responsibilities
- 4.1.1 The Chief Executive has delegated responsibility for ensuring compliance with “Safer Recruitment – A Guide for NHS Employers” in relation to criminal records checks.
- 4.2 The Executive Director of Workforce

4.2.1 The Executive Director of Workforce has a responsibility to ensure that a robust system is in place, to record all DBS information. They will also ensure that all Directors, Managers and Human Resources and staff are fully aware of the actions contained within the “Safer Recruitment – A Guide for NHS Employers” and the Disclosure & Barring Policy and are aware of their responsibilities.

#### 4.3 The Recruiting Manager

4.3.1 The recruiting manager has the duty to ensure that all posts have a completed Recruitment Planning Form confirming the level of check required. To ensure no new starter who has direct patient/service user contact, who requires a DBS check, commences employment until disclosure has been received and deemed satisfactory and Update Service subscribed to;

4.3.2 To ensure candidates are asked questions about previous convictions, cautions warnings reprimands or bindovers at interview and confirm that no new convictions cautions warnings reprimands or bindovers have been received since submission of their application form.

4.3.3 To ensure appropriate decisions in relation to DBS are made in consultation with the Human Resources Business Partner/ Resourcing Manager.

#### 4.4 Resourcing Team

4.4.1 Resourcing Team has the duty to ensure all staff have the required pre-employment checks to undertake their role within the Trust.

4.4.2 To check ID and process the sending and receiving of DBS applications using the eDBS system.

4.4.3 To ensure that no unconditional offer to appoint will be made until all checks have been carried out and that the DBS Update Service has been subscribed to.

4.4.4 To provide monthly reminders to employee's who's DBS is due to expire or the Update Service renewal is due.

#### 4.5 Responsibility of staff/candidates (including staff applying for internal posts)

4.5.1 To disclose at application stage any convictions, cautions, warnings reprimands or bindovers (whether spent or unspent);

4.5.2 To disclose any criminal conviction, caution, warning, reprimand, or bind over that are issued to them during employment. Failure to notify Mersey Care of any convictions issued during employment will be considered as a potential disciplinary offence and will be investigated by Human Resources. The matter will also be referred to the Trust's Local Counter Fraud Specialist to establish if an offence has been committed under Section 3 of the Fraud Act 2006.

4.5.3 To provide satisfactory ID and complete a DBS application.

4.5.4 For new starters to the Trust their certificate must be registered with the DBS Update Service and failure to do so may result in withdrawal of the offer of employment. Internal staff have the option to either register with the DBS Update Service or have 3 yearly DBS checks.

4.5.5 Once a new starter has subscribed to the Update Service, they must ensure that this is renewed on a yearly basis. Failure to keep your Certificate registered with the Update Service will require the employee to complete another DBS check and re register with the DBS Update Service, the costs of which will be met by themselves.

## 5 PROCESS / PROCEDURE

### 5.1 Regulated Activity – Adults

5.1.1 The new legal definition of regulated activity for adults no longer uses the term ‘vulnerable adults’ and no longer requires the activity to meet a minimum frequency threshold. The definition now focuses on the nature of activities, which if required by an adult, will define them to be vulnerable. Staff and managers of staff providing the following activities will be conducting regulated activity:

- Health care – any health care professional providing health care to an adult or anyone who provides health care to an adult under the supervision of a health care professional;
- Personal care – providing assistance, supervision or advice in relation to activities including eating and washing;
- Social care;
- Assistance with cash, bills or shopping;
- Assistance in the conduct of a person's own affairs;
- Transporting an adult because of their age, disability or illness to or from their home and a place where they will receive health care, personal care or social care.

### 5.2 Levels of DBS Disclosure

#### 5.2.1 Standard DBS Checks

This level of check contains details of both current unspent and spent convictions, cautions, reprimands and final warnings, held in England and Wales on the Police National Computer (PNC) that are not subject to the filtering rules which came into force from 29 May 2013. Most of the relevant convictions in Scotland and Northern Ireland may also be included. A list of posts deemed as requiring a Standard DBS Check is shown in Appendix D

#### 5.2.2 Enhanced DBS Checks (with checks against the barred lists)

- a) Enhanced checks contain the same information as a standard DBS check but may also include any non-conviction information held by **local police**, where they consider it to be relevant to the post. Although barred list checks are not

appropriate for positions which fall outside of regulated activity, in most cases, the police will have the information which led the DBS to bar a person and so will be able to disclosure it on an enhanced certificate, where this is relevant to the position being applied for.

- b) To be eligible for an enhanced level DBS check, the position must be included in both the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and the Police Act 1997 (Criminal Records) Regulations 2002 as amended by the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013. This includes work or volunteering with vulnerable groups.
- c) The Trust has a legislative requirement to request barring checks to be conducted for people in positions defined as 'regulated activity' under the Protection of Freedoms Act 2012 which amended the Safeguarding Vulnerable Groups Act 2006 on 10 September 2012.
- d) There are six categories of people who will fall within the new definition of **regulated activity** (as does anyone who provides day to day management or supervision of those people) and therefore who must be subject to an enhanced DBS and checked against the barred lists. A broad outline of these categories is set out below:
  - (i) Providing health care  
Any health care professional who provides health care to an adult, or anyone who provides health care to an adult under the direction or supervision of a health care professional.
  - (ii) Providing personal care  
Anyone who provides physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of an adult's age, illness or disability; prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without that prompting or supervision; or trains, instructs or offers advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability.
  - (iii) Providing social work  
The provision by a social care worker of social work which is required in connection with any health care or social services to an adult who is a client or potential client.
  - (iv) Assistance with cash, bills and/or shopping  
The provision of assistance to an adult because of their age, illness or disability, if that includes managing the person's cash, paying their bills or shopping on their behalf.
  - (v) Assistance in the conduct of a person's own affairs  
Anyone who provides various forms of assistance in the conduct of an adult's own affairs, for example by virtue of an enduring power of attorney.
  - (vi) Conveying

A person who transports an adult because of their age, illness or disability either to or from their place of residence and a place where they have received, or will be receiving, health care, personal care or social care; or between places where they have received or will be receiving health care, personal care or social care. This will not include family and friends or taxi drivers.

Enhanced checks contain the same information as Standard checks and any locally held police force information considered relevant to the job role, by Chief Police Officer(s). Recruiting managers and those requesting Enhanced DBS with checks against the barred list need to specify which barred list is to be checked i.e. adults / children.

### 5.2.3 Enhanced DBS checks (without checks against the barred lists)

For roles that do not fall in the definition of regulated activity from September 2012 but that do fall within the pre September 2012 definition of regulated activity an enhanced DBS should be requested but the barred lists cannot be checked.

The pre September 2012 definition of regulated activity was:

Any activity involving working or volunteering with children and/or vulnerable adults that is of a *specified nature* providing:

- Teaching, training, instruction, care or supervision
- Advice or guidance to children
- Advice, guidance or assistance to vulnerable adults
- Any form of treatment or therapy (including medical professionals, therapists and healthcare assistants in both hospitals and community settings)
- Transportation that is being solely used for the purpose of conveying children or vulnerable adults

All the activity must be provided wholly or mainly to children and/or vulnerable adults *and* the activity must be carried out frequently (more than once a week) or intensively (more than 3 times per month) or overnight (between 2am and 6am)

OR

An activity involving working with children and/or vulnerable adults in a *specified place* e.g. schools, childcare premises, children's homes & hospitals, juvenile detention facilities, adult residential care homes.

***There will be posts within the Trust which will not require a DBS check, please refer to Appendix D for confirmation.***

### 5.2.4 Spent and Unspent Convictions

Convictions are defined by the Rehabilitation of Offenders Act 1974 (ref 3) as being 'spent' after specified periods of time. Spent convictions do not need to be brought to the attention of the Trust unless the work or the post is covered by the Rehabilitation of Offenders 1974 Exceptions Order 1975. In most circumstances, the Trust cannot refuse to employ someone, nor dismiss them, on the basis of a spent conviction.

A conviction is described as unspent if the rehabilitation period associated with it has not yet lapsed. A rehabilitation period is a set length of time from the date of conviction, according to the sentence imposed.

With effect from 29 May 2013, certain old and minor cautions and convictions as detailed below will no longer be disclosed in a criminal record certificate from this date.

The new arrangements are intended to provide individuals with the opportunity to leave behind mistakes made when they were young. Ensuring patient and public safety is paramount, therefore certain convictions and cautions will always be disclosed in a criminal record certificate (see the list of specified offences that can be found on the Disclosure and Barring Service (DBS) website at:

<https://www.gov.uk/government/publications/dbs-filtering-guidance>

The new filtering system introduces a strict set of rules that must be satisfied before any decision is made as to whether information should not be disclosed in a criminal record certificate. In relation to *convictions* committed by an adult, information will not be disclosed where all four conditions outlined below are met:

- eleven years have elapsed since the date of the conviction
  - it is not listed as one of the specified offences which must always be disclosed
  - it did not result in a custodial sentence, and
  - the individual does not have more than one conviction.
- Cautions issued to an adult will not be disclosed where:
- six years have elapsed since the date of that caution being issued, and
  - where the caution does not appear on the specified list of offences.

In relation to *convictions* committed by individuals under the age of 18, information will not be disclosed where:

- five and a half years have elapsed since the date of the conviction
- it is not one of the specified offences which must always be disclosed
- it did not result in a custodial sentence, and
- the individual does not have more than one conviction.

Where the *caution* was issued to an individual under the age of 18, information will not be disclosed where:

- two years have elapsed since the date of issue, and
- the caution does not appear on the list of specified offences

Police forces will continue to use their common law powers to share information which they reasonably believe to be relevant and which, in their opinion, should be disclosed within the criminal record certificate.

### 5.3 Assessing the relevance of Criminal Records

5.3.1 The suitability for employment of a person with a criminal record will vary, depending on the nature of the job and the details of circumstances of any conviction. Deciding on the relevance of convictions to specific posts is not an exact science. An assessment of an individual's skills, experience and conviction circumstances should be weighed against the risk assessment criteria for the job.

To facilitate this process, an individual's criminal record should be assessed in relation to the tasks he or she will be required to perform and the circumstances in which the work is to be carried out. We will therefore need to consider the following when deciding on the relevance of offences to particular posts:-

- Does the post involve one-to-one contact with children or other vulnerable groups such as patients/service users or visitors?
- What level of supervision will the post holder receive?
- Does the post involve any direct responsibility for finance or items of value?
- Does the post involve direct contact with the patients/service users?
- Will the nature of the job present any opportunities for the post holder to re-offend in the place of work?

5.3.2 The answers to such questions should help to determine the relevance of convictions to specific posts. For example, paedophile, or child pornography offences would almost certainly disqualify any person required to work with children and vulnerable adults; some violent offences would be relevant to positions involving unsupervised contact with the public, service users and carers; fraud should be considered in relation to posts involving the handling of significant amounts of money.

5.3.3 In some cases, the relationship between the offence and the post will be clear enough for us to decide easily on the suitability of the individual for the job. In other cases, the decision may not be so clear-cut. For shortlisted applicants who are assessed as meeting the requirements of the person specification and who then disclose a criminal record that is not related directly to the post, the relevance of each offence should be discussed with the applicant and Resourcing Manager/HR Business Partner to ensure consistency across the Trust. It should be remembered that no two offences are exactly alike. Whilst it will not be possible to carry out a thorough risk assessment a decision tree has been developed and will be used on each individual case, the following issues are taken into account as a minimum requirement:-

- the seriousness of the offence and its relevance to the safety of other
- employees, service users/carers, clients and property;
- the length of time since the offence occurred (this may differ depending on type of offence);

- any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example the influence of domestic or financial difficulties;
- whether the offence was a one-off, or part of a history of offending;
- whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely;
- the country in which the offence was committed; some activities are offences in Scotland and not considered in the same way in England and Wales, and vice versa;
- whether the offence has since been decriminalised by Parliament, for example, reclassification of illegal substances and associated offences.
- If an applicant fails to disclose information regarding a criminal conviction, caution, warning, reprimand, or bind over (regardless if they are spent or unspent) and this information comes to light this may lead to the withdrawal of the offer of employment.
- If an applicant fails to disclose information regarding a criminal conviction, caution, warning, reprimand, or bind over [regardless if they are spent or unspent] and this information subsequently comes to light the applicant is potentially guilty of committing fraud under section 3 of the Fraud Act 2006. This may lead to the withdrawal of the offer of employment and the matter being referred to the Trust's Local Counter Fraud Specialist on 0151 285 4500 for further enquires.

## 5.4 Update Service

5.4.1 DBS checks have been made more portable with the introduction of Update Service, is available to individuals for an annual direct debit fee of £13, it is free for volunteers. The Update Service is mandatory for new starters to those roles that require an Enhanced DBS check to be done, this allows the Trust (or any other potential employer) to go online and check whether there is any new, known criminality information on any individual who applied for their DBS certificate on or after 17 June 2014 and subscribe with the Update Service. Employees will be required to give consent for the employer to check the DBS Update Service. ESR has an interface with the DBS Update Service, this primarily allows updates to be applied within ESR, these updates will be done automatically every 60 days and triggers updates in ESR where a change is reported by the DBS Update Service.

5.4.2 The online check will not provide detailed information but will indicate where new information exists and therefore prompts a trigger for a new check. In this case, a new DBS application must be made and the employee will be charged the DBS fee.

5.4.3 Existing employees requiring a renewal DBS check are encouraged to join the DBS Update Service rather than participating in 3 yearly renewal checks. Employee's who's role requires a Standard DBS check have the option to either join the DBS Update Service or participate in 3 yearly renewals.

## 5.5 Fit and Proper Persons Test

5.5.1 In direct response to failing at the Winterbourne View Hospital and the Francis Inquiry into Mid Staffordshire NHS Hospital Trust Regulation 5 of *The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014* (referred to as the 2014 Regulations) has been introduced. This means ‘directors’ should not be appointed / continue to hold office unless they meet certain criteria. One of which is “of good character”. In assessing this criteria NHS providers are required to take account of Schedule 4 of the 2014 Regulations, namely:

- a) whether the person has been convicted in the United Kingdom of any offence or been convicted elsewhere of any offence which, if committed in any part of the United Kingdom, would constitute an offence.

As such, all members and associate members of the Trust Board, including non executive Directors will be subject to a DBS Check (relevant to their role) and will be required to join the DBS Update Service either on commencement with the Trust or at the time of their 3 yearly DBS renewal.

## 5.6 Supporting Procedure

### 5.6.1 Recruitment

All offers of appointment to the Trust will be subject to appropriate disclosure of criminal records where it is required for the post. The final decision in respect of the level of disclosure required will remain with the DBS Counter signatory within the Resourcing Department.

However, key principles include:-

- Only the applicant successful at interview should be required to complete the DBS application documentation;
- Applicants must be advised of the level of disclosure required and provided with a copy the DBS Update guidelines and consent form;
- Applicants must be advised that a criminal record will not automatically exclude them;
- Full assessment, of the relevance of a criminal record must be undertaken in liaison with the Human Resources Department who will keep a record of the outcomes of previous convictions to ensure a fair and consistent approach across the Trust;
- Applicants must be advised that should a conditional offer be made, it could not be confirmed (and they would not be allowed to commence employment) until the appropriate information had been received/considered & registration to the Update Service had been subscribed to.

Please see Appendix D for guidance on the level and frequency of DBS checks. All staff, irrelevant of post, working within or based within the High Secure Site will be required be have a standard/enhanced DBS check.

### 5.6.2 Three Yearly Checks

All staff who had a DBS prior to the implementation of the Update Service and are subject to a DBS check will be required to renew their DBS after three years in-line with best practice guidance issued by the DBS, Mersey Internal Audit and under safeguarding requirements.

Staff will be notified prior to their DBS expiry so that a new check can be undertaken, after which they are encouraged to join the DBS Update Service. The Resourcing Team will update ESR so that the most recent date is recorded.

Staff who fail to complete their 3 yearly DBS check within the required timescales and who have not been given authorisation from the Resourcing team, will be subject to disciplinary investigation and potential disciplinary action being taken against them. Please refer to the Disciplinary procedure (HR01) for further information.

#### 5.6.3 Payment for DBS's

Any individual who requires a DBS to undertake their role with Mersey Care NHS Foundation Trust will be liable to pay the cost; This will be taken automatically in three equal payments from their monthly salary over a three month period. The DBS Update Service is subscribed by Direct Debit to the DBS from individuals bank accounts.

For further information regarding DBS and pre-employment checks please refer to the Recruitment and Selection Policy (HR22)

#### 5.6.4 Medical Staffing

Consultants, Associate Specialists and Staff Grades and any other employed medical staff will have a DBS check carried out on appointment and will be subject to repeat checks as described in section 7.1.2. The Single Lead for the Mersey Rotational Training Scheme will ensure that all Junior Trainee Doctors have the appropriate DBS check to undertake their placements within the Host Trusts.

#### 5.6.5 Agency workers and locums

Agency workers will be checked at least once a year. This will be done by the Agency they are registered with. This will be monitored by the Additional Staffing Team as per the Buying Solutions Framework. Medical Locums will be DBS checked yearly by the Agency and this will be monitored by the Medical Staffing Team.

Staff registered on the Nurse or Administration and Clerical Bank, will come under the same arrangements as their colleagues in substantive posts. Staff who have not made themselves available for shifts within a 6 month period will be advised in writing by the Additional Staffing Team that they will be removed from the bank register. Should they wish to re-join the bank register they will be subject to a new DBS.

#### 5.6.6 Portability

“Portability” means the re-use of a disclosure obtained for a position in one organisation and later used for another position in another organisation. Information included has no term of validity and only provides information in relation to what is known about the individual up to the point of its issue.

There is a significant risk if an organisation accepts a previously issued DBS check and the individual is not subscribed to the Update Service; as information relating to the criminal record may have changed since its issue, any information issued by the Chief of Police will have been for the original post applied for and not for the new Trust post and the information will have been revealed based on the ID of the applicant validated by another organisation.

Therefore due to the outlined risk the Trust acknowledges that copies of DBSs must not be accepted from another employer, unless the employee is signed up to the Update Service.

NB As stated above DBS clearance is not transferable between NHS employers but Trust staff who leave the Trust’s employment for a very short period of time of less than 3 months (e.g. employees who retire with a pension and then return or fixed term employees who are issued with a new contract) will not be required to undertake a new check unless they were due for a DBS check or their role has changed significantly.

## 5.7 Duty to refer to the DBS

Under the Safeguarding Vulnerable Groups Act 2006 and the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, the Trust has a legal duty to refer information to the Disclosure and Barring Service (DBS):

If the Trust fails to provide prescribed information without a reasonable excuse, where there is a duty to do so, it will be committing an offence with a penalty of up to £5,000. The legislation requires that a referral is made when the employee has been removed from regulated activity because of safeguarding concerns. It is for the Trust to decide whether or not it is a safeguarding issue and if it is, whether or not it is appropriate to remove that person from regulated activity. Therefore, if the Trust decides there are no safeguarding concerns and does not remove the individual from regulated activity and do not make a referral, they have not committed an offence. It is also an offence to fail to supply prescribed information without reasonable excuse to the DBS should the DBS request this information.

Further information can be provided from the HR department on this matter.

## 5.8 Route 4 Fingerprint Process

- 5.8.1 If an applicant or employee is unable to provide enough ID to go through route 1 or 2 (in the case of Refugees or Asylum Seekers this must be Route 1 only) and all avenues have been exhausted then there will be no alternative but to go through Route 4, which means that the applicant/employee must attend a police station to have their fingerprints taken and provide three identical

passport sized photographs with their name written on the back of each photograph.

5.8.2 Resourcing will arrange for the relevant forms to be sent to the applicant/employee to begin this process. The cost of this process is £40, in addition to the cost of the DBS, which is charged to the Trust as soon as the request is made and this will be passed onto the applicant/candidate. Therefore this process will only be used as a last resort and candidates/employees will be encouraged to apply for a provisional licence/passport instead, where possible.

5.8.3 If a person has the same name and date of birth as somebody else the Police may need to eliminate them. In this case the Police will request for the applicant to go contact the applicant direct to arrange for them to make a visit to the local police station to have their fingerprints taken. Due to the fact that the Police made this request the cost of £40.00 will not be charged to the individual or the Trust and the request will be made direct to the applicant/employee. The DBS will only issue the certificate once this process has been completed”

## 6 CONSULTATION

6.1 The policy has been developed by HR Policy Group, which consists of representatives from::

- (a) Recognised Trade Union Organisations
- (b) Senior managers
- (c) HR Staff

## 7 MONITORING

System for the Monitoring of Compliance	
Monitoring of compliance with this policy will be undertaken by:	Executive Director of Workforce
The results of monitoring will be reported to:	Safeguarding Strategy Group – annually
Compliance with this policy will be monitored though:	Reporting the number of DBS checks that are completed annually.  ESR reporting system in place to ensure three yearly checks are undertaken as required.

## 8 SUPPORTING DOCUMENTS

8.1 List of Supporting Documents

Ref No	Name	Purpose
HR21	Recruitment and Selection Policy and Procedure	for reference during recruitment process

## POLICY STATEMENT ON RECRUITMENT OF EX-OFFENDERS

As an organisation using the Disclosure and Barring Service (DBS) Disclosure services to assess applicants suitability for positions of trust, Mersey Care NHS Foundation Trust complies fully with the DBS Code of Practice.

The Trust undertakes to treat all applicants fairly and not to discriminate unfairly against any candidates who have convictions declared on their disclosure.

We actively promote 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. We select candidates for interview based on their ability to meet the person specification.

DBS checks are only requested once it has been ascertained as a requirement for the post. For those positions where a DBS check is required, all application forms, job adverts and recruitment information will contain a statement confirming the need for these checks.

We encourage all applicants to provide details of their criminal record at an early stage in the application process i.e. on the application form. We guarantee that this information is only seen by those who need to see it as part of the recruitment process.

We ensure that all interview panels for posts within Mersey Care NHS Foundation Trust will include at least one person who has been trained in Recruitment & Selection, including guidance in the relevant legislation relating to the employment of ex-offenders e.g. Rehabilitation of Offenders Act 1974.

At interview, or in a separate discussion, we ensure 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 or dismissal if already in post.

We make every candidate who is subject to a DBS check aware of the existence of the DBS Code of Practice and make a copy available on request.

We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.

If there are any discrepancies between the information disclosed by an individual and the information contained in the DBS Disclosure Certificate, the individual will be offered the opportunity to discuss these with a HR Representative and the manager before a final decision is made about their suitability for employment.

All reasonable attempts will be made to resolve any discrepancies. However, if it is not possible to do so, the Trust will reserve the right to withdraw the offer of employment. Individuals will be advised to use the Disclosure and Barring Service Disputes Procedure if they believe the information contained within the Disclosure Certificate to be incorrect.

Having a criminal record will not necessarily bar people from working with us. This will depend on the nature of the position and the circumstances and background of the offences.

When deciding whether an appointment to a post can be made an individuals previous convictions will be considered, taking into account the following information:

- Whether the offence(s) or matter revealed are relevant to the post in question;
- The seriousness of the offence(s) or other matters revealed;
- The length of time since the offence(s) or other matters occurred;
- Whether the applicant has a pattern of offending behaviour;
- The circumstances surrounding the commitment of the offence(s)

If a candidate fails to disclose a criminal record after subsequently being employed, they may be dismissed on grounds of failure to declare information/fraud as this constitutes an act of gross misconduct.

Any suspicion of fraud, bribery and/or corruption should be reported to the Trust's Local Counter Fraud Specialist on 0151 285 4500 or alternatively reported using the confidential NHS Counter Fraud Services Fraud and Corruption Reporting Line 0800 028 40 60 [Freephone Monday–Friday 8am-6pm or via the online reporting form [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk)

Information provided via any of these reporting lines will be treated in the strictest confidence, and can be provided completely anonymously.

Appendix B

Policy statement on the secure storage, handling, use,  
retention & disposal of Disclosures & Disclosure Information

### *General principles*

As an organisation using the Disclosure and Barring Service (DBS) Disclosure service to help assess the suitability of applicants for positions of trust, Mersey Care NHS Foundation Trust complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information. This policy describes these matters, and is available on request.

### *Handling*

In accordance with Section 124 of the Police Act 1997, Disclosure 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 Disclosures or Disclosure information has been revealed and we recognise that it is a **criminal offence** to pass this information to anyone who is not entitled to receive it.

### *Usage*

Disclosure information is only used for the specific purpose for which it is requested and for which the applicant's full consent has been given.

### *Retention*

Once all satisfactory pre-employment checks have been completed the following details will be recorded on ESR

- Date of issue of Disclosure
- Name of individual
- Type of disclosure
- Position for which requested
- Reference number
- Permission given for the Update Service

If convictions are detailed on the Disclosure Certificate, the Resourcing Team will keep a copy electronically, to allow for the consideration and resolution of any disputes or complaints. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.

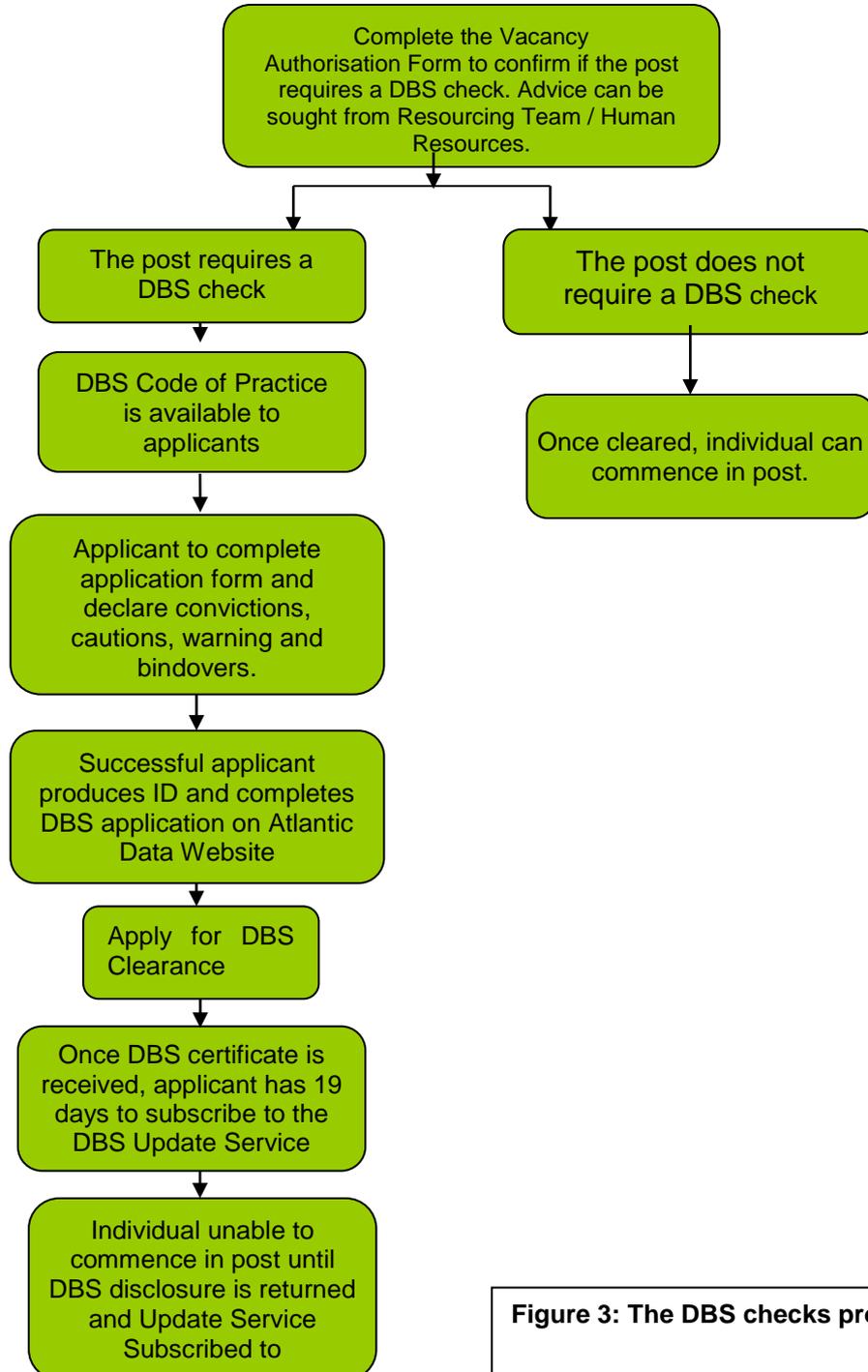
### *Disposal*

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately and suitably destroyed by secure means. We will not keep any photocopy or other image of the contents of a Disclosure. However, notwithstanding the above, we may keep a record of the date of receipt of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment decision taken.

**Appendix C**

**DBS Process**

The following flowchart (Figure 3) has been designed in order to illustrate the process to follow when undertaking DBS checks for new staff.



**Figure 3: The DBS checks process**

Appendix D

Who should have a Disclosure & Barring Service Check?

Staff Group	Level of check	Frequency of check
Divisional Directors/ and Deputy Directors	Standard	On appointment or move and renewed every 3 years.
Clinical Directors	Enhanced (with barred lists)	On appointment or move and renewed every 3 years.
Service Managers <b>with</b> direct patient/service user contact	Enhanced (with barred lists)	On appointment or move and renewed every 3 years.
Service Managers <b>without</b> direct patient/service user contact	Standard	
Qualified Nurses (all levels)	Enhanced (with barred lists)	On appointment or move and renewed every 3 years.
Clinical Staff working with direct patient contact in Criminal Justice, Liaison & Diversion Team and Early Intervention Teams)	Enhanced with Adult and Child Barred Lists	
Nursing Assistants/Support Workers	Enhanced (with barred lists)	On appointment or move and renewed every 3 years.
Psychologists/ Assistant Psychologists	Enhanced (with barred lists)	On appointment or move and renewed every 3 years.
Social workers	Enhanced (with barred lists)	On appointment or move and renewed every 3 years.
Allied Health Professionals	Enhanced (with barred lists)	On appointment or move and renewed every 3 years.
Pharmacy Staff	Enhanced (with barred lists)	On appointment or move and renewed every 3 years.
Honorary Contracts/Students <b>with</b> direct patient/service user contact.	Enhanced (with barred lists)	On appointment and renewed every 3 years
Ward Clerks/Receptionist/other admin staff <b>with</b> direct patient/service user contact.	Standard	On appointment or move and renewed every 3 years.
Receptionist/other admin staff <b>without</b> direct patient/service user contact.	Not required	
Consultants, Associate Specialists and Staff Grades	Enhanced	On appointment or move and renewed every 3 years.
Junior Doctors on Mersey	Enhanced	Every 3 years. Undertake by Single

Rotational Training Scheme		Lead Employer.
Estates and facilities staff <b>with</b> direct patient/service user contact	Standard	On appointment or move.
Estates and facilities staff <b>without</b> direct patient/service user contact.	Not required	
Drivers who transport patients / service users	Enhanced	On appointment or move and renewed every 3 years
Non Executive Directors	Standard	Prior to appointment & In accordance with the Fit and Proper Persons Test
Trust Board Members	Enhanced	Prior to appointment and in accordance with the Fit and Proper Persons Test
HR Staff (only lead and counter signatories)	Enhanced	On appointment
PALS Officer/Service	Enhanced (with barred lists)	On appointment/move and renewed every 3 years.
Senior Finance Staff & Business Managers Band 7	Standard	On appointment/move and renewed every 3 years.
All staff based or working within High Secure Services	Standard (unless satisfies criteria for enhanced)	On appointment/move and renewed every 3 years.
Agency/Bank staff <b>with</b> direct patient/service user contact.  Agency/Bank Staff <b>without</b> direct patient/service user contact	Enhanced (with barred lists)  Not required	Yearly through the agency  Or Bank staff on appointment and renewed every 3 years.
Staff without patient/service user access in normal course of duties e.g. corporate services or other staff not based on wards	Not required	N/A

This list is not exhaustive and is provided as a guide. When in doubt managers should view the job description and person specifications for a post in order to make a final decision on the suitability and level of a check along with advice from Human Resources.

<b>12. Implementation plan</b>	<i>Issues identified / Action to be taken</i>	<i>Time-Scale</i>
<p><b>Co-ordination of implementation</b></p> <ul style="list-style-type: none"> <li>How will the implementation plan be co-ordinated and by whom?</li> </ul> <p><i>Clear co-ordination is essential to monitor and sustain progress against the implementation plan and resolve any further issues that may arise.</i></p>	<p>The implementation plan will be co-ordinated by the Director of Workforce. The plan will include distribution of the policy in accordance with the guidance in Corporate Policy and Procedure for the Development, Ratification, Distribution and Reviewing Policies and Procedures.</p>	
<p><b>Engaging staff</b></p> <ul style="list-style-type: none"> <li>Who is affected directly or indirectly by the policy?</li> <li>Are the most influential staff involved in the implementation?</li> </ul> <p><i>Engaging staff and developing strong working relationships will provide a solid foundation for changes to be made.</i></p>	<ul style="list-style-type: none"> <li>All staff employed by Mersey Care NHS Foundation Trust.</li> <li>This policy will be implemented with the support of the JNCC.</li> </ul>	
<p><b>Involving service users and carers</b></p> <ul style="list-style-type: none"> <li>Is there a need to provide information to service users and carers regarding this policy?</li> <li>Are there service users, carers, representatives or local organisations who could contribute to the implementation?</li> </ul> <p><i>Involving service users and carers will ensure that any actions taken are in the best interest of services users and carers and that they are better informed about their care.</i></p>	<ul style="list-style-type: none"> <li>There is no need to provide service users and carers with a copy of the procedure. However, it is available if requested.</li> <li>Service Users and Carers will not be involved in implementing the procedure.</li> </ul>	

<b>12. Implementation plan</b>	<i>Issues identified / Action to be taken</i>	<i>Time-Scale</i>
<p><b>Co-ordination of implementation</b></p> <ul style="list-style-type: none"> <li>How will the implementation plan be co-ordinated and by whom?</li> </ul> <p><i>Clear co-ordination is essential to monitor and sustain progress against the implementation plan and resolve any further issues that may arise.</i></p>	<p>The implementation plan will be co-ordinated by the Director of Organisational Development &amp; Communications. The plan will include distribution of the policy in accordance with the guidance in Policy and Procedure for the Development, Ratification, Distribution and Reviewing Policies and Procedures.</p>	
<p><b>Engaging staff</b></p> <ul style="list-style-type: none"> <li>Who is affected directly or indirectly by the policy?</li> <li>Are the most influential staff involved in the implementation?</li> </ul> <p><i>Engaging staff and developing strong working relationships will provide a solid foundation for changes to be made.</i></p>	<ul style="list-style-type: none"> <li>All staff employed by Mersey Care NHS Foundation Trust and volunteers who are in contact with vulnerable adults or children as per the Policy and Procedure.</li> </ul>	ongoing
<p><b>Involving service users and carers</b></p> <ul style="list-style-type: none"> <li>Is there a need to provide information to service users and carers regarding this policy?</li> <li>Are there service users, carers, representatives or local organisations who could contribute to the implementation?</li> </ul> <p><i>Involving service users and carers will ensure that any actions taken are in the best interest of services users and carers and that they are better informed about their care.</i></p>	<ul style="list-style-type: none"> <li>There is no need to provide service users and carers with a copy of the procedure. However, it is available if requested.</li> <li>Service Users and Carers will not be involved in implementing the procedure.</li> </ul>	

<b>12. Implementation plan</b>	<i>Issues identified / Action to be taken</i>	<i>Time-Scale</i>
<p><b>Communicating</b></p> <ul style="list-style-type: none"> <li>• What are the key messages to communicate to the different stakeholders?</li> <li>• How will these messages be communicated?</li> </ul> <p><i>Effective communication will ensure that all those affected by the policy are kept informed thus smoothing the way for any changes. Promoting achievements can also provide encouragement to those involved.</i></p>	<ul style="list-style-type: none"> <li>• Key messages are: <ul style="list-style-type: none"> <li>- to ensure that DBS checks are undertaken where appropriate</li> <li>- the responsibilities of managers and employees</li> <li>- procedure to be followed</li> </ul> </li> <li>• Messages communicated by Mersey Care website and Team Brief. Staff will receive a copy of the procedure if requested.</li> </ul>	
<p><b>Training</b></p> <ul style="list-style-type: none"> <li>• What are the training needs related to this policy?</li> <li>• Are people available with the skills to deliver the training?</li> </ul> <p><i>All stakeholders need time to reflect on what the policy means to their current practice and key groups may need specific training to be able to deliver the policy.</i></p>	<ul style="list-style-type: none"> <li>• Training needs will be identified for those staff involved in the recruitment process. The training will be delivered in-house by the H.R. Team.</li> </ul>	
<p><b>Resources</b></p> <ul style="list-style-type: none"> <li>• Have the financial impacts of any changes been established?</li> <li>• Is it possible to set up processes to re-invest any savings?</li> <li>• Are other resources required to enable the implementation of the policy e.g. increased staffing, new documentation?</li> </ul> <p><i>Identification of resource impacts is essential at the start of the process to ensure action can be taken to address issues which may arise at a later stage.</i></p>	<ul style="list-style-type: none"> <li>• Additional financial implications arising from the implementation of this procedure are the costs for each DBS check being carried out.</li> </ul>	

<b>12. Implementation plan</b>	<i>Issues identified / Action to be taken</i>	<i>Time-Scale</i>
<p><b>Securing and sustaining change</b></p> <ul style="list-style-type: none"> <li>• Have the likely barriers to change and realistic ways to overcome them been identified?</li> <li>• Who needs to change and how do you plan to approach them?</li> <li>• Have arrangements been made with service managers to enable staff to attend briefing and training sessions?</li> <li>• Are arrangements in place to ensure the induction of new staff reflects the policy?</li> </ul> <p><i>Initial barriers to implementation need to be addressed as well as those that may affect the on-going success of the policy</i></p>	<ul style="list-style-type: none"> <li>• There are no potential barriers to the implementation of the procedure.</li> <li>• Staff involved in the recruitment procedure will be released to attend training sessions.</li> <li>• All new staff will undergo a DBS Check where relevant.</li> </ul>	
<p><b>Evaluating</b></p> <ul style="list-style-type: none"> <li>• What are the main changes in practice that should be seen from the policy?</li> <li>• How might these changes be evaluated?</li> <li>• How will lessons learnt from the implementation of this policy be fed back into the organisation?</li> </ul> <p><i>Evaluating and demonstrating the benefits of new policy is essential to promote the achievements of those involved and justifying changes that have been made.</i></p>	<ul style="list-style-type: none"> <li>• Safer recruitment practices in place.</li> </ul>	
Other considerations		