



## Disclosure and Barring Service (DBS) criminal record checks

### Guidance

The Disclosure and Barring Service (DBS) is an executive non-departmental public body of the Home Office.

It is responsible for:

- processing requests for criminal records checks
- deciding whether it is appropriate for a person to be placed on, or removed, from a barred list which prevents them from working with vulnerable groups

### The Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act 1974 and the amendment orders prohibit discrimination against persons with prison/criminal records, within defined limits relating to the length of the sentence and the period free of a criminal record after the sentence was completed. Therefore once the sentence and qualifying time free of a criminal record have lapsed, the conviction is described as 'spent' and the person no longer needs to state this when asked about their criminal record.

However, where a post involves significant contact with children or vulnerable adults, and in certain other cases, the College is entitled to make enquiries about the applicant's entire criminal record and will seek a certificate from the Disclosure & Barring Service.

Please note that having a criminal record will not necessarily bar you from working with us. This will depend on the offence and the relevance of the offence to the position applied for.

Royal Holloway complies fully with the [code of practice](#) and undertakes to treat all applicants for positions fairly. **(Appendix 1)**

### Level of Disclosure

For positions working with children and vulnerable adults, an Enhanced with or without a Barred List check DBS certificate will be requested. This involves an extra level of checking with local police force records in addition to checks with the Police National Computer and the government department lists held by the Department for Education and Skills and the Department of Health, where appropriate. **All posts which require a DBS certificate within the College will be subject to an Enhanced Certificate.**

## **New Starters**

### **Identifying the need for a check**

The need for a certificate should be established by the Recruiting Manager early on in the recruitment process. The manager should also include a statement to that effect within the job description. Note: The DBS charge for the certificate will be met by the recruiting department.

Before we can ask a person to make an application for a DBS check, we are legally responsible for ensuring that we are entitled to ask the employee to reveal their conviction history. The Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974 lists the types of work, employment or professions on which we can legally obtain a check.

The key criterion for checking employees is "regular and unsupervised contact", (ad hoc or irregular contact for short periods of time are not eligible), with children or vulnerable adults.

Advice on job application forms relating to positions that are eligible for a Standard or Enhanced DBS check, can be found in Appendix 2.

### **Offer of employment**

The successful candidate will be emailed the log in details to a secure website where the checks will be carried out using an external supplier. Information on **self-disclosure** will also be included and the candidate will be informed of the DBS [Code of Practice](#).

### **Obtaining a check**

The successful candidate will complete the DBS application form online and will self-disclose any relevant information to the College if necessary. The line manager will be responsible for verifying the identity documents against the information completed online by the candidate and HR will then submit the check.

The disclosure will be sent directly to the candidate from the DBS and the College will only be informed if the check is clear or if there is a disclosure. Where a disclosure has been made, the **College** will contact the candidate to ask to see a copy of the DBS disclosure and discuss the circumstances in more detail.

### **Outcome of the certificate**

When the application has been processed, the DBS will send a copy of the certificate to the individual. The DBS are no longer sending certificates to the employer however the online system will inform the College if the disclosure is clear or not (but will include no further detail).

The disclosure will cover any past convictions to the date that it is issued. Should any disclosures be made then you may be required to present the disclosure to HR.

Having a criminal record will not necessarily bar an applicant from working for the **College**. Rather, depending on the nature of the position, the circumstances and background of the offences, a decision will be made in agreement with the Head of Department and the HR Business Partner.

Failure to reveal information that is directly relevant to the position sought may lead to withdrawal of an offer of employment or disciplinary action including dismissal. The **College** undertakes to discuss any matter revealed in a disclosure with the person seeking the position before withdrawing an offer of employment or considering dismissal or in rare instances amending an employee's duties after consultation with the Director of HR.

## **Existing staff**

In the event that existing staff are taking on duties which may require them to complete a DBS check, this will be discussed with them fully by their line manager before the paperwork is completed.

## **Lifespan of disclosure**

It is the policy of the College to require a new disclosure at regular intervals (unless changes in the job mean that it is no longer required).

## **Update Service and Portability**

To help reduce the need for requesting multiple DBS checks, the College encourages the use of the DBS *Update Service*. This service allows applicants the chance to keep their DBS certificate up to date online and allows employers to check a certificate online.

*Portability* is the re-use of a DBS Disclosure for a position in another organisation. The College accepts the portability of DBS checks, which individuals may have from previous employers, as proof of satisfactory clearance when:

- the disclosure is at the correct level i.e. Enhanced
- free from any offences that would prevent them being employed by the College
- the individual has subscribed to [the update service](#), which states that there is no change to the certificate.

## **Handling of DBS certificate information**

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

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.

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.

## Appendix 1: Rehabilitation of Offenders

- As an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the Disclosure and Barring Service (DBS), Royal Holloway, University of London (the College) complies fully with the [code of practice](#) and undertakes to treat all applicants for positions fairly
- Royal Holloway undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed
- Royal Holloway can only ask an individual to provide details of convictions and cautions that the College are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended)
- Royal Holloway can only ask an individual about convictions and cautions that are not protected
- Royal Holloway 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
- Royal Holloway 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
- Royal Holloway select all candidates for interview based on their skills, qualifications and experience and an application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position
- At interview, or in a separate discussion, Royal Holloway 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
- Royal Holloway 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
- Royal Holloway undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

## Appendix 2: Advice on job application forms

Job application forms relating to positions that are eligible for a Standard or Enhanced DBS check will need to reflect the filtering rules so that:

- employers ask the right questions, and
- employees give the right (legally accurate) answer

We suggest that you use the following questions as a template for your own recruitment processes:

Do you have any unspent conditional cautions or convictions under the Rehabilitation of Offenders Act 1974? (Y/N)?

Do you have any adult cautions (simple or conditional) or spent convictions that are not protected as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020? (Y/N)?”

You are also encouraged to include the paragraphs below in your standard application forms:

The amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) provides that when applying for certain jobs and activities, certain convictions and cautions are considered 'protected'. This means that they do not need to be disclosed to employers, and if they are disclosed, employers cannot take them into account.

Guidance about whether a conviction or caution should be disclosed can be found on the Ministry of Justice website.