

Policy:

CG 004.1 Criminal Records Checking, Disclosure and Barring (DBS) Service Policy & Procedure

Executive or Associate Director lead	Director of Human Resources
Policy author/ lead	HR Directorate Partner
Feedback on implementation to	HR Directorate Partner

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Ratified by	Executive Directors Group
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Target audience	All managers, employees, governors and volunteers of SHSC Trust
Keywords	Criminal, records, checking, disclosure, barring, DBS

Policy Version and advice on document history, availability and storage;

Version 4.1. This Policy amends the previous version of the Criminal Records Checking, Disclosure and Barring (DBS) Service Policy & Procedure which was ratified in Sept 2016.

This policy will be available to all staff via the Sheffield Health & Social Care NHS Foundation Trust Intranet and on the Trust's website. The previous version will be removed from the Intranet and Trust website and archived. Any copies of the previous policy held separately should be destroyed and replaced with this version.

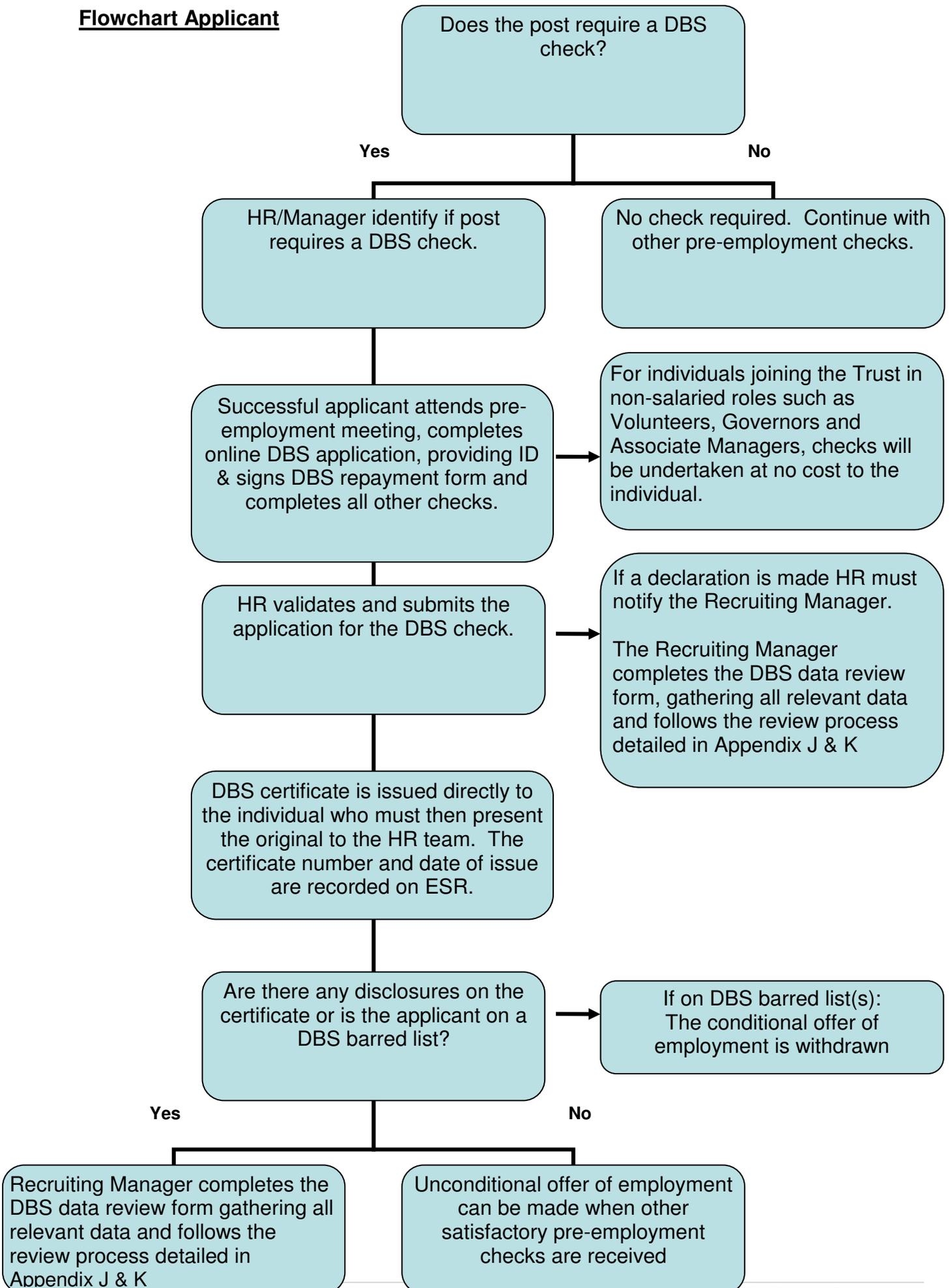
This policy is based on good practice and complies with the Rehabilitation of Offenders Act 1974, DBS Code of Practice and NHS Employers guidelines.

This policy has been written in the appropriate format for policies and is due for review by January 2021.

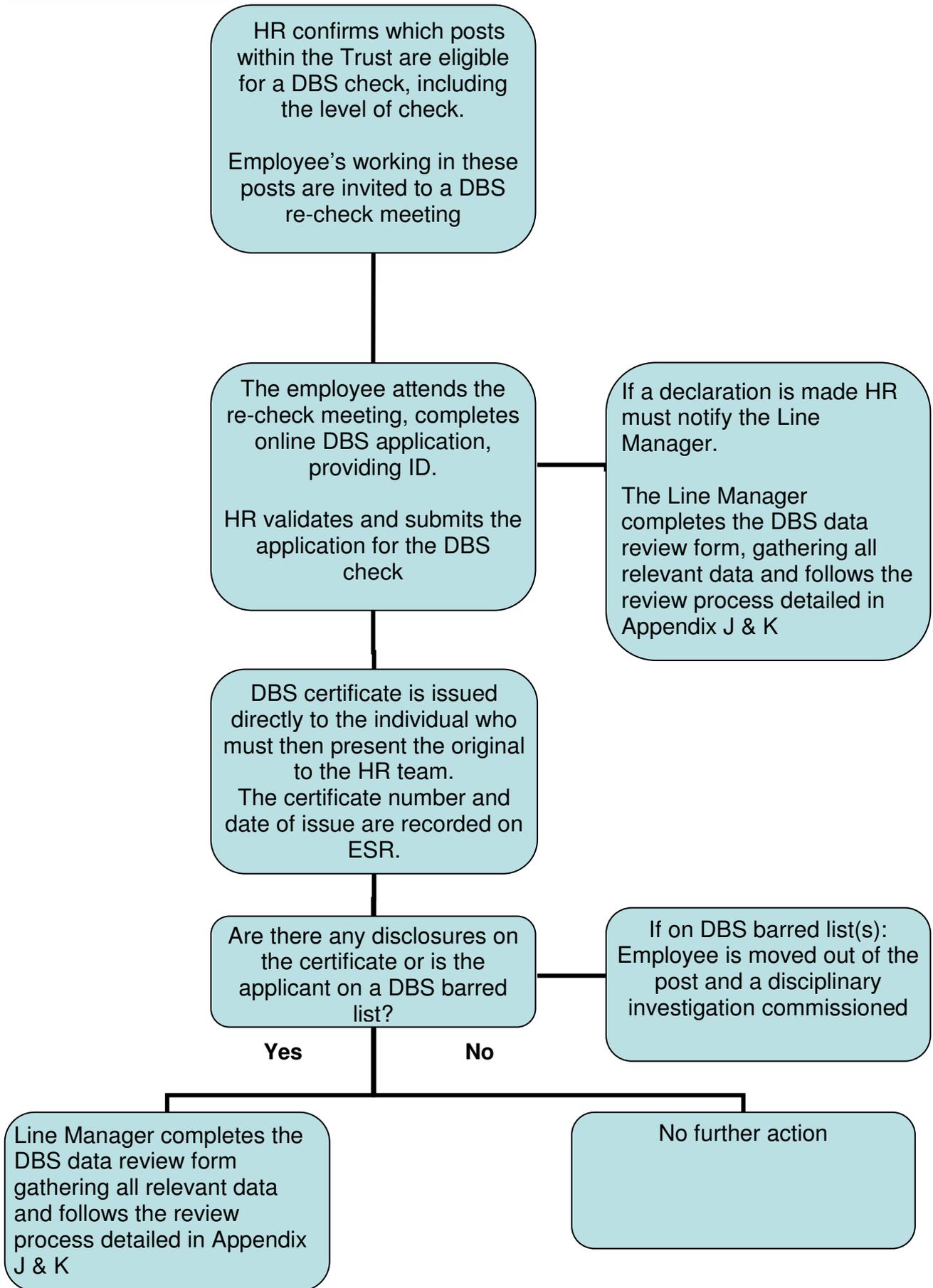
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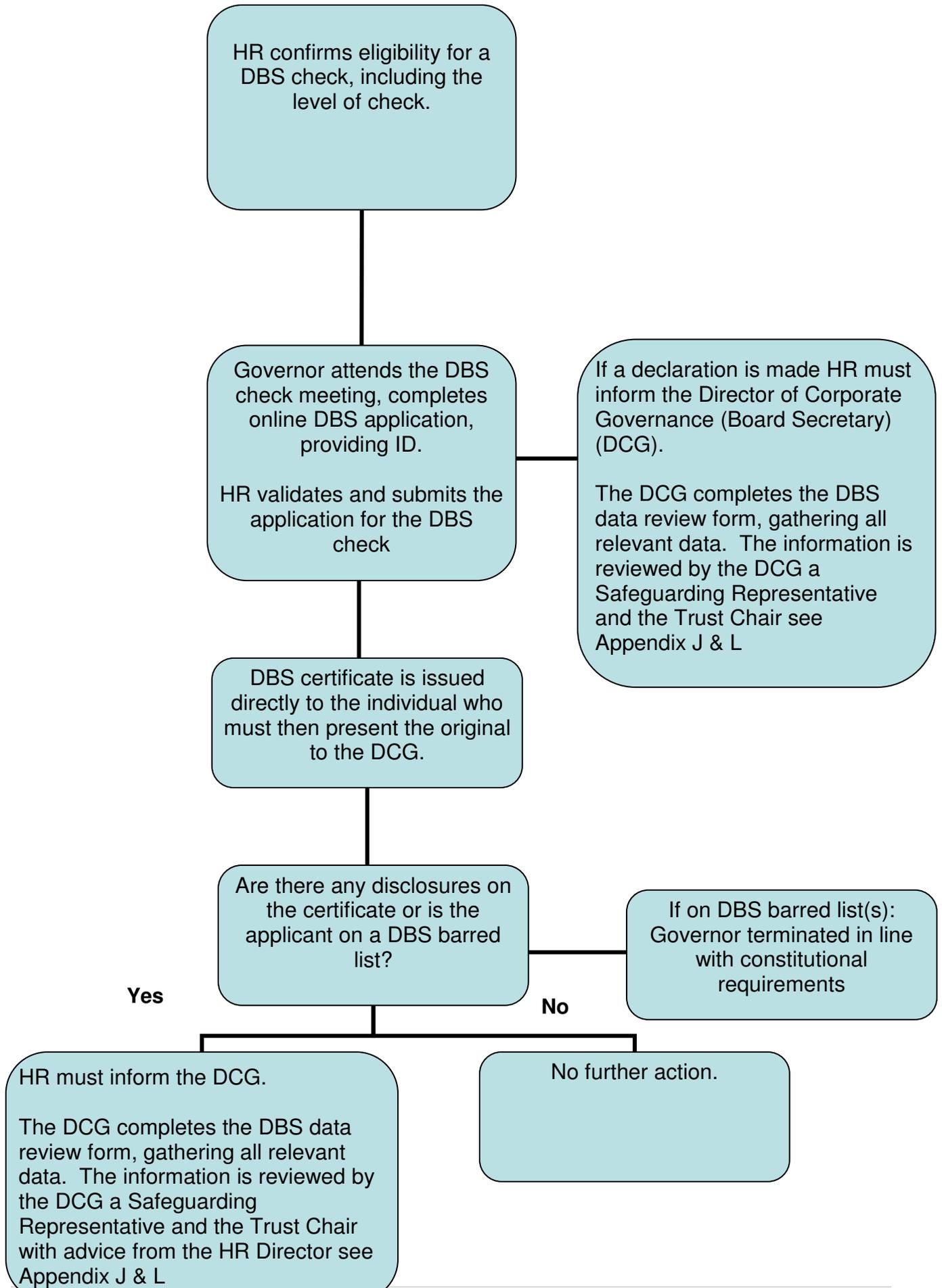
Flowchart Applicant



Flowchart Employee



Flowchart Governors



1. Introduction

- 1.1 The Disclosure and Barring Service (DBS) was created following the merger of the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA). A CRB check is now called DBS check and the two lists previously maintained by ISA of individuals who are unsuitable to work with children and adults are now call DBS 'barred lists'.
- 1.2 A DBS check may be needed for staff and volunteers with access to children under 18 years of age, vulnerable adults, those who carry out a regulated activity or who are in other positions of trust.
- 1.3 The Trust is committed to the fair treatment of its staff, governors, volunteers, potential staff and users of its services, regardless of offending background. DBS checks are conducted for both new appointments to the Trust and existing staff, governors and volunteers. This policy provides guidance for all.

2. Scope of this Policy

- 2.1 This policy applies to all staff working within the organisation who are required to have a DBS check in order to carry out their job as well as governors and volunteers. It applies to all managers who manage staff as defined above, and to staff within Human Resources who are responsible for processing the checks, providing advice and updating systems.

3. Definitions

3.1 **Rehabilitation of Offenders Act 1974**

The Trust meets the requirements under section (2) of the Rehabilitation of Offenders Act 1974 to ask exempted questions. Individuals who are offered employment with or who during their existing employment have access to children less than 18 years of age, vulnerable adults or are in other positions of trust will be required to obtain criminal records check from the DBS.

3.2 **Standard DBS Disclosure**

These are primarily for posts that involve working with children or vulnerable adults. Standard disclosures contain details of all convictions held on the Police National Computer including current and 'spent' convictions as well as details of any cautions, reprimands or final warnings. To be eligible for a standard level DBS certificate, the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

3.3 **Enhanced DBS Disclosure With and Without List Checks**

The enhanced check is available for specific duties, positions and licences included in both the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and the Police Act 1997 (Criminal Records) regulations, for example, regularly caring for, training, supervising or being solely in charge of children

and when undertaking specified activities with adults in receipt of health or social care services.

The enhanced check with barred list check(s) is only available for those individuals who are carrying out regulated activity and a small number of positions listed in Police Act 1997 (Criminal Records) regulations. The Trust is only entitled to carry out the barred list check element of an enhanced DBS check for certain job roles.

3.4 Existing Employees

For the purposes of this policy existing employees will include anyone who holds a contract of employment with Sheffield Health and Social Care Trust. This includes employees with permanent, temporary, fixed term, flex and bank contracts. The policy also applies to honorary contract holders, volunteers working for the Trust, Non-Executive Directors, governors and Associate Managers.

3.5 Applicants

For the purposes of this policy applicants will include anyone who is offered a post with Sheffield Health and Social Care Trust, subject to pre-employment checks. This includes applicants for permanent, temporary, fixed term and bank positions. It also includes individuals applying for honorary contracts and to become governors, volunteers or Associate Managers.

3.6 Agency workers

For the purpose of this policy agency workers will include anyone who works into the Trust but is employed by an approved agency.

3.7 Self Employed Contractors

For the purpose of this policy self employed contractors will include anyone who undertakes work on behalf of the Trust and for whom an 'off-payroll' arrangement is in place in relation to the payment of their fees.

4. Purpose

4.1 The Disclosure and Barring Checks (DBS checks) will be undertaken in line with the DBS Guide to Eligibility for all those roles where the individual undertakes a regulated activity and for support staff who regularly come into contact with children and/or vulnerable adults as part of their role. Checks may also be undertaken for staff who deal with personal, confidential information about children or vulnerable adults in their job.

4.2 The purpose of this policy is to provide guidance on the process for undertaking DBS checks for employees and potential employees of the Trust. It also provides guidance on dealing with any convictions that may arise from a DBS check.

5. Duties

- 5.1 Managers are responsible for;
- ensuring that individuals are appropriately supervised, if they have given approval for an individual to commence in post whilst awaiting the return of the DBS disclosure and that clients are made aware in line with section 6 of this policy
 - checking DBS certificates for existing employee's when they are issued following a re-check meeting
 - informing Human Resources of the certificate number and issue date so that it may be recorded on ESR
 - working with HR in cases of DBS documentation being returned with disclosures, as outlined in section 6.9 of this policy
- 5.2 The applicant is responsible for;
- completing the online application form at the pre employment meeting and providing the identification required
 - showing the original DBS certificate to the Recruitment Team in good time following receipt of the certificate
 - for repaying the cost of the check if appointed
- 5.3 The employee is responsible for
- informing their line manager immediately if they are subject to criminal proceedings as detailed in their contract of employment
 - completing the online application form at the re-check meeting and providing the identification required
 - showing the original DBS certificate to their Line Manager within 5 working days of receipt of the certificate
- 5.4 The Human Resources Department is responsible for;
- undertaking checks at the pre-employment stage, administering the ongoing application process, checking ID documentation and processing checks with the DBS
 - updating ESR with DBS disclosure information
 - In line with this policy providing advice on the next steps if a disclosure is made during the application process.
 - in line with this policy providing advice on the next steps following receipt of a DBS certificate that details disclosures or bars an individual from working with children or vulnerable adults
 - In line with this policy escalating concerns to the relevant Directors, concerns may include employee continually failing to attend for a re-check meeting.

6. Process

6.1 DBS checks for applicants

- 6.1.1 The requirement to have a criminal record check is assessed on a job by job basis and requirements will be clearly stated on job adverts.

- 6.1.2 If it has been determined that the post requires a DBS check, applicants will be required to undertake a DBS check before an offer of appointment is made. The process is detailed in appendix H.
- 6.1.3 New employees working with adults are able to begin work before a DBS check has arrived, using the “DBS Adult First” system. This is an online facility that will allow an adult first check on any applications in progress for an Enhanced certificate with Barred List Check(s). This service is only available for checks for those individuals in roles with direct responsibility for delivery of personal and/or social care e.g. this is not available for staff in support or managerial roles
- 6.1.4 In exceptional circumstances employees may be allowed to start work before a full and satisfactory DBS check has been received where the DBS Adult First Check has been undertaken and confirms they are not barred. In these exceptional circumstances the Recruiting Manager would need to first discuss the case with the Service Director and evidence that they have considered the potential associated risks. Once approved by the Service Director the following additional safeguards must be put in place:

- The line manager contacts service users or others acting on their behalf, at weekly intervals to monitor their satisfaction with the care provided by the new employee and any complaints which may arise
- The line manager informs service users or others acting on their behalf, about the outstanding information, and tells them when it is received
- The Trust ends the new employees contact with service users where the line manager considers that the outstanding information (when received) is not satisfactory
- The decision to allow the individuals to commence employment must be formally reviewed and the outcome recorded on a monthly basis, with details of the review being provided to the recruitment team and retained on the applicants file

In these circumstances a “Supervision Form” must be completed by the relevant line manager, signed by the Service Director and submitted to the Recruitment Team prior to the start date. See appendix G for the form.

- 6.1.5 If a new employee is going to care for or support children under the age of 18 a satisfactory enhanced DBS check must be **received before** they begin to do so.
- 6.1.6 Failure to reveal information at the application stage and/or pre-employment meeting could lead to the withdrawal of an offer of employment, or action under the Trust’s Disciplinary Procedure.

- 6.1.7 Having a criminal record will not necessarily bar individuals from working within the Trust, the nature of the position and the circumstances and background of the offence would be considered.

6.2 DBS checks for existing employees

- 6.2.1 Once an individual is working with the Trust in a position that requires a DBS check, the Trust will undertake re-checks on a rolling three yearly or random basis, at no cost to the employee.
- 6.2.2 As detailed in the contract of employment employees must immediately notify their line manager if they are cautioned, charged or convicted of a criminal offence. Guidance upon what constitutes criminal proceedings is available from the Human Resources Department. Failure to reveal information that is directly relevant to their position could lead to action under the Trust's disciplinary procedures. Once a manager is aware of the new information an assessment on the impact of the caution, charge or conviction on the employee's ability to continue in their role must be undertaken in line with section 6.8 of this policy.
- 6.2.3 Where an existing employee changes roles within the Trust, the Recruitment Team and Recruiting Manager will assess if a DBS check is appropriate for the new post. If the employee's current role does not require a DBS check and the new post does require a DBS check, then a check will be undertaken in line with the process above for applicants, at no cost to the employee.

6.3 DBS checks for agency workers

- 6.3.1 The Trust will only use approved Agencies with a National Agency Framework Agreement with the Crown Commercial Services (CCS) to supply temporary staff, being confident that they can comply with the Trust's requirement to ensure satisfactory DBS checks are obtained. This will include the checking of the DBS lists (where the agency worker will have contact with vulnerable adults or children) before Agency workers commence working within the Trust. The providing Agency will be responsible for undertaking DBS checks and must notify the Trust immediately if they become aware of any criminal proceedings or the agency worker is barred from working with vulnerable adults or children
- 6.3.2 If the Trust discovers an agency worker has a criminal record that was not previously disclosed or the individual is currently being investigated for a criminal offence or placement on one of the barred lists, the engagement with the worker will be terminated immediately, and the Agency should be notified. The worker will not be allowed to work for the Trust again until the Trust has been satisfied that the offence does not have an impact on their work.

6.4 DBS checks for self employed contractors

6.4.1 Where the Trust engages the services of an individual on an 'off payroll' arrangement, the manager seeking to engage the individual will be responsible for ensuring all relevant checks are completed prior to the individual working with the Trust. This will include the checking of the individuals DBS certificate (where the individual will have contact with vulnerable adults or children and meets the requirement for a check). The individual must provide a DBS certificate dated either within the last three months or evidence that they are subscribed to the DBS update service. If they are a member of the DBS Update service the reference number must be shared with the Recruitment Team who will then be able to check the individuals' record. Consideration should be given to other checks as required and detailed in the Engaging Individual Self Employed Contractors – Procurement Policy.

6.5 DBS checks for Governors

6.5.1 Governors who are newly elected or newly appointed by a stakeholder organisation will be required to undertake a criminal records check. The Trust will undertake re-checks on a rolling three yearly or random basis.

6.5.2 As detailed in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 5 Fit and Proper Persons Requirement, governors must immediately notify the Director of Corporate Governance (Board Secretary) if they are cautioned, charged or convicted of a criminal offence. Guidance upon what constitutes criminal proceedings is available from the Human Resources Department. Failure to reveal information that is directly relevant to their position could lead to action taken in line with the Trust's Constitution. Once the Director of Corporate Governance (Board Secretary) is aware of the new information an assessment on the impact of the caution, charge or conviction on the governor's ability to continue in their role must be undertaken in line with section 6.9 of this policy.

6.6 The Application Process

6.6.1 Whenever an individual is required to undertake a criminal records check they will be required to attend a meeting with a member of the HR Team. The application is made online and takes around 20 minutes. Details of the I.D. documents required at the meeting are confirmed with the individual in advance by a member of the HR team, information and advice can also be found at www.gov.uk.

6.6.2 Where an individual applying for a disclosure makes a declaration at the application stage, HR must immediately share this information with the relevant manager and a DBS review form be completed and considered by the relevant Director and Safeguarding, see 6.9.

6.7 DBS Update Service

- 6.7.1 In July 2014 the DBS introduced the update service with the aim of helping to improve the speed of the recruitment process by making it easier to apply for DBS checks. The DBS update service will enable people to move roles within the NHS or to other sectors without the need for a new DBS check, provided there have been no updates to their certificate since the date of last issue. Employees would only need a new DBS check if they were changing the type of vulnerable group they were working with.
- 6.7.2 Joining the update service is voluntary and does carry a charge which employees would be responsible for paying. Employees would need to join the update service at the same time that they are applying for a new DBS check, or within 28 days of receipt of their certificate. Further information about the update service can be found by following this link, <https://www.gov.uk/dbs-update-service>. Joining the update service is free for volunteers.

6.8 Presenting the DBS Disclosure Certificate

- 6.8.1 Disclosure certificates are issued to the applicant only and it is the responsibility of the applicant to present the certificate to a member of the HR team or, when if they have started prior to a DBS in line with section 6.1 of this policy or when an existing member of staff has had a re-check, their Line Manager. In the case of governors this would be the Director of Corporate Governance (Board Secretary). The certificate must be presented within 5 working days of receipt, the HR team are notified of the issue date of every certificate. Should an individual fail to present their certificate the Trusts Disciplinary Policy will apply and suspension, restriction of duties or being moved to another work location will be considered. Governors who fail to present their certificate will be subject to the terms of the Trust's constitution.
- 6.8.2 A DBS certificate contains a number of security features which can be used to verify whether it has been counterfeited or altered in any way:
- a 'crown seal' watermark repeated down the right hand side of the certificate, which is visible both on the surface and when holding the certificate up to a light source
 - a background design incorporating the word 'Disclosure', which appears in a wave-like pattern across both sides of the document - the colour of this pattern is uniform across the front of the certificate but alternates between pink and green on the reverse side
 - ink and paper that will change colour in the presence of water or solvent-based liquid

If you are unsure whether a DBS certificate is genuine or if you think that it may have been altered, you should contact the DBS on 03000 200 190.

6.9 Reviewing Disclosure Information

6.9.1 Where a Disclosure received by the Trust reveals previously undisclosed convictions, a DBS Review Form will be completed by the line manager in discussion with HR. Completion of the form will allow the parties to gather all the relevant information needed when considering the disclosure. When considering what action needs to be taken, the following factors should be taken into consideration:

- Whether the conviction revealed is relevant to the position in question
- The nature of the offence
- The length of time since the offence
- Whether the individual has a pattern of offending behaviour
- Is there a potential risk to others?
- If so, what is the degree and nature of this risk?
- Whether the individual's circumstances have changed since the offending behaviour
- The circumstances surrounding the offence and the explanations offered by the individual
- Has the individual declared this conviction at the earliest stage, e.g. at the time of completing the DBS documentation or at another stage in the recruitment procedure is applicable?
- Does further information need to be gathered as part of this review?
- Is it appropriate to contact other relevant authorities e.g. police, safeguarding etc for further investigation? In these cases the Line Manager, or the Director or Corporate Governance (Board Secretary) in the case of governors, would co-ordinate this with the support of the HRDP.

6.9.2 Once the review has been completed, the relevant Executive Director, in conjunction with a Safeguarding Representative will make a decision as to whether the individual can be accepted for employment or continue in their current role given the nature of the offence/conviction. Following investigation if it is felt that an individual has misled the Trust or withheld relevant information on the DBS documentation or during the recruitment process their offer of employment will be withdrawn (if they are a prospective employee). If the individual is a current employee this may constitute gross misconduct and disciplinary action will be taken in line with the Trust's Disciplinary Procedure.

If the individual is a current employee this will lead to disciplinary action in line with the Trust Disciplinary Procedure, and the disciplinary panel may constitute this to be gross misconduct and action may be taken in line with the Trust's Disciplinary Policy.

6.9.3 In the case of governors, the Trust Chair will make the decision with advice from the Director of Corporate Governance (Board Secretary), HR Director and a Safeguarding Representative as to whether the Governor can continue in the role. If a review identifies any specific

disqualification criteria detailed within Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Fit and Proper Persons Requirement or the Trust's Constitution paragraph 15.1.3 and Annex 6, paragraph 3, the governor will no longer be eligible to hold office and termination will take place in line with the requirements of the Trust's Constitution, Annex 6, paragraph 3.3.

- 6.9.4 The suitability for engagement of any kind with the Trust of a person with a criminal record will vary, depending on the nature of the position. An assessment of an applicant's skills, experience and nature of the conviction should be weighed up against the level of risk to cause harm or damage in that position. This decision will be discussed with the individual and confirmed in writing, with reasons for the decision. If the outcome is a recommendation to consider the dismissal of an existing employee as a result of this matter, the appropriate disciplinary proceedings will be held in line with the Trust's Disciplinary Procedure.
- 6.9.5 In these cases, the DBS documentation and relevant investigation notes will be kept on the individual's personal file or recruitment file in a sealed envelope addressed 'Only to be opened by the Director of HR or Deputy and an Executive Director or Deputy or Director of Corporate Governance in the case of a governor.'
- 6.9.6 In instances where no further action is taken, the matter must still be discussed with the individual concerned and their attention brought to the requirement of them to notify the Trust of warnings, reprimands, cautions or convictions that will show on their next Disclosure.
- 6.9.7 The DBS Review forms to be used are available at appendix J, K and L.

6.10 Enhanced Disclosure Reveals Individual Is Barred

- 6.10.1 If an enhanced DBS with list checks is completed and reveals that the applicant is on the DBS barred list the offer of employment will be withdrawn. Should an existing employee be on a DBS barred list the Trusts Disciplinary Policy will apply and the individuals will be suspended, placed on restriction of duties or moved to another work location.

7. Dissemination, storage and archiving (Control)

- 7.1 As an organisation using the DBS Disclosure service, the 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 obligation under the Data Protection Act (1998) and other relevant legislation in the handling of such information. Further details are contained in appendix M.

- 7.2 This policy will be posted on the Sheffield Health and Social Care NHS Foundation Trusts website and available to all staff, governors and volunteers. It will be accessed via the Human Resources web pages and available on the policies and procedures page. All previous versions of the policy will be deleted.
- 7.3 An e-mail will be sent to managers within the Trust informing them of the changes to the policy.

8. Training and other resource implications

- 8.1 The Recruitment & Selection training for recruiting managers in the Trust will make reference to this policy. The training will go through the process for obtaining DBS checks and give managers the opportunity to discuss any issues and seek further clarification.
- 8.2 Those individuals responsible for conducting the checks will receive training on document verification and the relevant systems as required.

9. Audit, monitoring and review

Monitoring Compliance Template						
Minimum Requirement	Process for Monitoring	Responsible Individual/group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/committee for action plan development	Responsible Individual/group/committee for action plan monitoring and implementation
To be reviewed in line with changes to the Rehabilitation of Offenders Act 1974, DBS Code of Practice and NHS Employers guidelines.	Human Resources policies are subject to joint monitoring and review between management and staff sides in the Joint Consultative Forum.	Any changes will be discussed and approved by the HR Policy Group	At least every 3 years	HR Directorate Partner	Human Resources policies are subject to joint monitoring and review between management and staff sides in the Joint Consultative Forum.	Human Resources policies are subject to joint monitoring and review between management and staff sides in the Joint Consultative Forum.

10. Implementation plan

Action / Task	Responsible Person	Deadline	Progress update
Review existing policy ensuring input from HR Director, Safeguarding and Recruitment team	HR Adviser or HR Directorate Partner	25/01/2018	Consultation concluded in January 2018
Upload new policy onto intranet and internet. Remove and archive old version	Director of Corporate Governance	March 2018 Sept 2018	Added to intranet March 2018. Added to internet Sept 2018 (had been excluded in error).
Inform all staff	Director of Corporate Governance	N/A	
Brief HR team on new policy and ensure training needs analysis for staff in response to any changes in current practice	HR colleagues as appropriate		As appropriate.

11. Links to other policies, standards and legislation (associated documents)

- 11.1 Links to other policies include;
 - Recruitment Policy
 - Management of Personal Files Policy
 - Disciplinary Policy
 - Engaging Individual Self-Employed Contractors - Procurement Policy
- 11.2 This Policy is based on good practice and complies with the Rehabilitation of Offenders Act 1974, DBS Code of Practice and NHS Employers guidelines.

12. Contact details

- 12.1 The Recruitment Team should be contacted for advice regarding processing DBS checks for applicants and employees. Contact the Recruitment Officers via the HR Department on 0114 226 3301.
- 12.2 Members of the Human Resources Advice Team should be contacted for advice and support for other issues relating to criminal convictions. Contact an HR Adviser via the HR Department on 0114 226 3301.

13. References

- 13.1 NHS Employers
www.nhsemployers.org/employmentchecks
- DBS
<https://www.gov.uk/disclosure-barring-service-check>

Version Control and Amendment Log

Version No.	Type of Change	Date	Description of change(s)
V3	New draft policy created	January 2018	New policy written to incorporate changes in process for Governors
V4	Consultation feedback incorporated into draft	January 2018	Amendments made during consultation, prior to ratification.
V4.1	Taken 'DRAFT' off the latter pages of the policy	Sept 2018	'DRAFT' had been left on in error. Now rectified.
	Amended section 10		Amended section 10 to show that the policy also needs to be added to the Trust's website, not just the intranet. Now rectified.

Dissemination Record

Version No.	Draft Issued	Consultation With	Launch New Policy
V4	January 2018	HR Team, Safeguarding and Board Secretary	March 2018
V4.1	Sept 2018	Corporate Governance. Formatting amended – taken 'DRAFT' off and updated section 10.	Added to intranet and internet Sept 2018

Stage One Equality Impact Assessment Form

Equality Impact Assessment Process for Policies Developed Under the Policy on Policies

Stage 1 – Complete draft policy

Stage 2 – Relevance - Is the policy potentially relevant to equality i.e. will this policy potentially impact on staff, patients or the public? If **NO** – No further action required – please sign and date the following statement. If **YES** – proceed to stage 3

See below.

This policy does not impact on staff, patients or the public (insert name and date)

Stage 3 – Policy Screening - Public authorities are legally required to have ‘due regard’ to eliminating discrimination , advancing equal opportunity and fostering good relations , in relation to people who share certain ‘protected characteristics’ and those that do not. The following table should be used to consider this and inform changes to the policy (indicate yes/no/ don’t know and note reasons). Please see the SHSC Guidance on equality impact assessment for examples and detailed advice. This is available by logging-on to the Intranet first and then following this link https://nww.xct.nhs.uk/widget.php?wdg=wdg_general_info&page=464

	Does any aspect of this policy actually or potentially discriminate against this group?	Can equality of opportunity for this group be improved through this policy or changes to this policy?	Can this policy be amended so that it works to enhance relations between people in this group and people not in this group?
AGE	No		
DISABILITY	No		
GENDER REASSIGNMENT	No		
PREGNANCY AND MATERNITY	No		
RACE	No		
RELIGION OR BELIEF	No		
SEX	No		
SEXUAL ORIENTATION	No		

Stage 4 – Policy Revision - Make amendments to the policy or identify any remedial action required (action should be noted in the policy implementation plan section)

Please delete as appropriate: No changes made.

Impact Assessment Completed by (insert name and date)

Louise Hall, HR Directorate Partner 22/01/2018

Human Rights Act Assessment Form and Flowchart

You need to be confident that no aspect of this policy breaches a person's Human Rights. You can assume that if a policy is directly based on a law or national policy it will not therefore breach Human Rights.

If the policy or any procedures in the policy, are based on a local decision which impact on individuals, then you will need to make sure their human rights are not breached. To do this, you will need to refer to the more detailed guidance that is available on the SHSC web site

<http://www.justice.gov.uk/downloads/human-rights/act-studyguide.pdf>

(relevant sections numbers are referenced in grey boxes on diagram) and work through the flow chart on the next page.

1. Is your policy based on and in line with the current law (including case law) or policy?

Yes. No further action needed.

No. Work through the flow diagram over the page and then answer questions 2 and 3 below.

2. On completion of flow diagram – is further action needed?

No, no further action needed.

Yes, go to question 3

3. Complete the table below to provide details of the actions required

Action required	By what date	Responsible Person

Human Rights Assessment Flow Chart

Complete text answers in boxes 1.1 – 1.3 and highlight your path through the flowchart by filling the YES/NO boxes red (do this by clicking on the YES/NO text boxes and then from the Format menu on the toolbar, choose 'Format Text Box' and choose red from the Fill colour option).

Once the flowchart is completed, return to the previous page to complete the Human Rights Act Assessment Form.

What is the policy/decision title? Criminal Records Checking, Disclosure and Barring (DBS) Service Policy & Procedure	1
1.2 What is the objective of the policy/decision? To ensure all staff and volunteers have the appropriate DBS checks completed and there is a process agreed for managing this requirement.	1
1.3 Who will be affected by the policy/decision? All staff and volunteers.	1

Will the policy/decision engage anyone's Convention rights? 2.1

YES

Will the policy/decision result in the restriction of a right? 2.2

YES

Is the right an absolute right? 3.1

NO

Is the right a limited right? 3.2

YES

Will the right be limited only to the extent set out in the relevant Article of the Convention? 3.3

YES

Policy/decision *is* likely to be human rights compliant

BUT

Flowchart exit

There is no need to continue with this checklist. However,

- Be alert to any possibility that your policy may discriminate against anyone in the exercise of a Convention right
- Legal advice may still be necessary – if in any doubt, contact your lawyer
- Things may change, and you may need to reassess the situation

Is the right an absolute right? 3.1

YES

Is the right a limited right? 3.2

NO

Will the right be limited only to the extent set out in the relevant Article of the Convention? 3.3

YES

4 The right is a qualified right

- 1) Is there a legal basis for the restriction? AND
- 2) Does the restriction have a legitimate aim? AND
- 3) Is the restriction necessary in a democratic society? AND
- 4) Are you sure you are not using a sledgehammer to crack a nut?

NO

Get legal advice

Regardless of the answers to these questions, once human rights are being interfered with in a restrictive manner you should obtain legal advice. You should always seek legal advice if your policy is likely to discriminate against anyone in the exercise of a convention right.

Policy/decision is *not* likely to be human rights compliant please contact the Head of Patient Experience, Inclusion and Diversity.

*Access to legal advice **MUST** be authorised by the relevant Executive Director or Associate Director for policies (this will usually be the Chief Nurse). For further advice on access to legal advice, please contact the Complaints and Litigation Lead.*

Development, Consultation and Verification

Version No.	Type of Change	Date	Description of change(s)
4.0	New draft policy created by Louise Hall	January 2018	New policy written to incorporate changes requested in relation to Governor checks, other minor updates made
	Consultation with HR Team, Safeguarding and Board Secretary	January 2018	
	Consultation with Staff Side - verified at Joint Policy Group on 29 th January 2018	January 2018	
	Considered by Policy Governance Group	February / March 2018	
	Ratified by Executive Directors' Group	March 2018	
4.1	Formatting amendments.	Sept 2018	Removed 'DRAFT' from the latter pages of the policy and updated section 10.
			Will be provided to Corporate Governance for sending to Communications for replacement on the Intranet and Internet.

Please use this as a checklist for policy completion. The style and format of policies should follow the Policy Document Template which can be downloaded on the intranet.

1. Cover sheet

All policies must have a cover sheet which includes:

- The Trust name and logo
- The title of the policy (in large font size as detailed in the template)
- Executive or Associate Director lead for the policy
- The policy author and lead
- The implementation lead (to receive feedback on the implementation)
- Date of initial draft policy
- Date of consultation
- Date of verification
- Date of ratification
- Date of issue
- Ratifying body
- Date for review
- Target audience
- Document type
- Document status
- Keywords
- Policy version and advice on availability and storage

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2. Contents page

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3. Flowchart

✓✓✓

4. Introduction

✓

5. Scope

✓

6. Definitions

✓

7. Purpose

✓

8. Duties

✓

9. Process

✓

10. Dissemination, storage and archiving (control)

✓

11. Training and other resource implications

✓

12. Audit, monitoring and review

✓

This section should describe how the implementation and impact of the policy will be monitored and audited and when it will be reviewed. It should include timescales and frequency of audits. It must include the monitoring template as shown in the policy template (example below).

Monitoring Compliance Template						
Minimum Requirement	Process for Monitoring	Responsible Individual/group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/committee for action plan development	Responsible Individual/group/committee for action plan monitoring and implementation
A) Describe which aspect this is monitoring?	e.g. Review, audit	e.g. Education & Training Steering Group	e.g. Annual	e.g. Quality Assurance Committee	e.g. Education & Training Steering Group	e.g. Quality Assurance Committee

13. Implementation plan



14. Links to other policies (associated documents)



15. Contact details



16. References



17. Version control and amendment log (Appendix A)



18. Dissemination Record (Appendix B)



19. Equality Impact Assessment Form (Appendix C)



20. Human Rights Act Assessment Checklist (Appendix D)



21. Policy development and consultation process (Appendix E)



22. Policy Checklist (Appendix F)



Commencing employment prior to receipt of DBS - Supervision form

To be completed by the Recruiting Manager and returned to the Recruitment Team.

In exceptional circumstances, prior to the receipt of the DBS disclosure form, if you have put systems in place to ensure that the successful candidate for this post can be supervised AT ALL TIMES, they may be allowed to start in employment with the Trust provided that the DBS Adult First check has been undertaken. You must sign and return this form to the Recruitment Team, confirming that until a satisfactory DBS Disclosure is received you will not allow the appointed applicant to work without supervision. In addition the following additional safeguards should be put in place:

- The line manager should contact service users, or others acting on their behalf at weekly intervals to monitor their satisfaction with the care provided by the new employee and any complaints which may arise
- The line manager should inform service users or others acting on their behalf, about the outstanding information, and tell them when it is received.
- The Trust ends the new employee's contact with service users, or others acting on their behalf where it is considered that the outstanding information (when received) is not satisfactory.

Position:			
DBS Reference Number:			
Applicant Name:			
Line Manager:			
I confirm that the person appointed to the above post is able to commence in post and will be supervised at all times until a satisfactory DBS Disclosure is received. I understand that in order to commence in employment a completed Disclosure Application Form must be submitted to the Recruitment Team.			
Signed Hiring Manager		Signed by Service Director *	
Date:		Date:	
Details of first review or arrangements	(to be completed by line manager and recruitment officer and agreed with Director)		
Date:			
Details of second review of arrangements	(to be completed by line manager and recruitment officer and agreed with Director)		
Date:			

Please continue on a separate sheet as necessary, *can be delegated to Assistant Service Director

Completing a Disclosure Application Process - Applicants

1. Once a conditional offer of employment has been made candidates are invited to a pre-employment meeting with a member of the Recruitment Team where the process of pre employment checks begins. This includes making an online application for a DBS certificate.
2. At the pre employment meeting the prospective employee and the member of the Recruitment team complete the online application for a DBS Certificate, this includes checks of relevant I.D. documentation being undertaken and certified copies being taken.
3. The prospective employee is required to sign a disclosure providing details of anything that may be disclosed on the DBS certificate, as well as a repayment form to confirm that they agree to the cost of the check being deducted from their first month's salary, should they be appointed to the post. If anything is disclosed at this point the information must be reviewed as per section 6.8 of this policy and the relevant forms completed and retained.
4. Once the checks are completed a DBS Disclosure Certificate is produced and returned directly to the candidate's home address. The original DBS certificate must then be presented to a member of the Recruitment Team within 5 working days. The Recruitment Team will take a note of the issue date and certificate number and the details will be logged on the ESR system and NHS Jobs.
 - a. In instances where nothing is declared ESR is updated and a photocopy of the relevant part of the certificate is retained in a secure area in the HR department for no longer than 6 months. The hiring manager is notified and subject to other pre recruitment checks being completed, employment can commence.
 - b. In instances where there is a declaration to be reviewed the hiring manager is notified and they undertake a review in line with section 6.8 of this policy completing the relevant forms.
5. Once the Disclosure information has been gathered and reviewed it is referred to the relevant Executive Director, who in conjunction with the HR Director and Safeguarding Representative make a decision if the conditional offer of employment will be withdrawn or if the recruitment can continue. The forms are to be retained by the recruitment team.
6. Where an offer of employment is to be withdrawn the relevant HRDP or HRA will advise on the process to be followed. In instances where the applicant has already started work with the Trust, disciplinary action may be considered instead of withdrawing the offer of employment.
7. Where it has been agreed that the applicant can commence work with the Trust the recruitment process will continue, the signed DBS Repayment form is sent to Victoria Pay Services and the cost of the certificate is deducted from the first available salary.

Completing a Disclosure Application Process – Existing Employees

1. When the renewal time is reached for conducting a criminal record check, employees will be asked to attend a re-check meeting with a member of the HR team. Failure to comply with a request to attend a meeting to undertake a criminal record check may result in action under the Trust's Disciplinary Procedures.
2. At the re-check meeting the employee and the member of the HR team complete the online application for a DBS Certificate; this includes checks of relevant I.D. documentation being undertaken and certified copies being taken.
3. The employee is required to sign a disclosure providing details of anything that may be disclosed on the DBS certificate. If anything is disclosed at this point the information must be reviewed as per section 6.8 of this policy and the relevant forms completed and retained by HR.
4. Once the checks are completed a DBS Disclosure Certificate is produced and returned directly to the employee's home address. The original DBS certificate must then be presented to the employee's Line Manager within 5 working days of receipt. The Line Manager will take a note of the issue date and certificate number and confirm these details in an email to the HR team.
5. The HR representative on receipt of the information will update the ESR system.
6. In instances where there is nothing declared there is no further action.
7. In instances where there is a declaration to be reviewed, the line manager takes a photocopy of the Disclosure certificate and undertakes a review in line with section 6.8 of this policy completing the relevant forms.
8. Once the Disclosure information has been gathered and reviewed the information is referred to the relevant Executive Director, who in conjunction with the HR Director and Safeguarding Representative make a decision on any further action required, outcomes at this stage could include;
 - a. Take no further action. The line manager will speak to the employee to inform them of the Disclosure and the review that took place and remind them of their requirement to notify the Trust in a timely manner of any incidents that will appear on their next Disclosure and that failure to notify the Trust may result in Disciplinary action under the Disciplinary Procedures
 - b. In instances where the DBS review has indicated that further investigation and possible action may be required under the Disciplinary Procedures, the line manager will notify the employee as soon as possible.
 - c. In instances where the Disclosure is of a very serious nature the employee may be suspended from work, placed on restricted duties or moved to another work location while investigations are completed under the Trust Disciplinary Policy.

DBS Disclosure Information Review Form

DBS Ref Number		Date Presented to SHSC or Date Disclosure Made	
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Section 1 (to be completed by Line Manager/HR)

Individual's Name					
Individual's Role					
Individual's Department & Location					
Individual's Managers Name					
Applicant	Y / N	Working Under Supervision	Y / N	Existing Employee	Y / N
Nature of disclosure(s) to be considered: (provide all details including dates)					
What information would the individual like to be taken into account, if any, in relation to the disclosure:					

Section 2 (to be completed by Manager / HR)

1. Did the individual bring this matter to the attention of the Trust at the earliest opportunity, either on the application form, at the pre employment meeting, during the selection process or during the re-check meeting?			
Yes		No	
If no, what reason has the individual given for failing to disclose the information?			
2. What implication does it have for the individual's suitability to undertake the role? (you must be specific, commenting on specific tasks required of the role and the impact the disclosure would have please refer to section 6.9 of the DBS policy)			
6. Please provide any other information you feel is relevant:			

Please complete and return this form to Human Resources as soon as possible, it will then be shared with the relevant Director, HR Director and Safeguarding who will agree any action to be taken.

Signed: Manager		Dated:	
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DBS Decision Form

DBS Ref Number	
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Section 1 (to be completed by HR)

Individual's Name	
Managers Name	
<p>When reviewing the information gathered consideration should be given to;</p> <ul style="list-style-type: none"> • Whether the conviction revealed is relevant to the position in question • The nature of the offence • The length of time since the offence • Whether the individual has a pattern of offending behaviour • Is there a potential risk to others? • If so, what is the degree and nature of this risk? • Whether the individual's circumstances have changed since the offending behaviour • The circumstances surrounding the offence and the explanations offered by the employee • Why has the individual not declared this conviction at an earlier stage, e.g. at the time of completing the DBS documentation or at another stage in the recruitment procedure? • Does further information need to be gathered as part of this review? • Is it appropriate to contact other relevant authorities e.g. police, safeguarding etc for further investigation? In these cases the Line Manager would co-ordinate this with the support of the HRDP. 	

Section 2 - to be completed by Exec Director / HR Director / Safeguarding representative

1. Is the conviction relevant to the individual's role with SHSC?	
Yes	No
2. What implication does it have on the individual's suitability to continue in their role?	
<p><i>(It may help to think in percentage terms, for example: DBS notification identifies a driving offence. The employee is not required to drive as part of their role and the offence will not stop them from performing in their role = 0% impact.)</i></p>	

3. Has the relationship of trust broken down?			
Yes		No	
4. For Applicants should the conditional offer of employment be withdrawn?			
Yes		No	
4. For employees does the matter need to be addressed under the disciplinary procedure? Please provide details of action to be taken:			
5. If action is being taken under the disciplinary procedure does suspension, restriction of duties of a move to another location need to be considered?			
Yes		No	
If yes please provide further details:			
Signed: Executive Director		Dated:	
Signed: Director of HR		Dated:	
Signed: On Behalf of Safeguarding		Dated:	

DBS Decision Form

DBS Ref Number	
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Section 1 (to be completed by HR)

Governor's Name	
Director of Corporate Governance (Board Secretary)	
<p>When reviewing the information gathered consideration should be given to;</p> <ul style="list-style-type: none"> • Whether the conviction revealed is relevant to the position in question • The nature of the offence • The length of time since the offence • Whether the individual has a pattern of offending behaviour • Is there a potential risk to others? • If so, what is the degree and nature of this risk? • Whether the individual's circumstances have changed since the offending behaviour • The circumstances surrounding the offence and the explanations offered by the individual • If not, why has the individual not declared this conviction at an earlier stage, e.g. at the time of completing the DBS documentation or at another stage in the procedure? • Does further information need to be gathered as part of this review? • Is it appropriate to contact other relevant authorities e.g. police, safeguarding etc for further investigation? 	

Section 2 - to be completed by Board Secretary / Safeguarding representative

1. Is the conviction relevant to the individual's role with SHSC?		
Yes		No
2. What implication does it have on the individual's suitability to continue in their role?		
<p><i>(It may help to think in percentage terms, for example: DBS notification identifies a driving offence. The individual is not required to drive as part of their role and the offence will not stop them from performing in their role = 0% impact.)</i></p>		

3. Has the relationship of trust broken down?			
Yes		No	
4. Does the matter need to be addressed in line with the Trust constitution? Please provide details of action to be taken:			
Signed: Director of Corporate Governance		Dated:	
Signed: On Behalf of Safeguarding		Dated:	
Signed: Trust Chair		Dated:	

Secure Storage, Handling, Use, Retention & Disposal of Disclosures and Disclosure information

General principles

Sheffield Health and Social Care Trust 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 Data Protection Act 1998 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.

Storage and access

Certificate information should be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage

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

Retention

Once a recruitment (or other relevant) decision has been made, we do not keep certificate information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints.

If, in very exceptional circumstances, it is considered necessary to keep certificate information for longer than six months, we will consult the DBS about this and will give full consideration to the Data Protection and Human Rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

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 retain the certificate until the next inspection. Once the inspection has taken place the certificate should be destroyed in accordance with the code of practice.

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.