

Guidelines on Disclosure & Barring Service (DBS) Checks

What is DBS?

Requirement for DBS checks at Southampton Solent University (SSU)

Information for new applicants

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Section 1: What is DBS?

1. DBS stands for the Disclosure & Barring Service and it is the organisation which is an executive non-departmental public body of the home office. It is a newly formed organisation which replaces both the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA).
2. The DBS is responsible for:
 - processing requests for criminal records checks AND
 - deciding whether it is appropriate for a person to be placed on or removed from a barred list AND
 - placing or removing people from the DBS children's barred list and adults' barred list for England, Wales and Northern Ireland.
3. It is the method by which employers can legally ascertain if they can employ people into certain types of roles when they have an old or existing criminal record.

Section 2: Requirement for DBS checks at Southampton Solent University (SSU)

4. SSU will undertake relevant DBS checks in order to assist with fair and consistent recruitment decisions in accordance with the relevant employment legislation.
5. SSU will only undertake DBS checks when it is a requirement of the role as follows:
 - If a role appears on the Rehabilitation of Offenders Act Exceptions Order 1975, the applicant may be asked to undergo a standard level of DBS check. Within this University this is likely, but not exclusively limited, to apply to certain finance roles.
 - If a role involves working on a supervised basis with vulnerable groups undertaking regulated activity, an enhanced level of DBS check is likely to be required from the applicant.
 - If a role involves working on an unsupervised basis with vulnerable groups of either adults or children undertaking regulated activity, an enhanced level DBS check with the relevant barring list information is likely to be required from the applicant. The University will notify the candidate if this is likely to be required.

Regulated Activity and the law:

6. SSU are only entitled by law to ask DBS if an individual is barred from working with vulnerable groups if the job involves either regulated activity with children or adults. Currently this University does not have roles that would meet the definition of regulated activity for Adults.
7. This University does currently have a small number of roles that meet the definition of regulated activity for children (under 18's).

8. The role **MUST** involve:
- Unsupervised activities on a frequent basis; teaching, training or instruction, care or supervision, advice or guidance on well-being, or driving a vehicle for children. N.B. Such supervision of children must be regular.
 - Work in a “specified place” on a frequent basis with opportunity for contact including: schools, children’s homes, childcare premises. N.B. Warsash Maritime Academy currently meets this definition.
 - Relevant personal care, for example washing or dressing, or healthcare by or supervised by a professional.
 - Registered child-minding; and foster-carers. This activity does not need to meet the frequency threshold.

Definition of Frequency:

9. For regulated activity with children to meet the definition of “frequent” it needs to be “once a week or more on an ongoing basis or four or more times in a single month or overnight (between 2am and 6am)”.

Process:

10. The University uses an organisation that undertakes criminal records checks and will therefore approach DBS on our behalf to request criminal record information on an employee or an applicant as appropriate.
11. Human Resources (HR) use criteria determined by DBS to check applicant information to ascertain what level of criminal records check (if any) needs to be undertaken on someone applying for a particular role.
12. Once HR are aware that a DBS check is needed they will communicate with the individual to ensure the relevant paperwork is filled out and returned so that the appropriate level of check can be requested. For each disclosure requested:
- If a standard level check is requested this will reveal if an individual has any unspent cautions, convictions, reprimands or final warnings.
 - If an enhanced level check is requested this will replicate the information contained within a standard level check, but will also reveal any spent cautions, convictions, reprimands or final warnings.
 - If an enhanced level check (with child barring list information) is requested this will replicate the same information as an enhanced level check but will also indicate whether the individual is barred from working with children.
13. DBS checks are carried out at the point of recruitment and HR will be responsible for determining which level of checks are appropriate dependent on the role that is being applied for.

Retention & storage of DBS disclosures

14. SSU is committed to the fair and consistent processing, storage and distribution of information in relation to the disclosure of criminal records through the DBS service.
15. The University complies with the DBS code of practice including the secure storage, handling, use, retention & disposal of DBS disclosures and disclosure information and with its obligations under the Data Protection Act.

16. DBS disclosure information will not be stored on an employee's file but will be stored separately with access limited to those who are entitled to see it.
17. DBS disclosure information will only be used for the specific purpose for which it was requested and for which the applicant's full consent should be obtained.
18. Once a recruitment decision has been made, DBS disclosure information will not be stored for longer than is necessary. It would be reasonable to assume this would be for a period of 6 months.
19. Once the retention period has passed the DBS disclosure information will be destroyed.

Section 3: Information for new applicants

Disclosure of a criminal conviction:

20. When an individual applies to work at the university, or may be an existing employee applying for a new role, they are required to fill out an application form and will need to declare on this form whether they have any unspent criminal convictions. This form will be used as part of any forthcoming employment offer and therefore it is imperative that it is filled in accurately.
21. It is University policy to require applicants to disclose any "unspent" criminal convictions as part of their application. Under the Rehabilitation of offenders Act 1974 (Exceptions) order 1975 certain roles will require applicants to disclose their criminal convictions even if they are spent.
22. Please note for this University there are very few roles where this exception may apply. However if you are in any doubt as to whether you are obliged to disclose a conviction or not please refer to the guidance available on www.dbs.gov.uk for further information. Please note that some crimes are so serious that they will never be classed in legislative terms as "spent".
23. Having a criminal record will not necessarily prevent an individual from working within the University. Consideration will be given by the HR manager to the seriousness and significance of the crime in relation to how it impacts on the ability of the individual to be able to do their job. However, it is a criminal offence to employ a person in a "regulated position" where they have been barred from working with vulnerable groups.
24. HR will notify the individual if they need to complete a DBS application form so that the relevant check can be carried out.
25. Once a completed application form is received and the relevant supporting documentation verified the form will be sent to the University's DBS agent for processing.
26. The disclosure certificate is sent directly to the individual who must ensure the certificate is produced to HR as part of the pre-employment checks undertaken. This certificate must be produced within 28 days of starting their employment with the University.
27. Please note all employment offers are made subject to receipt of satisfactory references, DBS and medical checks and therefore if the DBS certificate is not produced within the specified timeframe, the matter will be referred to an HR

manager to determine how to proceed. The University takes this responsibility very seriously and will consider whether future employment within the University is sustainable for an individual who cannot produce a relevant and appropriate level of DBS check.

False declaration or failure to disclose:

28. False declaration, failure to declare relevant information regarding convictions or failing to accurately disclose information about a criminal record will be regarded as an extremely serious matter and may lead to the withdrawal of an offer of employment or the Disciplinary Procedure being invoked.
29. If details of a conviction come to light during employment a full investigation will take place under the Disciplinary Procedure to consider if the conviction is relevant to the individual's employment. This may involve reducing the potential risks involved through reasonable adjustments or redeployment where this is possible. In the event of a significant risk, which could not be reduced, or in the event that the working relationship is deemed to have irretrievably broken down then termination of employment may be considered.

Appeals:

30. If you have any reason to dispute information held on a Disclosure you will need to contact your HR manager or look at the appeal details set out within the letter you would have been sent with your disclosure certificate.

Section 4: Information for existing employees

Re-Checks

31. All staff currently working within the University will need to ensure that HR are kept updated with any changes to an individual's criminal record history. This information will be kept confidential and on a need to know basis but ultimately the HR manager will take responsibility for ascertaining how to utilise the information. A risk assessment will need to be conducted to determine how the information impacts on the individual's ability to do their job.
32. A DBS check has no official expiry date and any information included within such a check will be most accurate at the time the certificate is issued. However, staff employed by the University in roles which require a DBS check will be required to undergo a re-check every 3 years for safeguarding purposes.

False declaration or failure to disclose:

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34. If details of a conviction come to light during employment a full investigation will take place under the Disciplinary Procedure to consider if the conviction is relevant to the individual's employment. This may involve reducing the potential risks involved through reasonable adjustments or redeployment where this is possible. In the event of a significant risk, which could not be reduced, or in the event that the working relationship is deemed to have irretrievably broken down then termination of employment may be considered.

Further Information

35. If you have any queries on the above or would like further information on these guidelines please contact your HR manager in the first instance.