

## **1. INTRODUCTION**

### **1.1 Purpose**

- 1.1.1 The Primary purpose of this policy is to set out the approach to DBS checks at Keele University to prevent unsuitable people from undertaking certain paid or volunteer work with children or adults at risk.
- 1.1.2 The University undertakes to treat all applicants who have a criminal record fairly and not discriminate automatically because of a conviction or other information revealed.

### **1.2 Scope**

- 1.2.1 This policy aims to provide guidance and information to managers, staff and volunteers on initiating DBS checks for staff (including any casual workers) and volunteers, the application process, the management of DBS checks and the information contained therein.
- 1.2.2 For guidance relating to DBS process for students please refer to Disclosure and Barring Service Policy – Students.
- 1.2.3 Keele University requires all job applicants to declare any unspent convictions or cautions on the University job application.
- 1.2.4 Once a caution or conviction becomes spent, an individual is treated as rehabilitated with regards to that offence, and they don't have to declare it when applying for employment that is not subject to a DBS check.
- 1.2.5 Refusal to employ a rehabilitated person on the grounds of a spent conviction<sup>1</sup> is unlawful under the Rehabilitation of Offenders Act (ROA) 1974.

## **2. PROCEDURE**

### **2.1 Roles and Responsibilities**

- 2.1.1 The University processes DBS checks via the uCheck website. <sup>2</sup>
- 2.1.2 DBS Lead

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<sup>1</sup> Spent convictions – Rehabilitation of Offenders Act 1974 <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

<sup>2</sup> uCheck website <https://www.ucheck.co.uk/about-us/>

The Deputy Director of HR will be:

- Accountable for compliance with this policy
- Responsible for the approval of Authorised Users
- Responsible for the University's legal duty to refer as a regulated activity provider by referring individuals to the DBS for barring consideration in relevant circumstances and to provide information to the DBS upon request. (Annex A)

#### 2.1.3 Authorised Users

Members of the Human Resources Department will be responsible for the operation of the Disclosure process and are responsible for:

- Checking and validating the information provided by the applicant via uCheck
- Declaring via uCheck that the position is covered by the Exceptions Order to the Rehabilitation of Offenders Act 1974 and that the organisation therefore has an entitlement to access criminal record(s) information and that any Disclosures requested are at the appropriate level
- Advising on DBS related issues
- initiating the DBS check via uCheck, validating the documentary evidence provided by Disclosure applicants to establish their identity and updating uCheck. Highlighting any DBS checks with a disclosure to the relevant HR Advisor
- Complying with this policy
- Complying with retention policies where applicable (Annex B)<sup>3</sup>

#### 2.1.4 Recruiting Managers

Recruiting managers are responsible for ensuring that they assess each new or revised role with regard to working with children and/or adults at risk and include the requirement on job descriptions and adverts as applicable. (Annexes C- E)

#### 2.1.5 Individuals applying for a DBS check

Individuals applying for a DBS check are responsible for completing the DBS information accurately and uploading the relevant documentation to uCheck in a timely manner.

### 3. Disclosure of Criminal Records Information

#### 3.1 All job roles

3.1.1 Keele University requires all job applicants to declare any unspent convictions or cautions on the University job application.

3.1.2 Once a caution or conviction becomes spent<sup>4</sup>, an individual is treated as rehabilitated with regards to that offence, and they do not have to declare it when applying for employment that is not subject to a DBS check.

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<sup>3</sup> Retention policies applies for DBS paperwork retained prior to the adoption of uCheck and paperwork retained as part any risk assessment

<sup>4</sup> Spent convictions – Rehabilitation of Offenders Act 1974 <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

- 3.1.3 Refusal to employ a rehabilitated person on the grounds of a spent conviction<sup>5</sup> is unlawful under the Rehabilitation of Offenders Act (ROA) 1974.
- 3.1.4 Roles which are Exempt from the Rehabilitation of Offenders Act (i.e. roles which require a DBS check) will be clearly identified throughout the recruitment process from the initial advert stage by the recruiting manager and HR Advisor (Resourcing & Talent Management) The University is entitled to ask a candidate to reveal details of all convictions, even a spent conviction (subject to the DBS filtering process).
- 3.1.5 The amendments to the Exceptions Order 1975 (2013) provide that certain spent convictions and cautions are 'protected' and such information will not be included in DBS checks. Therefore such information need not be disclosed to the University and cannot be taken into account when making employment decision (this is known as 'filtering').
- 3.1.6 Failure by an applicant to disclose relevant cautions, convictions or other relevant information through the self-declaration process will be treated as a serious matter in its own right, and all such cases will be referred to the relevant Head of School/Department and the Chief People Officer. If it is established that the individual's application was untruthful or relevant information was omitted, the offer of employment may be withdrawn. If the individual has commenced in post their employment may be terminated.

## **4 Positions, Professions, Employment, Offices and Works eligible for DBS Checks**

### **4.1 Specific Posts Identified as requiring a DBS check**

4.1.1 The following positions/ professions have been identified as requiring a DBS check at the appropriate level:

- a) Widening Participation Mentors
- b) Summer School Mentors
- c) Counsellors (for both staff and students)
- d) Disability and Dyslexia Support Staff
- e) Academic roles that include clinical duties
- f) Academic roles that require the post holder to work in 'specified places' such as schools, care homes, hospitals.
- g) Education Tutors
- h) Leisure Centre roles that require teaching/coaching of children
- i) Academics/ Researchers whose research involves working with children and or adults at risk but where this did not form part of their role when appointed
- j) All roles within the Nursery (a 'specified place')
- k) Head of Occupational Health and Practitioners
- l) Language Learning Unit staff (governing body requirement)
- m) Health Care professionals are registered with one of the following:
  - General Medical Council.
  - General Dental Council
  - General Optical Council General
  - Osteopathic Council
  - General Chiropractic Council

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<sup>5</sup> Spent convictions – Rehabilitation of Offenders Act 1974 <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

- General Pharmaceutical Council
- Pharmaceutical Society of Northern Ireland Nursing and Midwifery Council
- Health Professions Council

4.1.2 The Rehabilitation of Offenders Act (ROA) 1974 also specifies a number of specific professions for which a Standard Disclosure can be requested, including chartered/certified accountants and security officers.

4.1.3 The list above is not intended to be exhaustive. It must be recognised that positions may arise as the resources and requirements of the University change, that following assessment, may require a Disclosure check in accordance with DBS regulations

4.1.4 A guide and flow chart to eligibility for a DBS check can be found in Annexes C-E and should be referred to when determining when a DBS check may be necessary, and if so, at which level along with the DBS and should be cross referenced to the government eligibility Guidance<sup>6</sup> and online tool<sup>7</sup>

## 4.2 Research Passport Scheme

4.2.1 Researchers employed by the University who conduct research in the NHS must undergo a variety of checks to protect themselves and their patients. The Research Passport Scheme provides assurances from the substantive employer to the NHS organisation about the applicant and allows information about researchers to be shared between relevant organisations, preventing duplication of checks. Where a DBS Check is required, it will be the responsibility of the University as the researcher's substantive employer to confirm that one has been obtained or if one has not already been obtained to arrange for one to be obtained. The University as the substantive employer, in conjunction with the NHS organisation, will be responsible for determining whether a DBS check will be required and also for re-checking arrangements as necessary. Guidance is available from the National Institute for Health Research.

## 4.3 Volunteers

4.3.1 Those who engage with the University on a voluntary basis are not deemed to be employees of the University and are not engaged through the Human Resources Department; it is therefore the responsibility of the relevant manager to liaise with Human Resources and arrange for the necessary DBS check to be undertaken, where appropriate.

## 4.4 Research involving children and/or vulnerable adults

4.4.1 There may be circumstances where academic and research staff, whose substantive roles do not require DBS clearance, propose to undertake research which involves them working with

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<sup>6</sup> DBS eligibility Guidance <https://www.gov.uk/government/collections/dbs-eligibility-guidance>

<sup>7</sup> DBS on line tool <https://www.gov.uk/find-out-dbs-check>

vulnerable individuals. When submitting a research proposal to one of the University's Ethical Review Panels (ERP) staff will be required to indicate whether a DBS check is required for research activities undertaken as part of that project. In such cases the individual will be required to provide the ERP with confirmation from Human Resources that they have been satisfactorily DBS checked. If a DBS check is deemed to be necessary, the planned research should not commence until a satisfactory disclosure has been received.

#### **4.5 External contractors**

4.5.1 Occasionally the University engages external contractors to undertake work. This can range from individual freelance workers to larger companies. Depending on the nature of the work the University will assess whether Disclosure checks would be appropriate.

4.5.2 As such individuals are not engaged through the Human Resources Department, it will be the responsibility of the School/Research Institute/Department to establish whether the contractor is likely to require a DBS disclosure at the relevant level. Where such contact is likely HR should be contacted to advise whether a Disclosure check is required. Where Disclosure checks are required, this will be a condition of the contract and the University will require confirmation from the contractor that the necessary checks have been undertaken.

#### **4.6 Work experience placements within the University**

4.6.1 In the case of students aged under 16 undertaking work experience placements within the University, which have been organised by a school or local authority, the organising body should satisfy itself as to the safeguarding arrangements at the University. This may result in the University being asked to check certain staff with responsibility for work experience students. However, generally, the University will not require staff to be DBS checked. Staff should ensure alternative safeguarding measures are implemented. (See Safeguarding Policy & Procedure for further guidance)

#### **4.7 Self-employed workers**

A self-employed person who is eligible for a standard or enhanced DBS check can ask the organisation that wishes to contract their services, to apply for their check.

A self-employed person who needs a basic check can apply through the DBS' [online application route](#) if they live or work in England or Wales. They can apply to [Disclosure Scotland](#) if they live or work in Scotland.

### **5. Re-checking**

5.1.1 Except in the specific circumstances detailed below (or where an individual moves roles) the University does not routinely require staff and volunteers to be re-checked by the DBS. However, upon local risk assessment, managers may agree with HR circumstances where further roles may require suitable re-checking.

5.1.2 Research Passport Scheme

In accordance with the requirements of the Research Passport Scheme, researchers undertaking work in the NHS will be required to re-apply for a Disclosure either after 3 years or in the event of moving on to a different project or a different type of project.

### 5.1.3 Nursery Staff

While OFSTED Regulations do not stipulate that Nursery staff must be re-checked by the DBS after a certain period of time, the University has taken the decision to re-check this group of staff on a 3-year rolling basis via the update service.

OFSTED requires that staff members' suitability to work with children is monitored and the results of this monitoring process are recorded. This is monitored through self-declaration and includes disqualification through association. Every six months Nursery staff will be asked to sign a review document to confirm whether there have been any changes that may affect their suitability to work with children. (Please see the Keele Day Nursery Safeguarding Policy for further information).

## 6 Disclosure Application Process

- 6.1.1 For posts that require satisfactory DBS clearance the applicant will receive a DBS link to the uCheck website and guidance on completing the application. Employment will be offered on a conditional basis, subject to a satisfactory DBS Disclosure.
- 6.1.2 The relevant uploaded identification documents will be checked by a Human Resources Administrator and uCheck updated accordingly.
- 6.1.3 When the DBS have completed all the necessary checks the uCheck system will update to reflect if the DBS is clear or if it contains a disclosure.
- 6.1.4 If there is no information contained in the Disclosure this will be confirmed via the confirmation of offer letter. If there are details contained in the Disclosure the Assessing Criminal Record Information procedure will be followed (See Annex F).

## 7 Transgender process for DBS checks

- 7.1.1 DBS offers a confidential checking process for transgender applicants.
- 7.1.2 This process is for transgender applicants who do not wish to reveal details of their previous identity to the person who asked them to complete an application form for a DBS check.
- 7.1.3 For more information about the transgender process, email [sensitive@db.gov.uk](mailto:sensitive@db.gov.uk) or see the DBS [Transgender Applications guidance](#)

## 8 DBS Online Update Service

- 8.1.1 The DBS update service allows applicants to keep their DBS certificates up to date online and allows employers to check a certificate where there is a need to check regularly for the role. For example nursery staff and those working regularly with schools.

8.1.2 On receipt of a new DBS employees will be asked to register with the DBS online update service if rechecking is required. This will enable the university to check their DBS as appropriate using the online update service to check the DBS status and therefore will not require a new DBS check to be undertaken.<sup>8</sup> The annual fee for registration with the update service will be paid by the employee and reimbursed by the university via the expenses claim system.

## **9. Applicants with a substantial record of overseas residence**

9.1.1 Applicants who fall into this category will include nationals of other countries, and UK nationals who have lived abroad for more than 6 months with the previous 5 years.

9.1.2 Where an individual from overseas is offered a post requiring DBS clearance the Individual will be required to contact the relevant authority in the country in question for information on how to obtain criminal records information. This will normally involve the individual obtaining a certificate of good conduct from the country they were resident in. The University is unable to access this information and therefore it must be sought by the individual. Appropriate guidance where possible will be provided by the HR team.

9.1.3 Where an applicant has been resident in the UK for at least two months a Disclosure should be sought in addition to confirmation of their criminal record overseas, although it is recognised that the Disclosure is likely to be of limited value where the period of UK residence has been short.

## **10 Commencement in post**

10.1.1 Individuals appointed to posts that require DBS clearance will not normally be allowed to commence prior to receipt of the Disclosure.

However, there may be limited circumstances where individuals are able to commence in post prior to receipt of the Disclosure providing sufficient safeguarding measures can be put in place and a previous DBS check at the appropriate level can be provided. In such situations the recruiting manager should contact their link HR Advisor for further advice and should ensure that a record of the risk assessment completed and retained on the individual's personal file. (Annex G)

If it is not possible to allow commencement at that point, the individual's start date may need to be postponed and, in rare circumstances where service delivery is seriously affected, the offer of employment may be withdrawn if a Disclosure is not received within a reasonable period of time.

## **11 DBS Portability**

11.1.1 Individuals appointed to posts that require DBS clearance will not normally be allowed to commence prior to receipt of the Disclosure.

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<sup>8</sup> DBS update service <https://www.gov.uk/dbs-update-service>

11.1.2 Portability of DBS checks will not be accepted by the University and a new DBS check will be required for all relevant positions.

11.1.3 However, in certain cases, the University may accept the previous Disclosure (at the required level) as an interim measure to enable commencement in post whilst applying for an up-to-date DBS check.

## 12 DBS Check Fees

12.1.1 The DBS imposes a fee<sup>9</sup> for processing Disclosure applications. This fee will be paid through the University's DBS account and then re-charged to the relevant School/Research Institute/Department.

12.1.2 When the University requires an individual to be re-checked using the online update service, the individual must pay an annual fee<sup>10</sup> to the DBS which and then be reclaimed via the expenses procedure and charged directly to the School/Research Institute/Department. Should an individual not keep up to date with the update service fees and require a full new DBS this cost will be met by the individual.

12.1.3 The DBS will issue a Disclosure "free of charge" if the person for whom a Disclosure is required satisfies the following criterion: 'a volunteer is a person who performs an activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives'.

## 13 Confidentiality

13.1.1 Information provided on any Disclosure is both sensitive and confidential. The University 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 Disclosure information.

## 14 Preservation of Rights

14.1.1 Nothing in this policy will in any way detract from or impinge upon an individual member of staff's statutory employment rights or those contained in the Charter and Statutes of the University. Where changes to a statutory provision, or to the University Charter and Statutes, affect this procedure, the University retains the right to amend the procedure accordingly.

## 15. RELATED POLICIES AND PROCEDURES<sup>11</sup>

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<sup>9</sup> DBS fees - <https://www.gov.uk/government/news/fee-changes-for-dbs-checks>

<sup>10</sup> Update Service Fees <https://www.gov.uk/dbs-update-service>

<sup>11</sup> Policy Zone <https://www.keele.ac.uk/policyzone/az/>



- Records retention Schedule
- Data Protection Policy
- Safeguarding policy

**16. REVIEW, APPROVAL & PUBLICATION**

16.1 As a general principle, the procedure will be reviewed by Human Resources, in consultation with recognised Trade Unions after three years or where operational and/ or legislative requirements change.

16.2 This procedure will be published on the University policy zone web page and will also be accessible via the Human Resources web pages.

16.3 Equality issues have been taken into account during the development of procedure and all protected characteristics have been considered as part of the Equality Analysis undertaken.

**17. ANNEXES**

**Annex A - Duty to Refer to the DBS**

**Annex B- Policy statement on the recruitment of ex-offenders, Information Disclosure and Procedure for Assessing Information Disclosed**

**Annex C - Levels of DBS Disclosure and Applicable Roles**

**Annex D – Definitions of Regulated Activity**

**Annex E- Flowcharts to Assess Post Eligible for DBS Checks**

**Annex F - Policy Statement on Secure Storage, Handling, Use, Retention and Disposal of Disclosure and Barring Service (DBS) certificates and certificate information**

**Annex G - Risk Assessment Form (commence in post prior to receipt of a Disclosure)**

**Annex H – Procedure for Assessing Disclosed Criminal Record Information**

**18. DOCUMENT CONTROL INFORMATION**

<b>Document Name</b>	Disclosure and Barring Policy – (Staff)
<b>Owner</b>	Chief People Officer
<b>Version Number</b>	1.1
<b>Equality Analysis Form Submission Date</b>	January 2024
<b>Approval Date</b>	18 January 2024
<b>Approved By</b>	Chief People Officer (minor edits)
<b>Date of Commencement</b>	18 January 2024
<b>Date of Last Review</b>	18 January 2024
<b>Date for Next Review</b>	18 January 2027
<b>Related University Policy Documents</b>	Records retention Schedule Data Protection Policy
<i>For Office Use – Keywords</i>	



## **Annex A      Duty to Refer to the DBS**

The University has a legal duty to make a referral to the Disclosure and Barring Service (DBS) when one of their workers or volunteers has harmed or poses a risk of harm to a child or vulnerable adult. The University must make a referral to the DBS when the following two conditions have both been met:

### **Condition one:**

The University withdraws permission for a person to work in regulated activity with children and/or adults either through dismissal or by moving the person to another area of work that is not regulated activity.

This includes situations where an employer/volunteer manager would or may have dismissed the person or moved them to other duties, if the person had not resigned, retired, or otherwise left their work.

### **and Condition two:**

The University thinks the person has carried out one of the following:

- i. been cautioned or convicted of a relevant (automatic barring) offence as are listed in the DBS guidance referral guide: relevant offences in England and Wales or,
- ii. engaged in relevant conduct in relation to children and/or adults (i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk or harm); or,
- iii. satisfied the harm test in relation to children and / or adults at risk. (I.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable still exists).

The legal duty to refer to DBS applies to regulated activity providers even when a referral has been made to another body such as a local authority safeguarding team or professional regulator regardless of whether that body has made a referral to the DBS about the person.

There may be occasions when the University wishes to make a referral in good faith in the interests of safeguarding children or adults at risk including acting under the advice of the Police or a safeguarding professional, but the legal duty has not been met. For example, where we have strong concerns, but the evidence is not sufficient to justify dismissing or removing the person from working with children or adults at risk. The DBS is required by law to consider any and all information sent to it from any source.

## **Annex B - Policy Statement on Secure Storage, Handling, Use, Retention and Disposal of Disclosure and Barring Service (DBS) certificates and certificate information**

## **General principles**

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

Skilled Workers, (previously Tier 2) Tier 4 (Student worker) and those on a Government Authorised Exchange Visa, sponsored by the university must be able to provide relevant paperwork, including DBS checks, upon request by the UK Visa & Immigration service. In these specific cases DBS checks must be kept on file or electronically for one year until a compliance officer has examined and approved them, whichever is the longer period.

## **Disposal**

Once the retention period has elapsed, we will ensure that any DBS certificate information is immediately destroyed by secure means, i.e. 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

## Annex C - Levels of DBS Disclosure and Applicable Roles

Level of disclosure	Checks Undertaken	Criteria	Examples of Applicable Types of work
Standard check	Unspent and spent convictions/cautions (subject to DBS filtering of 'protected' information) held on the Police National Computer	The position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.	<b>Positions NOT working with children or adults at risk</b> , available for specified occupations, licences and entry into specified professions, e.g. private security, chartered accountants, legal professions
Enhanced check	As above <u>plus</u> Police information held locally that is considered to be 'reasonably relevant' to the post	The position must be included in both the ROA Exceptions Order <b>and</b> in the Police Act 1997 (Criminal Records) regulations <b>and</b> meet the <b>Pre-September 2012 definition of regulated activity</b>	Supervised activities <b>with children</b> which would be considered as 'regulated activity' if unsupervised (following statutory guidance regarding supervision) <b>not in a 'specified place'</b>  Infrequent activities <b>with children</b> which would be considered as 'regulated activity' if frequent  Activities with adults at risk that are not deemed as 'regulated activities' under the new post 2012 definitions
Enhanced check for regulated activity (children and/or adults)	As above <u>plus</u> a check against the Adult or Child Barred List of individuals who must not work with these groups	The position must be eligible for an enhanced level DBS as above <b>and</b> be specifically listed in the Police Act 1997 (Criminal Records) <b>and</b> meet the <b>Post-September 2012 definition of regulated activity</b>	Unsupervised 'regulated activities' with children on a regular basis  Working in a 'specified place' (children)  Specified activities with adults deemed as vulnerable when in receipt of those activities.

## Annex D – Definitions of Regulated Activity

### 1. Summary of the new definition of regulated activity Post September 2012

The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended (in particular, by the Protection of Freedoms Act 2012).

Regulated activity still excludes family arrangements, and personal, non-commercial arrangements.

#### 1.1 Regulated activity relating to children

The new definition of regulated activity relating to children comprises only:

- (i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children.
- (ii) Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. Not work by supervised volunteers.

Work under (i) or (ii) is regulated activity only if done regularly. Statutory guidance about supervision of activity which would be regulated activity if unsupervised is also provided.

- (iii) Relevant personal care, for example washing or dressing; or health care by or supervised by a professional.
- (iv) Registered child-minding; and foster-carers.

A child is a person under the age of 18, or under the age of 16 when in employment.

#### 1.2 . Regulated activity relating to adults

The new definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead, the definition identifies the activities which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. This means that the focus is on the activities required by the adult and not on the setting in which the activity is received, nor on the personal characteristics or circumstances of the adult receiving the activities.

There is also no longer a requirement for a person to do the activities a certain number of times before they are engaging in regulated activity.

There are six categories of people who will fall within the new definition of regulated activity (and so will anyone who provides day to day management or supervision of those people). i. Providing healthcare

- ii. Providing personal care
- iii. Providing social work
- iv. Assisting with cash, bills and/or shopping
- v. Assistance with the conduct of a person's own affairs
- vi. Conveying

A broad outline of these categories is set out in Annex C Diagram 2, for more information please see the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012.

Annex E- Flowcharts to Assess Post Eligible for DBS Checks

Diagram 1

Disclosure & Barring Service – Eligibility Guidance Flowchart  
Regulated Activity relating to Children

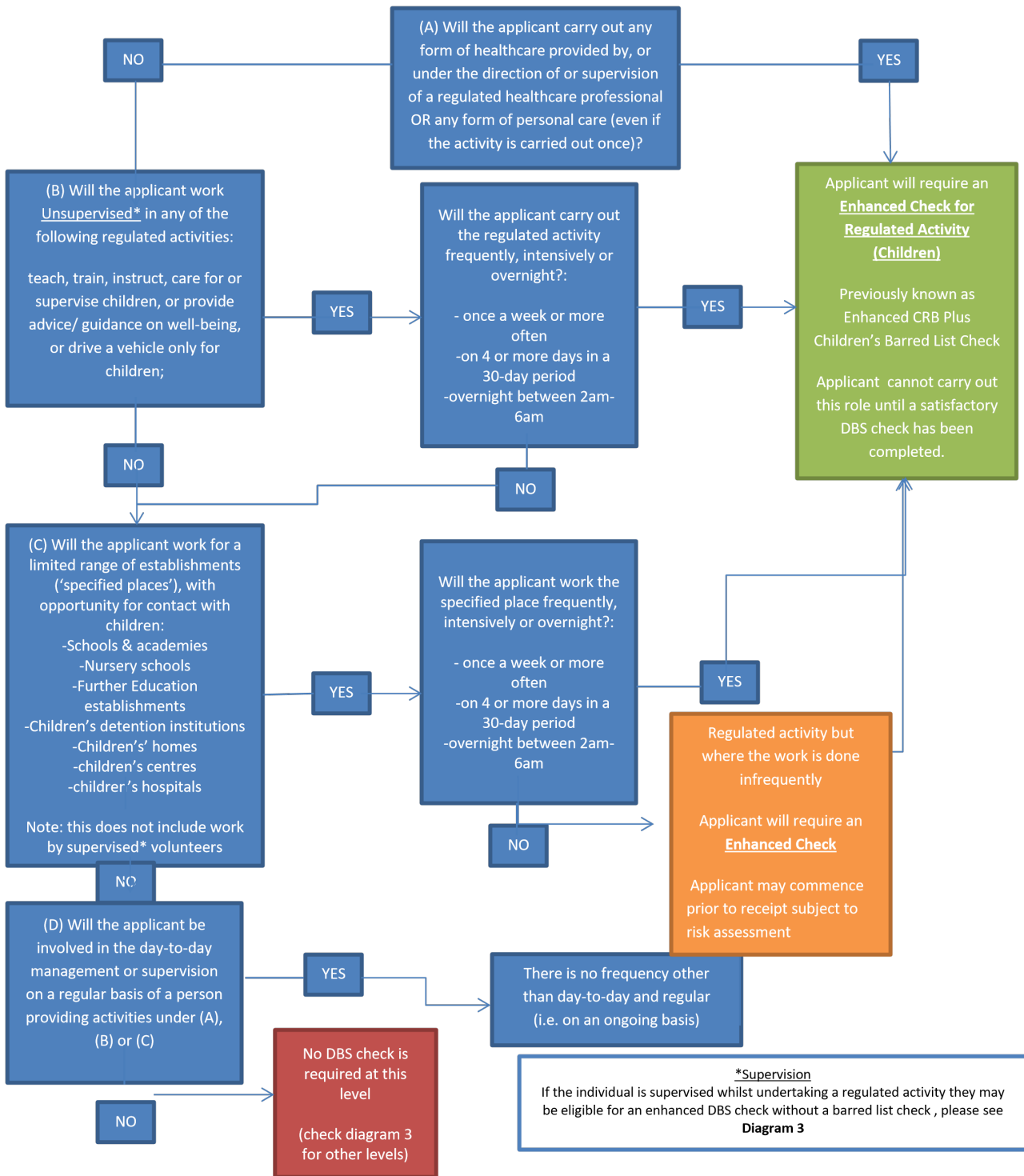


Diagram 2



## Disclosure & Barring Service- Eligibility Guidance Flowchart Regulated Activity relating to Adults at risk

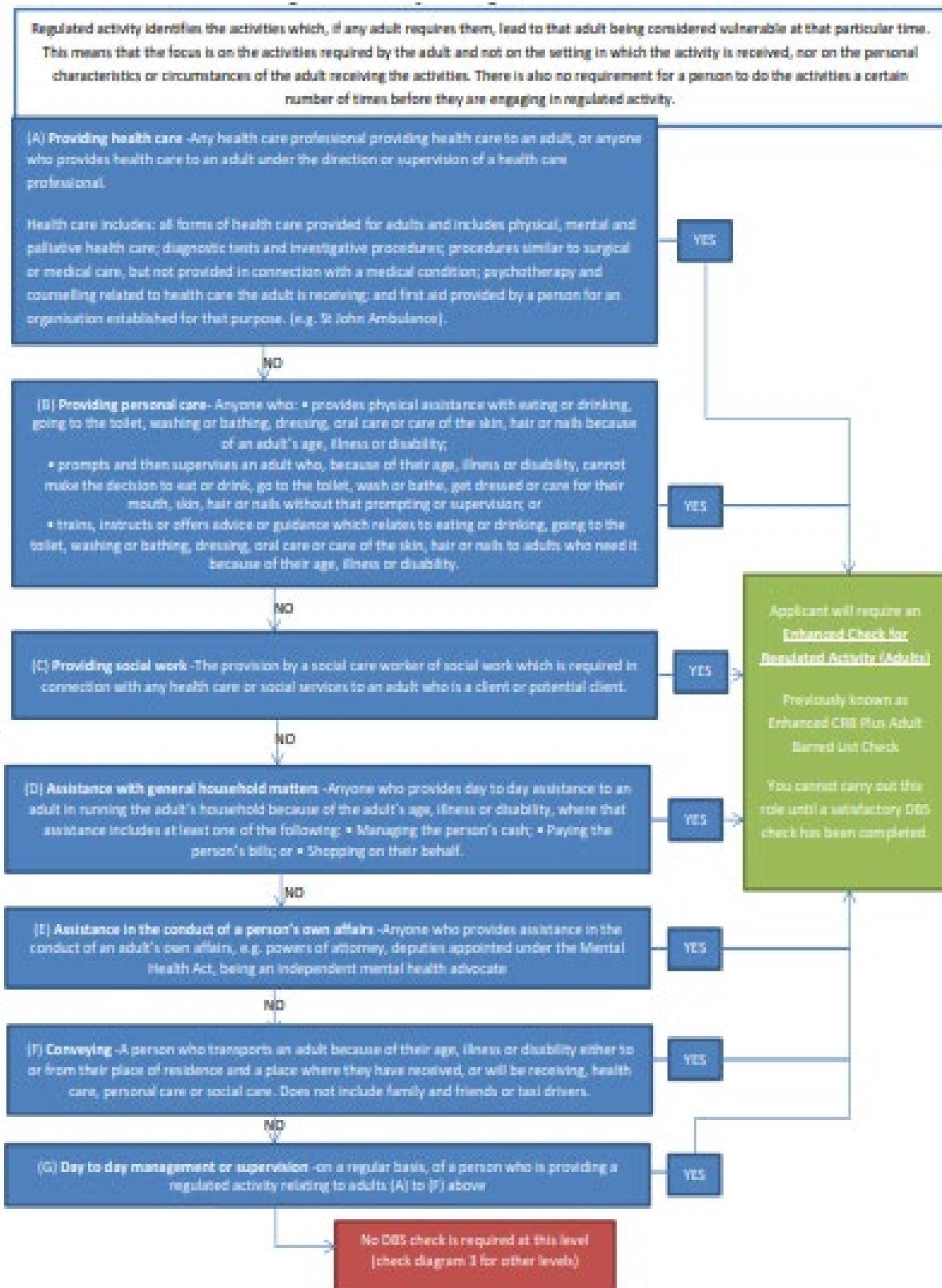
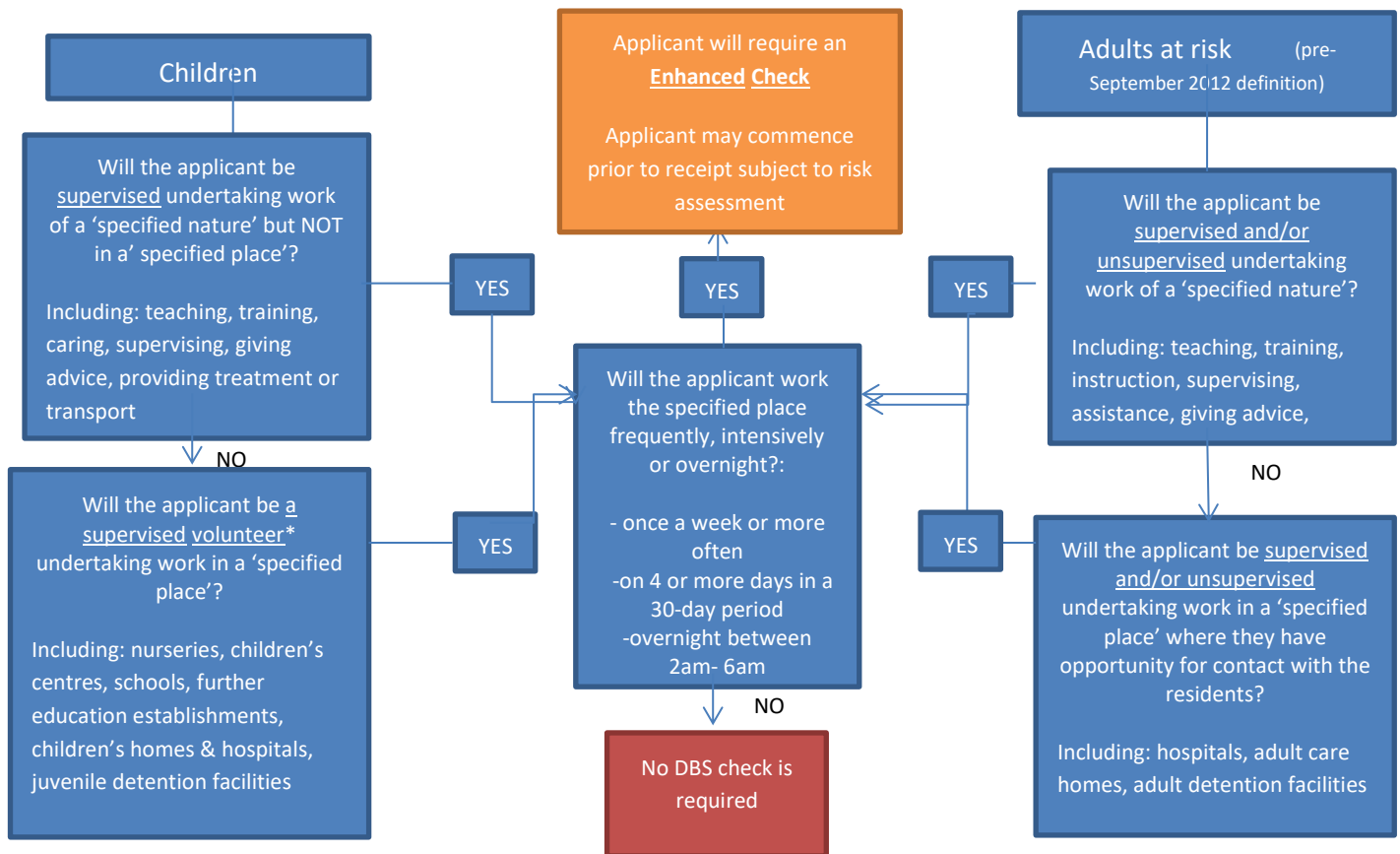


Diagram 3

**Disclosure & Barring Service- Eligibility Guidance Flowchart**  
**Enhanced DBS Disclosure Children & Adults without a barred list check (pre September 2012 definitions)**



**Supervision**

If the individual is supervised, they may be eligible for an enhanced DBS check without a barred list check.

There must be supervision in place by a person who is in regulated activity and appropriately DBS checked. The supervision must be regular and day-to-day, and on an ongoing basis. Supervision means limited 1:1 contact with children. The precise nature of supervision will vary from case to case. This means that organisations must ensure that the supervision in place is sufficient in their judgement, to provide reasonable assurance for the protection of the children concerned.

The following factors should be considered in deciding the specific level of supervision required:

- the age of the children, including varied ages
- the number of other workers helping to look after the children
- the number of children the individual is working with
- the nature of the work
- the vulnerability of the children
- the number of people being supervised by the regulated person

\*Note: Only a supervised volunteer may work in a 'specified place' and not require a Barred List check in addition to an Enhanced DBS check. Paid positions in a 'specified place' will always require a DBS and Barred List check as per diagram 1

## **Annex F - Policy statement on the recruitment of ex-offenders, Information Disclosure and Procedure for Assessing Information Disclosed**

### **1 Policy Statement**

- 1.1 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), Keele University undertakes to treat all applicants for positions fairly. Keele University undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.
  
- 1.2 Keele University can only ask an individual to provide details of convictions and cautions that they 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), Keele University can only ask an individual about convictions and cautions that are not protected.
  
- 1.3 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.
  
- 1.4 Keele University ensures that all those who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. Keele University also ensures that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

### **2 Assessing Disclosed Information**

- 2.1 Keele University makes every subject of a criminal record check submitted to DBS aware of the existence of the DBS Policy and makes a copy available on request.
  
- 2.2 Keele University undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before making an employment decision. (see Annex E)

**Annex G Risk Assessment Form (commence in post prior to receipt of a Disclosure)**

<b>Individuals Name:</b>			
<b>Position Applied For:</b>			
	<b>Yes</b>	<b>No</b>	<b>Comments/Actions</b>
1. Does the position involve 'regulated activity' with children or adults at risk?			
2. Can the role be adjusted to remove 'regulated activity' until a DBS check is received?			
3. Will service provision be seriously affected by a delay in commencement?			
4. Does the individual have a previous DBS check at the appropriate level and barred lists status?			If no, commencement must not start prior to receipt of a satisfactory DBS disclosure and relevant barred list check
5. Has the individual declared criminal record information in the application form?			If yes, please refer to Annex E Assessing Disclosed Criminal Record Information Procedure
6. Has the individuals identity been validated to match the previous disclosure: -confirmation of address - identity check -previous surnames			
7. Has the previous DBS counter signatory been contacted to validate authenticity and to check if any employer only information was released?			
8. Have all other recruitment checks been completed? -work history discrepancies/gaps -two satisfactory references -copies of relevant qualifications			
9. What additional safeguarding measure will be put into place (including supervision and temporary adjustment of duties) if the individual is allowed to commence in post prior to receipt of the disclosure?			
10. Based on the assessment of the above and any other relevant information is the individual able to commence in post prior to receipt of the new disclosure? Please provide a full justification.			
Name: Signature: Position Held: Date:			

## Annex H – Procedure for Assessing Disclosed Criminal Record Information

### 1. Assessing Information Declared on Job Application Form

- 1.1 If an applicant discloses that they have a caution, conviction or other relevant information (spent and/or unspent depending on whether the post is exempt under the Rehabilitation of Offenders Act) this will be indicated on the online application form, along with optional additional information outlining the details of the information.
- 1.2 Where an application disclosing an offence is included and the candidate shortlisted, the Interview Panel Chair should contact Human Resources for advice on when and how to discuss this information with the individual.

### 2. Assessing Information Contained in DBS checks following a conditional offer of employment

- 2.1 All individuals whose DBS check contains criminal record information will be invited to a meeting with the recruiting manager and a member of the Human Resources Department, regardless of the offence. Should an individual choose not to attend the meeting the offer of employment will be withdrawn. Where the individual has disclosed their caution/conviction on the job application form, and this has been discussed and recorded at interview it may not be necessary to hold a further meeting on receipt of the Disclosure unless it reveals information not previously disclosed. The Chair of the interview panel should contact Human Resources for advice in this situation.
- 2.2 At the meeting the individual will be asked to confirm whether the information contained in the Disclosure is correct and relates to them. Assuming the information is correct, consideration will be given, where appropriate, to the following
  - a) Whether the offence was disclosed on the job application form (see section 3 of policy)
  - b) Did the applicant's explanation correspond with their self-disclosure
  - c) The nature of the role and the relevance of the offence to the role
  - d) Do the responsibilities involved in the role link closely to the applicants' offending background?
  - e) Do the responsibilities involved in the role present any opportunities for the individual to re-offend?
  - f) When the offence occurred and at what age
  - g) The seriousness of the offence indicated by the sentence received
  - h) The background to/ circumstances surrounding the occurrence of the offence
  - i) Has the applicants' circumstances changed since the offence(s)? If so, how?
  - j) What the individual learned from the experience, extent of remorse shown and what steps they have taken to prevent a re-occurrence.
  - k) Was the offence a single occurrence? If multiple offences, were there part of a pattern or offending behaviour?
  - l) The effectiveness of rehabilitation programmes, for example relating to drug and alcohol abuse or anger management.
  - m) If the ex-offender is currently on probation or under supervision.
  - n) Whether mental health issues were part of the background to the offence and if so whether the individual is receiving any treatment.

- o) Consideration of any police information was provided directly to the employer. (If the Counter-Signatory has received any such information under separate cover this must not be disclosed to the individual)

2.3 Based on the information recorded on the DBS check and that obtained from the meeting a decision will be taken to either confirm or withdraw the offer of employment. If the offer is to be confirmed, the individual will be sent a letter confirming that their DBS Disclosure was deemed to be satisfactory and that the condition in their contract has been satisfied.

2.4 If the offer is to be withdrawn, the individual will receive a letter confirming the decision and a rationale.

2.5 Should the individual wish to appeal against the decision they should put this in writing to the Chief People Officer, within 10 working days of receipt of the decision letter, stating the reasons for the appeal.

### **3. Regulated Activity and Barred List Information**

Where the DBS check reveals that the individual is barred from working with children and/or adults at risk, and the post involves undertaking 'regulated activity' with either/both groups, the University will withdraw the offer of employment as it is illegal for a barred individual to undertake 'regulated activity'. There is no appeal procedure in this instance.