

Exmouth Community College



DISCLOSURE & BARRING SERVICE (DBS) POLICY

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POLICY

1. Introduction

Exmouth Community College (ECC), through its leaders and staff has a duty of care to protect the well-being of the students at the College and others with whom the College comes into contact.

The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions about employees and volunteers. It also prevents unsuitable people from working with vulnerable groups, including children, through its criminal record checking and barring functions.

This policy sets out how Exmouth Community College manages DBS criminal records checks. This policy applies to employees, casual staff, agency workers, volunteers and contractors.

2. Legislative Influences

This policy has been written with regards to the Human Rights Act, the Data Protection Act, the Police Act 1997, the Safeguarding Vulnerable Groups Act 2006, and the Protection of Freedoms Act 2012.

The following is also relevant to this policy:

Section 11 of the Childrens Act 2004, Section 175 Education Act 2002 (schools) and Section 157 Education Act 2002 (Academies/Free Schools).

This policy complies with requirements under the Working Together to Safeguard Children Document and the Safer Recruitment in Education Guidance produced by the DfE.

3. Disclosure and Barring Service(DBS) lists

The DBS has a legal responsibility to:

- maintain a list of individuals barred from engaging in *regulated activity* with children;
- maintain a list of individuals barred from engaging in *regulated activity* with vulnerable adults;
- reach decisions as to whether a person should be included in one or both barred lists; and
- reach decisions as to whether to remove an individual from a barred list.

4. DBS Code of Practice

Exmouth Community College will comply with the DBS' Code of Practice. This it to ensure that the information released will be used fairly and handled and stored appropriately.

5. Disclosure Level

Exmouth Community College will process all disclosure checks at Enhanced level, with Barred List checks for those roles that meet the criteria for Regulated Activity. A section 128 check will also be requested for all Governors / Trustees / Directors and those whose roles relate to the management of the school, including the Principal.

6. Authorised Officers

The disclosure process must be managed by a nominated Authorised Officer. At ECC the Authorised Officers are the Human Resources staff.

7. Rehabilitation of Offenders Act

Once a conviction is 'spent', as defined by the Rehabilitation of Offenders Act (ROA), the convicted person does not have to reveal it or admit its existence in most circumstances, including, for example, when applying for a job. However, *two main exceptions relate to positions working with children or vulnerable adults*. In these circumstances people may be required to reveal both spent and unspent convictions, although certain specified old and minor offences will be removed from criminal record certificates issued from 29 May 2013 onwards.

ECC requires all applicants into posts which are eligible for a DBS disclosure to declare information on all convictions and cautions that are not "protected" as defined by the ROA (Exceptions) Order 1975 (as amended in 2013) and any prosecutions that are pending.

ECC will treat applicants who have a criminal record fairly and will not discriminate because of a conviction or other information revealed. Possession of a criminal record will not automatically prevent applicants from working for ECC.

As part of the recruitment process, such information will only be considered in light of its relevance to the post for which they are applying. All appointments into posts subject to a DBS check are made only on condition of a satisfactory DBS Disclosure. If a candidate is successful in their application for employment, the failure to disclose previous unspent criminal history could result in withdrawal of the conditional offer of employment. All applicants will be required to show their DBS certificate to the HR Department prior to confirmation of employment.

8. Recruitment Administration

All job advertisements and supporting information sent to prospective candidates for posts being recruited to at ECC will clearly state the requirement for an Enhanced DBS check.

If there are any criminal declarations declared on the application form, these will be discussed either at interview or at a separate meeting (see 'Procedure').

A DBS Disclosure will only be requested for the successful candidate(s) at recruitment.

9. Staff Awaiting DBS Clearance

A DBS Disclosure will be obtained before an individual starts work with ECC. In exceptional circumstances an individual may be able to start work subject to an appropriate risk assessment and a check against the barred list.

10. Existing DBS Checks for Employees joining from another Employer

ECC will accept existing DBS disclosures from other authorities or organisations, providing the applicant has a suitable DBS Certificate and they are subscribed to the DBS Update Service.

11. Re-checking of Existing Employees

Each Disclosure will contain the date the Disclosure was printed. Disclosures do not carry a pre-determined period of validity because a conviction or other matter could be recorded against the subject of a Disclosure at any time after it is issued.

Existing employees who have not previously been subject to a DBS Disclosure may be required to undertake a Disclosure during the course of their employment with ECC. All employees will be expected to comply and any employee refusing to comply with the request for a Disclosure will be advised that their unreasonable refusal may lead a disciplinary action being taken.

ECC reserves the right to ask existing employees in relevant positions to apply for a Disclosure if their actions or activities give cause for concern.

All employee re-checks will be undertaken in conjunction with the provisions of this Policy.

12. Volunteers

ECC occasionally uses volunteers. The requirement to be determined by the frequency and nature of contact with children i.e. if being left unsupervised with children and/or if having regular contact, which is defined as once a week or more or any 4 occasions in a 30 day period or more.

Volunteers who only accompany staff and children on one off outings or trips or who help at one off specific events such as sports days, school fete's etc do not need to be DBS checked. If however an overnight stay is involved then an Enhanced DBS will be obtained.

13. Supply Staff

Vetting checks will be required for those who work as supply staff, including those who are employed via a supply agency. The details will be recorded on the Single Central Record.

Where supply staff are recruited directly by ECC, the same process must be followed as for all employed staff and an Enhanced DBS Disclosure applied for.

Before taking on supply staff from an agency, ECC will obtain written confirmation from the agency that the relevant DBS Disclosure has been seen, checked and confirmation on whether it contained any disclosed information. ECC does not need to see or carry out a check themselves unless there is information contained in the DBS Disclosure.

14. Governors

The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016, which came into force in March 2016, make enhanced DBS checks mandatory for school governors in maintained, independent, academy and/or free schools. In accordance with these regulations ECC will, within 21 days of appointment or election, apply for an enhanced DBS check with a check against the DBS Children's Barred List for all governors. An obligatory section 128 check will also be requested for all Governors / Trustees / Directors.

15. Overseas candidates

All persons who have lived outside the United Kingdom and who are appointed to a post, or seeking to be a volunteer at ECC, must undergo a DBS check and DBS Barred List check where appropriate, regardless of their length of stay in the UK, or even if they have never been resident.

All foreign nationals including UK citizens who have lived or worked overseas in the previous 5 years (in a fixed permanent overseas address for a continuous period of 6 months or more) must provide a Certificate of Good Conduct (CGC) or overseas criminal record check, in addition to immigration documentation. The applicant will need to provide a CGC or overseas criminal record for every country in which residency or employment is relevant and it should be requested in English otherwise translation costs may be incurred.

The DBS cannot currently access overseas criminal records or other relevant information as part of the Disclosure service.

The unavailability of applicant's CGC or overseas criminal record may give cause for concern about his or her suitability to be offered employment or access to children or vulnerable adults. Although such candidates will not automatically be barred from working for ECC, appointing managers will make a decision with due regard to all the relevant facts, the risk assessment and the overall requirement to safeguard vulnerable groups. Any decision not to appoint the person or allow access will be carefully explained and reassurance given about the reasons for it. In all cases Appointing Officers will ensure that if a CGC or Police Check is not available, a reference is sought from someone in the county of residence i.e. an overseas employer or professional person.

16. Agency & Contractors

ECC will ensure that where agency or contractor workers are supplied to carry out duties within ECC, that brings them into contact with children, an Enhanced DBS

Disclosure has been undertaken by the agency or contractor before they commence work. ECC will ensure that relevant clauses are included in any contracts in advance of the work starting. ECC will also obtain written confirmation from the agency or contractor that they have carried out all relevant safe recruitment checks. Additionally, they will provide names of the staff who will be coming onto the school site to fulfil the contact.

17. Single Central Record

In addition to the various staff records which are kept as part of normal business, from 01 January 2007, schools must also keep and maintain a single central record of recruitment and vetting checks. ECC upholds this requirement. This record includes all employed staff, supply staff, volunteers, governors or any others who work in regular contact with the children.

The central record will indicate whether or not the following have been completed; identity and qualification checks, checks of permission to work in the UK, checks of the DBS Barred list, enhanced DBS Disclosure information and overseas criminal record checks (where appropriate). The record will show the date on which each check was completed and who carried out the check.

PROCEDURE

The following procedures will be followed by ECC when processing DBS checks.

18. Identity checks

All appropriate original documents will be sought and evidence taken in accordance with the DBS Code of Practice.

If an applicant is unable to produce one of the key primary documents, ECC will contact their DBS provider to arrange an external ID verification check.

19. Validating the DBS Certificate

Once the DBS check has been completed, the DBS certificate will be sent directly to the candidate. ECC will be informed via automated response whether the certificate is clear or contains positive information, but not what that positive information is. Copies of the certificate are not sent to ECC. Where the check contains positive information, the Appointing Officer will ensure that they see the candidate's certificate and check it correctly.

20. Further action once the DBS certificate has been validated

Where the DBS disclosure comes back clear (i.e. without any positive criminal information), a conditional offer of employment can be made, subject to the other relevant pre-employment checks.

Where a criminal record was declared in the application form, this will be fully discussed with the candidate seeking the post before a decision to either withdraw or confirm a conditional offer of employment is taken. A risk assessment (DBS 2) will be carried out to help determine if the criminal history is relevant to the role before any decision is taken.

If the DBS Disclosure contains information which was not revealed by the candidate, or additional information is received by the police, a further discussion will be held with the candidate and a further review against the risk assessment carried out, to determine whether to confirm or withdraw the conditional offer of employment.

21. Risk Management – Assessing the relevance of a criminal record

Assessing and managing the risk of employing a person with a criminal record, or about whom positive information has been revealed following a disclosure, means comparing the candidate's skills, experience and conviction circumstances against the risk criteria identified for the job and deciding on the relevance of the conviction or other information.

Having a criminal record will not necessarily bar someone from employment with ECC; this will depend on the background to the offence(s) and the nature of the position being sought.

21.1 Considerations

An objective common sense approach will be taken by ECC in assessing the information which will take into account ECC's responsibilities for safeguarding and:

- the employer's duties in law
- the nature of the crime, when it happened and the circumstances involved
- the sentence, if any
- patterns of offending
- efforts to avoid re-offending
- job requirements
- safeguards against offending at work
- possible reactions of employees.

21.2 Candidate Awareness

Applicants should be forewarned that Enhanced Disclosures might include non-conviction information such as details of cautions, reprimands and warnings and may include other relevant non-conviction information held by the Police.

During the risk assessment discussion, the applicant will be able to give a full account of the circumstances of the offence(s), any extenuating circumstances and of their efforts to avoid re-offending.

Where assessment against the risk criteria (DBS2) indicates that the applicant could be employed on a conditional basis provided that extra safeguards are put into place,

the Principal or Appointing Officer will discuss these with the applicant and explain the reasons.

21.3 Assessing the Role for Risk

When assessing the position, role or contact, a number of factors need to be taken into considerations as follows:

Issues	Reasons
Exemption status under the Rehabilitation of Offenders Act 1974, duties under the Police and Children's Acts regarding one-to-one contact with children, vulnerable adults or the elderly	It is illegal to employ certain offenders in some occupations.
To what extent are you bound by other legal constraints?	For example, those with motoring convictions employed as drivers.
Does the post involve any direct responsibility for finance or items of value?	What could happen and how serious would that be? What factors would increase or decrease the perceived risk? For example, the nature of the offence and impact of rehabilitation since then. Consider whether the offence would create unacceptable risks for other employees, customers, suppliers, clients, service users, etc.
Does the post involve direct contact with members of the public?	
Will the nature of the job present any realistic opportunities for the post holder to re-offend in the place of work?	

21.4 Assessing the Ex-Offender and the Offences

When assessing any disclosure or disclosed information, consideration will be given to the following:

- The availability of assessments and reports from those agencies involved in the applicant's process of rehabilitation. The seriousness of the offence and its relevance to the safety of other employees, customers, clients and property. The length of time since the offence occurred. Whether the offence was a one-off, or part of a history of offending?
- Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely.
- The country in which the offence was committed. For example, some activities are offences in some counties but may not be in others.
- Whether the offence has since been decriminalised by Parliament.
- The degree of remorse, or otherwise, expressed by the applicant.

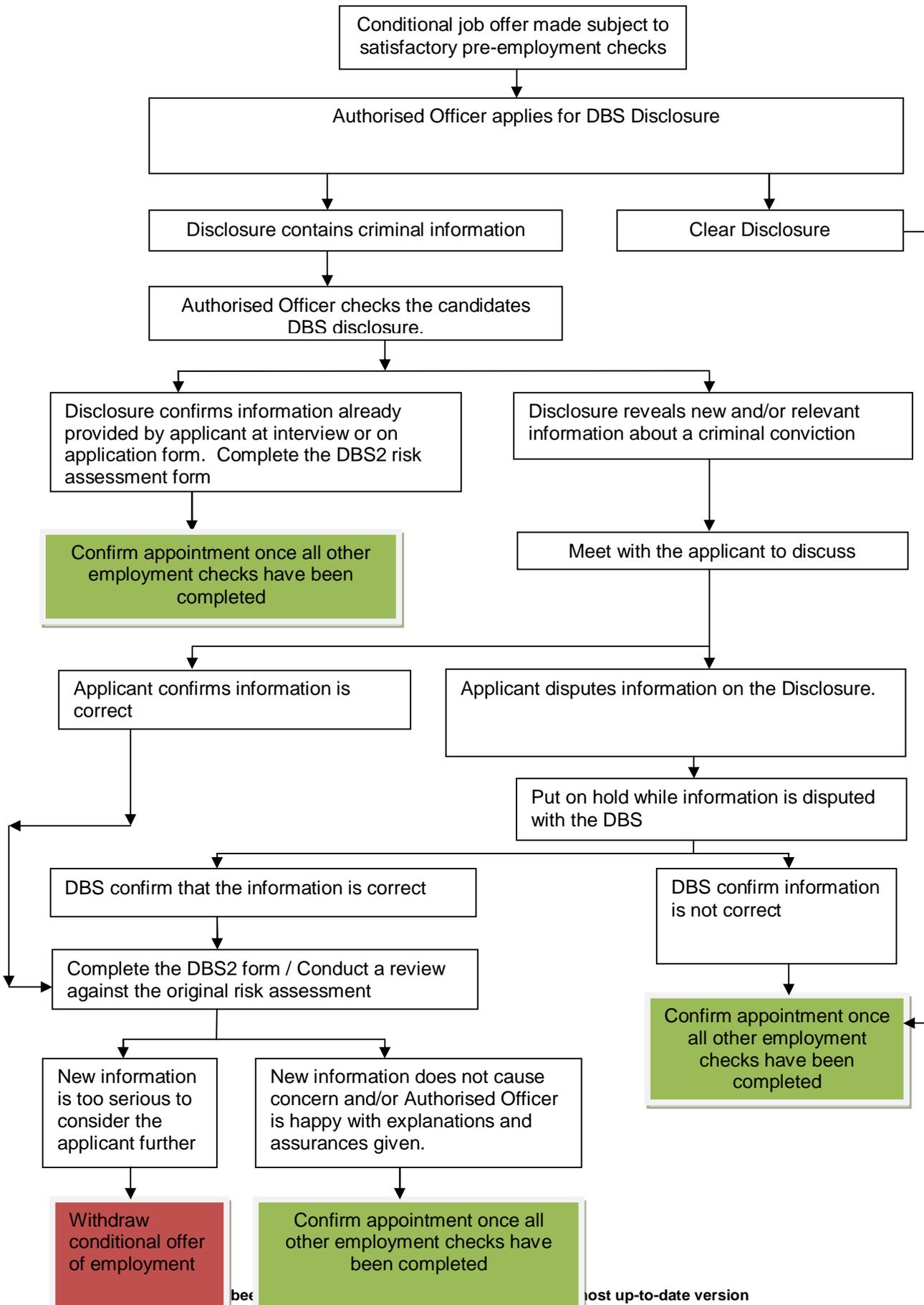
21.5 Insurance Safeguards

It is important to consider any restrictions to ECC's insurance cover that might exclude employment of some ex-offenders in specific positions. Any concerns in this respect will be referred to the insurers before the appointment is made.

22. Other pre-employment checks

Whilst DBS checks are vital in the consideration of appropriately staffing posts with access to children and vulnerable people, they are just one in a range of pre-employment checks which will be carried out in order to assess the suitability of candidates.

New Appointments Flowchart



Policy Statement: Secure storage, handling, use, retention and disposal of Disclosures and Disclosure information (including electronic disclosure information)

1. General principles

As an organisation using the Disclosure & Barring Service (DBS) to help assess the suitability of applicants for positions of trust, ECC complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.

2. Storage and Access

Disclosure information is never kept on an applicant's personnel file and is always kept separately and securely with access strictly controlled and limited to those who are entitled to see it as part of their duties.

3. Handling

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

4. Usage

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

5. Retention

Once a recruitment (or other relevant) decision has been made, ECC does not keep Disclosure information for any longer than is absolutely 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 Disclosure 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 safe storage and strictly controlled access will prevail.

6. Disposal

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately suitably destroyed by secure means. We will not keep any photocopy or other image of the Disclosure or any copy or representation of the

contents of a Disclosure. However, in order to maintain Devon County Council's Criminal Records Checks Database, we will keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the recruitment decision taken.

Policy Statement: Recruitment of Ex-Offenders

1. ECC complies fully with the DBS Code of Practice and undertakes to treat all candidates for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of conviction or other information revealed.
2. ECC is committed to the fair treatment of its staff, potential staff or users of its services, regardless of age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, responsibilities for dependants, or offending background.
3. This policy on the recruitment of ex-offenders will be made available to all Disclosure applicants at the outset of the recruitment process.
4. We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.
5. Application forms, job adverts and recruitment briefs will contain a statement that a Disclosure will be requested in the event of the individual being offered the position.
6. Where a Disclosure is to form part of the recruitment process, we encourage all candidates called for interview to provide details of their unspent convictions at an early stage in the application process. 7. Unless the nature of the position allows ECC to ask questions about a candidate's entire criminal record, we only ask about "unspent" convictions as defined in the Rehabilitation of Offenders Act 1974.
8. We ensure that all those in ECC who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure 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.
9. At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
10. We make every subject of a DBS Disclosure aware of the existence of the DBS Code of Practice and make a copy available on request.
11. We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.
12. Having a criminal record is not necessarily bar to working with us. This will depend on the nature of the position and the circumstances and background of the offences.

Policy Statement: Managing Information Disclosed During Employment

- 1.1 Since 01 January 2009 it has been a condition of employment for all employees in posts which are subject to a DBS disclosure, to disclose any pending criminal proceedings for which they have been formally charged, any criminal conviction, caution, bind-over received during the course of their employment.
- 1.2 Following the implementation of the Protection of Freedoms Act 2012, key legislation remains in place under the Safeguarding Vulnerable Groups Act for a “Duty to Refer” information to the DBS on individuals who pose a risk to children or vulnerable adults. The Disclosure & Barring Service makes decisions as to who should be barred from working with vulnerable groups. Anyone who is barred from working in regulated activity with children, vulnerable adults or both will be committing an offence if they work in such regulated activity.
- 1.3 Failure to disclose information, as per para.1.1 above, may result in disciplinary action being taken; as may the nature of any criminal offence (depending upon its impact on the employment) and this may result in dismissal from ECC.

2. PRINCIPLES

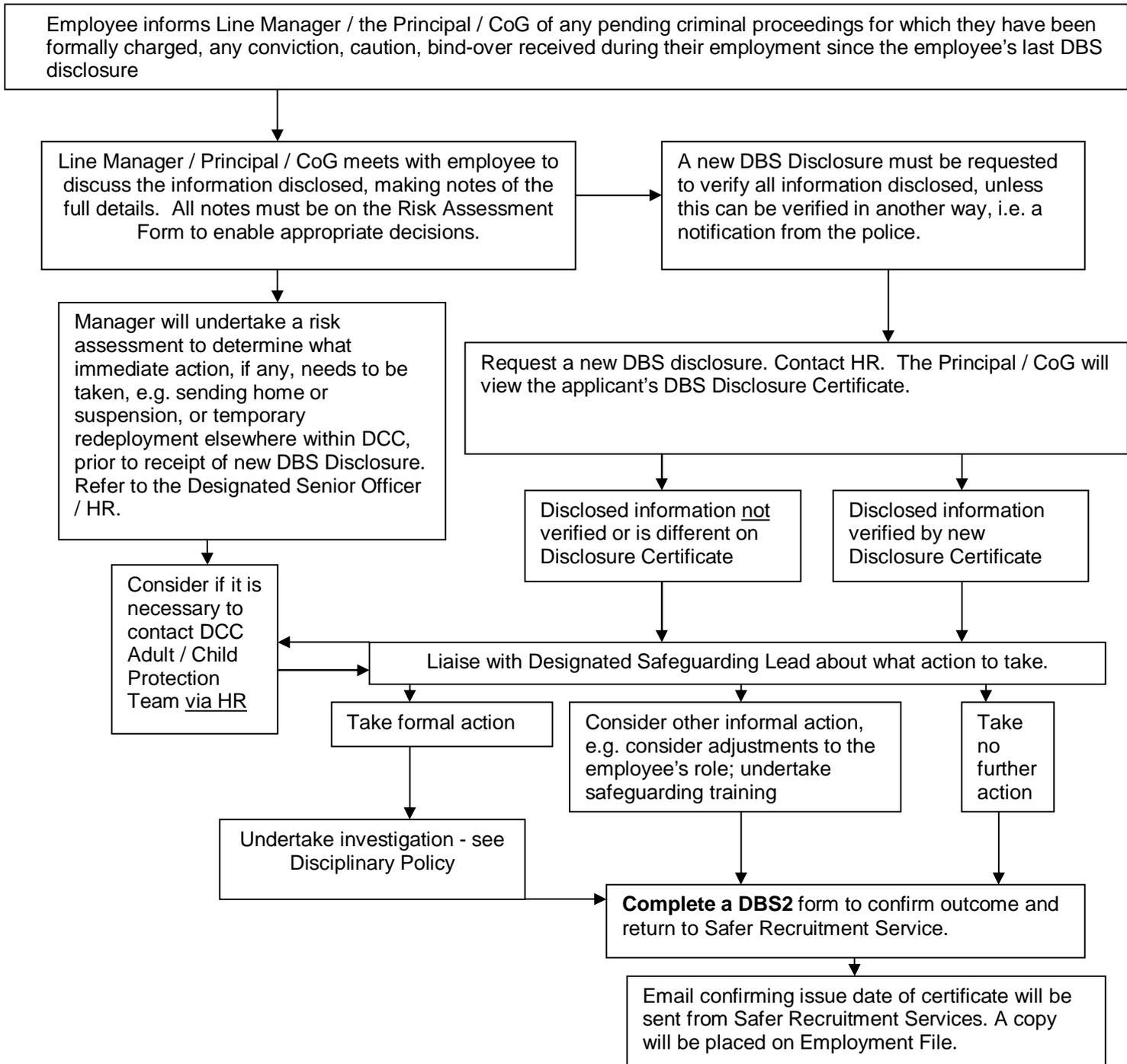
- 2.1 ECC through its managers and staff, has a duty of care to protect the well-being of the people of Devon and, in particular, those groups or individuals in its care who are considered to be especially vulnerable or at risk, such as children, the elderly and those with disabilities.
- 2.2 ECC will take every step to ensure that those employees who work with or otherwise come into contact with these vulnerable groups are suitable to do so.
- 2.3 If a person seeks to work in a position that involves working with children and/or vulnerable adults they are required to reveal all criminal convictions and cautions not protected under current legislation, including overseas convictions, and will be subject to a DBS check.
- 2.4 If an employee asks to meet with their Line Manager, Principal, or in the case of the Principal the Chair of Governors (CoG), to make a disclosure, a request to be accompanied by a Trade Union / Professional Association Representative or fellow work Colleague should not be unreasonably refused.

3. PROCESS

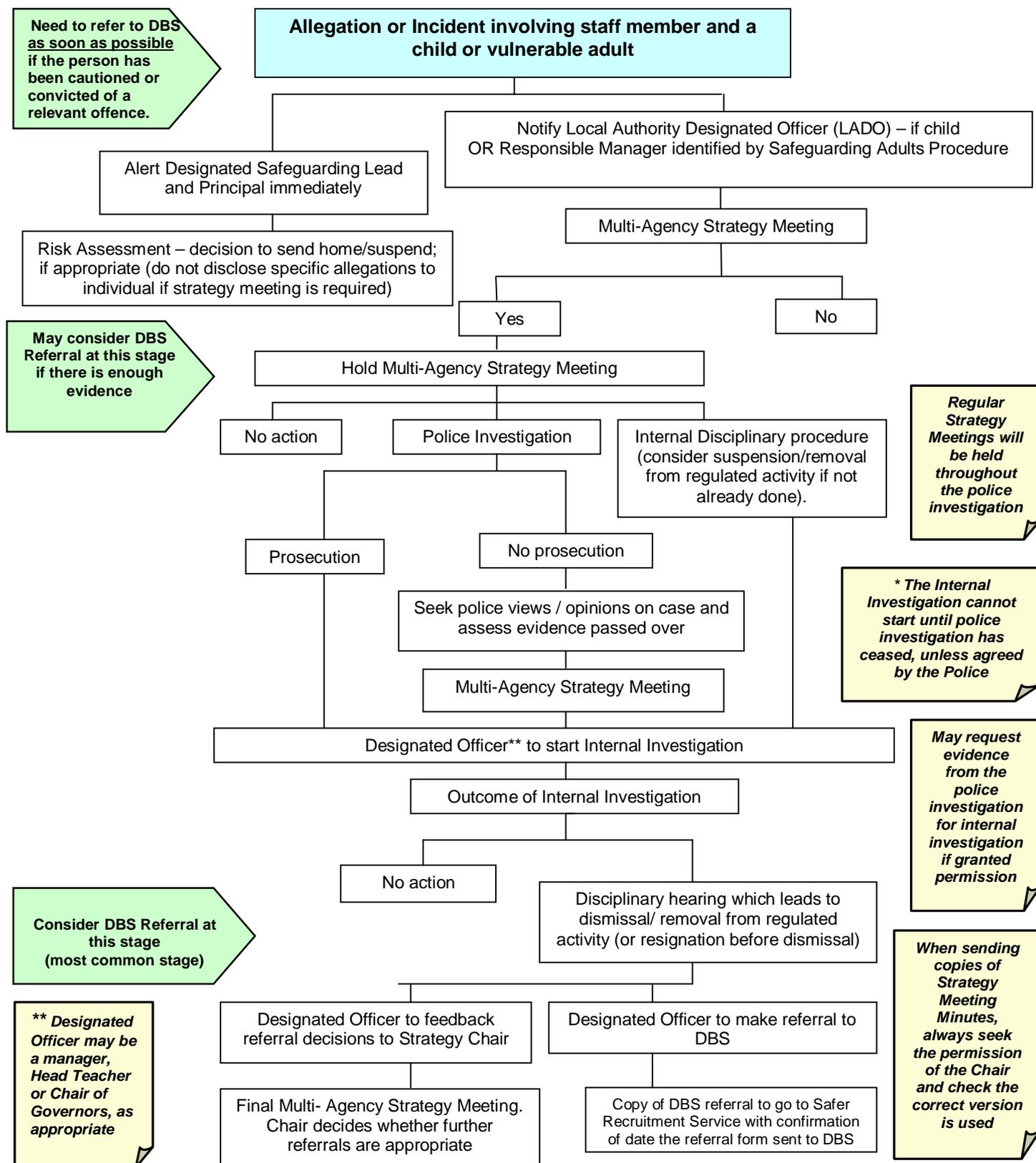
- 3.1 The flowchart below illustrates the process for managing information disclosed by employees relating to convictions, cautions, a bind-over and any pending criminal proceeding during the course of their employment.
- 3.2 The Line Manager / Principal / CoG must ensure that any discussion with an employee who discloses information must be carried out in complete confidence and no information should be shared with any unauthorised person.

- 3.3 A new DBS Disclosure **must** be requested to verify the information disclosed by the employee, unless the manager is able to verify it in some other way, perhaps by way of a notification from the police.
- 3.4 The employee must be allowed to give a full account of the information disclosed and any extenuating circumstances. Any separate notes taken detailing the disclosed information **MUST** be destroyed, apart from that contained in the DBS2, once a decision has been made following completion of the DBS2 form. Please note it is important that the actual conviction information is recorded on the DBS2 to ensure clear understanding of the risk involved.
- 3.5 Having a criminal record is not necessarily a bar to working for the organisation, so it is vital to gather as much information from the employee as is possible, so that a balanced decision can be made. However, it must be remembered that it could be illegal to employ a person with a conviction for a relevant offence in a specific job. The Disclosure and Barring Service list those convictions that may prevent a person working with children. Contact HR or Safer Recruitment Services for further information.
- 3.6 Assessing the risk of employing people following disclosed information needs an objective, common sense approach which takes account of matters such as legislative requirements, job requirements, safeguarding against offending at work, assessing the nature and circumstances of the offence and listening to the explanations of the employee.
- 3.7 Once the risk criteria have been identified for the position, the relevance of all disclosed information can be assessed in the light of these. It is important to keep an open mind at all stages of this process to ensure that the employee is treated fairly and to remember that many people with criminal records are safely employed in positions of trust.
- 3.8 Consideration will need to be given as to whether any immediate action is necessary to reduce the risks, prior to viewing the applicant's new DBS Disclosure Certificate. This might include moving the employee to work elsewhere temporarily, putting in closer supervision on a temporary basis or sending the individual home. In the most serious situations the manager might consider instigating the formal Disciplinary Policy and considering formally suspending the employee from work..
- 3.9 Failure by an employee to disclose all relevant information may result in disciplinary action being taken, as will the nature of the offence (depending upon its impact on their work) and this may result in dismissal from ECC's employment.
- 3.10 Where it is deemed appropriate to take formal action following the disclosure this will be managed in line with the Disciplinary Policy.

DBS DISCLOSURE INFORMATION – PROCESS FLOWCHART



Disclosure and Barring Service Referral Flowchart



The DBS referrals decision-making process can be accessed at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/143681/dbs-decision-flowchart.pdf

POLICY HISTORY

Policy Date	Summary of change	Contact	Implementation Date	Review Date
26.09.08	Updated version of previous policy 'Managing Recruitment & The Disclosure Process'	Tara Hall RDS Manager	October 09	26.09.09
October 2012		Sue Beard RDS Manager Laura Taylor – Senior HRA	October 2012	
December 2012	Updated to change CRB to DBS to reflect the change in organisation from Criminal Records Bureau to the Disclosure & Barring Service.	Sue Beard RDS Manager Laura Taylor Senior HRA	December 2012	02/04/2013
January 2014	Re-worded the policy and included updates about on-line DBS applications and removal of some minor convictions	Lisa Thomas HRA Sue Beard – Safe Recruitment Service Manager.		
15.12.16	Update to section 10.2 & 14 following change in DCC policy on DBS update service.	Phil Barrett Team Manager (Safer Recruitment)	15.12.16	15.12.16
February 2017	General update and re-format. Specific update made to (new) S.14 – School Governors further to the The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016 coming into effect	HR ONE	February 2017	