

# CRIMINAL RECORD & BARRING CHECK PROCEDURE

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This criminal record and barring checking procedure is fully compliant with NHS Employment Check Standards and is designed to prevent unsuitable people from entering employment through ourselves and gaining access to vulnerable people.

## Criminal Record & Barring Checks

We obtain our criminal record checks through the Disclosure and Barring Service (England & Wales). Where the applicant has resided in Scotland within the last 5 years the DBS will contact Disclosure Scotland to check whether any data is held in their records. A similar arrangement exists to check applicants who have resided in Northern Ireland with Access NI.

All candidates will be asked to declare all/any current or past convictions or disciplinary action as part of the application process for posts listed as exempt under the Rehabilitation of Offenders Act 1974. By completing this self declaration, the candidate is giving their permission for us to obtain an appropriate DBS check.

A DBS check will be requested for all posts that are regarded as eligible for an enhanced DBS disclosure under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) and the Police Act 1997 (Criminal Record) Regulations 2002 (as amended). We will obtain the relevant level of check for the position as follows:

- **Enhanced check with barred list information** - For this check to be required, workers should be in a position which includes “regulated activity”. An individual is engaged in regulated activity if they undertake any of the following activities as part of their role:
  - Healthcare.
  - Personal care.
  - Social work.
  - Assistance with cash, bills or shopping.
  - Assistance with the conduct of their own affairs.
  - Conveying services.
  - Unsupervised teaching, training, instruction, caring for or supervision of children on a frequent basis (i.e. once a month or more, 3 days in any 30 day period or overnight between the hours of 2am and 6am).

## **Conducting DBS Checks & Portability**

We use UCheck to supply our criminal record checks, however wherever possible we will ask candidates to subscribe to the DBS Update Service which enables them to move posts more quickly as long as their activities or access to vulnerable groups does not change the level of check required. As subscription to this service is voluntary we promote the benefits of subscribing to prospective workers.

We will conduct an enhanced disclosure or request the original of their DBS Disclosure Certificate if the candidate is using the DBS Update Service for all health care professionals.

For workers who have subscribed to the DBS Update Service, we will obtain a signed and dated declaration confirming that they have given their authority for us to carry out an online status check and to receive up to date information. We will also verify the original DBS certificate including clearances against the relevant barred lists issued to the candidate by the DBS. We will then maintain a record of the online status check including the date that it was conducted and confirm that the certificate did not reveal any information and remains current as no further information has been identified since its issue.

## **Overseas Applicants**

Applicants who have spent an extensive period of time abroad will also need to request a police check or obtain a “certificate of good character” from the relevant country. If the criminal record check from overseas is returned in a different language, we will make provision to have it translated by an individual who is professionally accredited or a translation company that is accredited by either CIOL or ATC.

Military personnel who have served overseas for more than 6 months in the last 5 years will be required to provide an extract from their military record. This must be original and state that it covers all periods of time served overseas and provide information relating to any convictions, cautions, reprimands or final warnings received during the periods concerned.

## **Positive Disclosures**

When the disclosure indicates that the DBS has made a barring decision against one or both of the barred lists, it is illegal for an employer to allow that person to engage in a regulated activity from which they are barred and we will always comply with this requirement.

Having a criminal record however does not necessarily mean a candidate cannot work in the NHS or healthcare sector. We will make a fair, non-discriminatory assessment based on the

individual's skills, experience and suitability for the post. Obtaining their written permission to do so. When considering disclosure information, we will be mindful of:

- Any legal or regulatory requirements (i.e. in relation to regulated activity).
- The seriousness of the offence.
- The length and type of sentence issued.
- Whether the applicant has a pattern of offending behaviour.
- The circumstances surrounding the offending behaviour and the explanation offered by the individual.

### **Handling & Retention of Criminal Record Information**

We ensure that all information is kept securely in lockable, non-portable storage containers with access strictly controlled and limited to those who need to have access to this information in the course of their duties.

The information will only be used for the specific purpose it was requested for and with the applicant's full consent. The information will also not be retained for any longer than necessary (not more than 6 months after a permanent appointment or decision not to appoint, or 6 months after the last day of a temporary or contract worker's assignment). We will, however, retain the following information on our recruitment software system:

- Name of the candidate.
- Issue date of the DBS certificate.
- Position for which the certificate was requested.
- Unique reference number of the certificate.
- If subscribed to the Update Service, the individual's unique reference number.

### **Making a Referral to the DBS**

In the event that a worker has harmed or poses a risk of harm to vulnerable groups and where our company has dismissed them or removed them from working in a regulated activity, The Compliance Manager will refer this information to the DBS.

Specifically we will always make a referral if:

- We permanently remove a person from "regulated activity" through dismissal or permanent transfer from this activity, or where we would have removed or transferred that person had they not left, resigned, retired or been made redundant.
- We believe that the person has:
  - Been cautioned or convicted of a relevant (automatic barring) offence.

- Engaged in relevant conduct in relation to children and/or adults (e.g. an action or inaction that has harmed a child or adult or put them at risk).
- Satisfied the Harm Test in relation to children or adults (e.g. there has been no action or inaction, but a risk of harm still exists).

If an allegation is made, we will first investigate and gather evidence to establish if the allegation has foundation. We will always refer if we have evidence of any of the above. We may also refer if we have strong concerns, but the evidence is not sufficient to justify permanently removing the person as long as we remain compliant with all relevant legislation including the Human Rights Act and the Data Protection Act.

We will also consider whether the individual has breached their professional code of practice and therefore whether there is also a requirement to refer them to the relevant regulatory body in addition to the DBS.

When making a referral to the DBS we will provide information to clearly identify the individual including:

- Name.
- Address.
- Date of birth.
- NI number.
- Sufficient evidence to suggest there has been a relevant offence of harm/risk or harm to a child or vulnerable adult.

We will also complete the DBS referral form in full together with any documentary evidence held in relation to the person (e.g. minutes of disciplinary hearing, witness statements, dismissal or suspension letters, documents relating to safeguarding investigations, details of any police involvement etc). We will also signpost the DBS to any other organisations involved so they can seek further information directly from these sources as required.

## **Compliance & Audit**

We will meet the requirements of the NHS' pre-employment and safer recruitment checks by the using robust safeguarding and compliance procedures underpinned and enabled by the workflow checking procedure within our recruitment software system. This guarantees the screening of each candidate to the specification and prevents mandatory parts of the process from being missed out or circumnavigated. No worker is able to begin an assignment before all compliance actions are completed in line with the specification, current policy and legislation.

We conduct regular internal audits of all our compliance processes and these are carried out by our Compliance Team on a regular basis to demonstrate that we adhere to legislative, contractual and industry best practice. We also welcome client audits.

## **Appendix 1- Policy on The Recruitment Of Ex-Offenders – Northern Ireland**

### ProHealth 24 Policy Statement

1. ProHealth 24 complies fully with the Code of Practice, issued by the Department of Justice, in connection with the use of information provided to registered persons, their nominees and other recipients of information by AccessNI under Part V of the Police Act 1997, for the purposes of assessing Applicant's suitability for employment purposes, voluntary positions, licensing and other relevant purposes. We undertake to treat all applicants for positions fairly and not to discriminate unfairly or unlawfully against the subject of a Disclosure on the basis of conviction or other information revealed.
2. This policy is made available to all Disclosure applicants at the outset of the recruitment process.
3. ProHealth 24 are committed to equality of opportunity (see separate Equal Opportunities Policy) to following practices, and to providing a service which is free from unfair and unlawful discrimination\*. We ensure that no applicant or member of staff is subject to less favourable treatment on the grounds of gender, marital status, race colour, nationality, ethnic or national origins, age, sexual orientation, responsibilities for dependants, physical or mental disability political opinion or offending background, or is disadvantaged by any condition which cannot be shown to be relevant to performance.
4. Direct Healthcare Plc actively promotes equality of opportunity for all with the right mix of talent, skills and potential, and welcomes applications from a wide range of candidates, including those with criminal records. The selection of candidates for interview will be based on those who meet the required standard of skills, qualifications and experience as outlined in the essential and desirable criteria.
5. We will request an AccessNI Disclosure only where this is considered proportionate and relevant to the particular position. This will be based on a thorough risk assessment of that position and having considered the relevant legislation which determines whether or not a Standard or Enhanced Disclosure is available to the position in question. Where an AccessNI Disclosure is deemed necessary for a post or position, all applicants will be made aware at the initial recruitment stage that the position will be subject to a Disclosure and that [insert Organisation Name] will request the individual being offered the position to undergo an appropriate AccessNI Disclosure check
6. In line with the Rehabilitation of Offenders (Exceptions)(Northern Ireland) Order 1979 (as amended in 2014), ProHealth 24 will only ask about convictions which are defined as "not protected" for the purposes of obtaining a Standard or Enhanced disclosure.

7. We undertake to ensure an open and measured and recorded discussion on the subject of any offences or other matters that might be considered relevant for the position concerned eg the individual is applying for a driving job but has a criminal history of driving offences. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of the conditional offer of employment.

8. ProHealth 24 may consider discussing any matter revealed in a Disclosure Certificate. We are only able to discuss what is contained on a Disclosure Certificate, and not what may have been sent under separate cover by the Police, with the subject of that Disclosure before considering withdrawing a conditional offer of employment.

9. We ensure that all those in ProHealth 24 who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of Disclosure information. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to employment of ex-offenders (e.g. the Rehabilitation of Offenders (Northern Ireland) Order 1978).

10. We undertake to make every subject of an AccessNI Disclosure aware of the existence of the Code of Practice, and to make a copy available on request.

HAVING A CRIMINAL RECORD WILL NOT NECESSARILY DEBAR YOU FROM WORKING WITH PROHEALTH 24. THIS WILL DEPEND ON THE NATURE OF THE POSITION, TOGETHER WITH THE CIRCUMSTANCES AND BACKGROUND OF YOUR OFFENCES OR OTHER INFORMATION CONTAINED ON A DISCLOSURE CERTIFICATE OR PROVIDED DIRECTLY TO US BY THE POLICE.

\*We are only able to discuss what is contained on a Disclosure Certificate and not what may have been sent under separate cover by the Police.

## Appendix 2 - Criminal Record & Barring Check Decision Process

