

Nene Clinical Commissioning Group
DISCLOSURE AND BARRING POLICY

NENE CCG: HR05

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Name of responsible committee/individual:	CCG Corporate Services
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ASSISTANCE WITH THE APPLICATION OF THIS POLICY AND UPDATES

This policy has been prepared so as to reflect the law as at 1 June 2013. The policy will require periodic review to reflect subsequent changes to the law. Changes to employment law have generally been made on 1 February, 1 April and 1 October in any given year.

For advice and assistance in relation to the application of this policy and to obtain updates please contact:

Your line manager in the first instance or Corporate Services,
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VERSION CONTROL SHEET

Version No.	Date	Who	Status	Comment
1	16.07.13	Stephen Wright	Draft	
2	21.08.13	Julie Fitzpatrick	Draft	
3	30.12.13	Julie Fitzpatrick	Final	Post Union Consultation
4	03.02.14	Julie Fitzpatrick	Final	Post Equality review

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1. INTRODUCTION

- 1.1 **Nene Clinical Commissioning Group** (“CCG”) may request a criminal record check processed through the Disclosure and Barring Service as part of its recruitment process.
- 1.2 For certain roles the check will also include information held on the DBS’s children and adults barred lists, together with any information held locally by police forces that is reasonably considered to be relevant to the post applied for.
- 1.3 These checks are to assist the CCG in making safer recruitment and licensing decisions in line with guidance by NHS Employers and the Department of Health.
- 1.4 The CCG is dedicated to promoting 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. Having a criminal record will not necessarily prevent an Individual from working with the CCG. This will depend on the nature of the individual’s position with the CCG and the circumstances and background of any offences.
- 1.5 This policy and procedure describes:
 - 1.5.1 the different types of Disclosure
 - 1.5.2 what level of Disclosure is required for different posts
 - 1.5.3 where to find out more information
 - 1.5.4 the help and support that NHS Employers can provide.

2. DEFINITIONS

- DBS - Disclosure and Barring Service
- Disclosure means the contents of a DBS Certificate.
- Exceptions Order means the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.
- Police Act Regulations means the Police Act 1997 (Criminal Records) Regulations 2002 (SI 2002/233)

3. SCOPE

- 3.1 This policy covers all staff who are directly employed by the CCG, permanently or temporarily, and also employed by other organisations who are offered secondments with the CCG. This policy also covers those who are hired on a short-term temporary basis via employment agencies.
- 3.2 Disclosures contain personally identifiable information and as such HR staff must be aware of the confidentiality and disclosure policy.

4. ROLES AND RESPONSIBILITIES

- 4.1 The CCG Board has accountability for ensuring systems are in place to implement this policy.
- 4.2 The CCG Board is responsible for ensuring the implementation of this policy within the CCG.
- 4.3 The Recruiting Manager will assess an applicant's role against the need for a criminal records check.
- 4.4 The Human Resources Team will be responsible for ensuring the criminal records check is undertaken and for ensuring that the Disclosure is acted upon appropriately.

5. LEVELS OF DISCLOSURE AND ELIGIBILITY

- 5.1 DBS checks can only be obtained for individuals who are at least 16 years of age and any counter-signatory to an application must be at least 18 years of age.
- 5.2 There are three levels of disclosure to be provided by certificate:
 - 5.2.1 Basic disclosure
 - 5.2.2 Standard disclosure
 - 5.2.3 Enhanced disclosure in the form of either an ordinary Enhanced disclosure or an Enhanced with Barred List Checks disclosure

6. STANDARD DISCLOSURE

- 6.1 Standard DBS certificates can be applied for only in respect roles included in the Exceptions Order.
- 6.2 They fall into five broad groups:

- 6.2.1 Professions (such as medics, lawyers, accountants, vets, chemists and opticians).
- 6.2.2 Those employed to uphold the law (such as judges and officers of the court)
- 6.2.3 Certain regulated occupations (such as financial services, those in charge of certain types of nursing homes, taxi drivers and firearms dealers).
- 6.2.4 Those who work with children, provide care services to vulnerable adults or who provide health services.
- 6.2.5 Those whose work means they could pose a risk to national security (such as air traffic controllers and certain Crown employees).
- 6.3 A standard DBS certificate will contain details of the individual's:
 - 6.3.1 Convictions, both spent and unspent.
 - 6.3.2 Cautions, both spent and unspent.
 - 6.3.3 Police reprimands and warnings

7. ENHANCED DISCLOSURE

- 7.1 Enhanced DBS certificates can be applied for only in respect of the excepted posts that are included in both the Exceptions Order and the Police Act Regulations.
- 7.2 For example, enhanced disclosures are appropriate in respect of certain positions that involve work with children and vulnerable adults. An enhanced certificate is available for anyone working in a “regulated activity” as defined in the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012. Consideration must be given to whether any role undertaken by an individual(s) will be or is an excepted role for which an enhanced DBS check can be applied for.
- 7.3 An enhanced DBS certificate will contain details of an individual's:
 - 7.3.1 Convictions: spent and unspent.
 - 7.3.2 Cautions: spent and unspent.
 - 7.3.3 Police reprimands and warnings.
 - 7.3.4 Relevant police information

- 7.3.5 Where appropriate to the post being applied for, any information stored about the person on statutory lists.

8. OFFERS OF EMPLOYMENT

- 8.1 All verbal and written offers of employment will be made subject to satisfactory clearances, which include a satisfactory DBS Disclosure, where this has been sought.
- 8.2 Most successful applicants will not be permitted to commence working for the CCG until satisfactory clearances including, where sought, a DBS disclosure, have been received. Any exceptions to this requirement will be subject to a risk assessment by the individual's manager and will be communicated to the individual at the time employment has been offered. In such circumstances, the continuation of employment will still be subject to receiving a satisfactory DBS disclosure.
- 8.3 An offer of employment may be withdrawn and/or employment may be terminated if the DBS disclosure results are not satisfactory. An unsuccessful applicant will be informed of this by GEM CSU Recruitment team and confirmation will follow in writing. Unsuccessful applicants will be entitled to appeal this decision.

9. RECRUITMENT PROCEDURE

- 9.1 Not all posts advertised by the CCG will include a requirement that they are subject to a satisfactory DBS disclosure. The majority of vacancies are applied for online. Applicants are made aware that if they are applying for a post involving access to persons in receipt of health services, the offer of employment is subject to a satisfactory disclosure from the DBS.
- 9.2 Where disclosure is to form part of the recruitment process, the GEM CSU Recruitment team will encourage all applicants called for interview to provide details of their criminal record at an early stage.
- 9.3 A failure to reveal information relating to any conviction could lead to withdrawal of an offer of employment and/or termination of employment.
- 9.4 Should applicants need to disclose information to the CCG, they are requested to do this in a sealed envelope at the time of application. At no point will this information be shared with any other person except the GEM CSU Recruitment team and the CCG recruiting manager.

10. RECEIVING AN UNSATISFACTORY DBS DISCLOSURE

- 10.1 On receipt of a positive DBS disclosure, the recruiting manager will consider the information against the job role for which the applicant has applied and will consider what appropriate action should be taken.
- 10.2 Unsatisfactory disclosure will lead to the withdrawal of a job offer or to termination of employment.

11. CONVICTIONS DURING EMPLOYMENT

- 11.1 The employment contract requires all employees to notify their manager of any charges, convictions or pending prosecutions brought against them for any criminal charges or offences, whether connected to their employment or not.
- 11.2 Employees are also required to inform their manager of any circumstances or convictions, subsequent to the acceptance of the employment contract, which may affect their employment with the CCG. This is an ongoing duty of disclosure and continues throughout the employee's employment with the CCG.
- 11.3 On receipt of such information the CCG may elect to carry out a DBS check and will take such further action as is required – including termination of employment where appropriate.

12. STORAGE OF DISCLOSURES

- 12.1 Disclosure 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.
- 12.2 Disclosure will only be passed to those who are authorised to receive it in the course of their duties. The Human Resources Department maintain a list of all those to whom DBS disclosure information is revealed as it is a criminal offence to pass disclosure information to those who are not entitled to see it.
- 12.3 Once the retention period has elapsed, DBS disclosure information will be immediately destroyed by shredding. While awaiting destruction a DBS disclosure will be not kept in any insecure receptacle such as waste bin or confidential waste sack.
- 12.4 Disclosures will not be copied in any way. The CCG will keep a record of the date of issue of the DBS disclosure and the name of the subject and the

type of DBS disclosure requested, the position for which the Disclosure was requested the unique reference number of the DBS disclosure and the details of the recruitment decision taken.

13. SCRUTINY AND REPORTING

13.1 The subsequent outcomes of DBS disclosure results will be part of an annual report prepared by the GEM CSU Human Resources Department to Corporate Services.

14. DUE REGARD

This policy has been reviewed in relation to having due regard to the Public Sector Equality Duty (PSED) of the Equality Act 2010 to eliminate discrimination, harassment, victimisation; to advance equality of opportunity; and foster good relations.

15. EQUALITY STATEMENT

Nene Clinical Commissioning Group (CCG) aims to design and implement policy documents that meet the diverse needs of our services, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account current UK legislative requirements, including the Equality Act 2010 and the Human Rights Act 1998, and promotes equal opportunities for all. This document has been designed to ensure that no-one receives less favourable treatment due to their reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity. Appropriate consideration has also been given to gender identity, socio-economic status, immigration status and the principles of the Human Rights Act.

In carrying out its functions, Nene CCG must have due regard to the Public Sector Equality Duty (PSED). This applies to all the activities for which Nene CCG is responsible, including policy development, review and implementation.

APPENDIX 1

Criteria for assessing the relevance of the contents of criminal records by the CCG

This criteria is intended as a guide only and is not an exhaustive list.

Categories generally considered incompatible with employment within the CCG will include:

- Murder
- Child abuse
- Sex offences
- Grievous bodily harm & actual bodily harm
- Prosecution for cruelty to animals
- Serious fraud/deception convictions or police investigations for fraud
- Proceedings based on discriminatory behaviour or actions Use or possession of Class A drugs regardless of history Use or possession of Class B drugs within the last 5 years Theft charges less than 10 years
- Serious traffic offences including reckless driving or driving without due care and attention resulting in a serious accident/injury
- Domestic violence where convicted

Categories where conditional offers of fixed term contracts may be offered pending performance review at 6 months based on agreed personal objectives.

- Use or possession of Class B drugs 10 years ago
- History of minor theft of less than 10 years ago
- History of shop lifting offences of less than 10 years ago

Categories not generally considered to prevent employment within the CCG will include:

- Use or possession of Class B drugs of 10+ years ago
- History of shop lifting offences of more than 10 years ago
- History of minor theft of 10+ years ago
- Minor traffic convictions e.g. speeding
- Any other offence where it is deemed the public and/or staff may be at risk

APPENDIX 2

Home address

Date

STRICTLY PRIVATE AND CONFIDENTIAL ADDRESSEE ONLY

Dear

>.....

Re: (**enter Title of role for which verbal/written offer has been made**)

Further to my letter of (enter date of offer letter), and my telephone call of (**enter date of telephone call to verbally inform that offer has been withdrawn**) I regret to inform you that the CCG's offer for the above role has been withdrawn.

As you are aware this post was subject to satisfactory clearance from the Disclosure and Barring Service. Given that most DBS disclosure results are not received until offers of employment are made to preferred applicants, all verbal and written offers of employment are always made subject to satisfactory clearances, which includes a satisfactory DBS disclosure where this has been sought. You will be aware from your own copy of the DBS disclosure Certificate that the result contains information in relation to a (**enter conviction/warning/offence/reprimand**)

In these instances, [**The CCG engages a DBS disclosure panel which consists of ROLES**]. It is the role of the Panel to establish the suitability of applications and to determine whether or not the applicant, based on the information received via the DBS disclosure process, presents a risk or potential harm to vulnerable patients and/or children. This Panel has decided that the offer of employment application cannot proceed on the basis of the information provided to them.

Yours sincerely

HR Manager/Advisor

APPENDIX 3

Policy Impact Assessment – Screening Tool

Name of Directorate:

Date of Assessment:

Policy being assessed: Criminal Records Checks

Assessment Carried out by:

Policy Title	Who is affected	Statutory requirements	Full Assessment Need	Priority High / Medium / Low
Criminal Records Checks	Applicant/role	Protection of Children Act Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 Police Act 1997 Police Act 1997 (Criminal Records) Regulations 2002 (SI 2002/233) Health and Social Care Act 2001 Protection of Freedoms Act 2012	Yes	High

APPENDIX 4

Policy Impact Assessment – Full Assessment Tool

Name of Directorate

Date of Assessment

Policy being assessed Criminal Records Checks

Assessment Carried out by

<ol style="list-style-type: none">1. What consultation process will be undertaken?2. Where will records of this consultation be kept?	
<ol style="list-style-type: none">1. What existing monitoring arrangements are in place?2. Are these sufficient?3. Are any additional arrangements required	
<ol style="list-style-type: none">1. How will the results of the assessment be published?	