Disclosures & Barring Policy

Last reviewed 20/1/24

Context

This policy sets out CAAS approach to using Disclosures & Barring Service (DBS) Checks and implications arising from their use for employees and workers. It relates to checks carried out upon recruitment and during the lifetime of their employment or volunteering/work placement.

Introduction

The DBS check searches personal details provided by applicants and employees or workers against criminal records and other sources. The DBS check will either confirm that the person named either doesn't have a criminal record, or it will list any relevant convictions, cautions, reprimands, warnings and, if applicable, whether they have been barred from working with vulnerable groups. The police can also include non-conviction information, for example, fixed penalties, that may be relevant.

A DBS check uses a range of different information sources, including the records of the Police National Computer (PNC), and other data sources appropriate to the level of check requested.

Under the Rehabilitation of Offenders Act 1974 a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the act. Therefore we have a legal responsibility to ensure we have a relevant exemption before requesting this from an applicant/employee/worker/volunteer or risk withdrawal of our right to request DBS's in future, and potential prosecution. Also under the Protection of Freedoms Act 2012 we have a legal responsibility to ensure we carry out checks on any one engaged in Regulated Activity but only carry out checks for those individuals of the appropriate barring list for the groups they are working with.

Background

DBS Checks have been used by CAAS as an aid to recruitment for certain posts where trust and confidence are vitally important to the role. More recently the range of posts eligible for DBS has been extended in response to the Safeguarding Vulnerable Groups Act 2006.

CAAS adopts this act through our Safeguarding Policy, a key aspect of which is to carry out regular DBS checks of employees and workers undertaking roles defined as regulated activity relating to children or vulnerable adults. Under our safeguarding policy this check should be carried out at least every 3 years. Now that the DBS update service has been launched with an annual fee of £13. CAAS will refund any employee (subject to an annual limit), their fee to continually track their DBS clearance on the Update Service.

Eligible Posts

The Disclosures & Baring Service provides guidance on all the eligible roles and types of roles that are exceptions to the Rehabilitation of Offenders Act 1974.

This guidance is reviewed and updated on a regular basis, with the most up to date guidance available on the Direct Gov website.

At the time of writing almost 70 Eligibility Codes exist ranging from work relating to the care of vulnerable adults and children, medical practitioners, judicial and legal practitioners and enforcement officers, those involved in the Childrens Act 2004, childminders, foster carers, football stewards, locksmiths, immigration officers, taxi drivers, and those licenced under the Private Security Industry Act.

The large majority of roles eligible for DBS checks are those who work in regulated activity with Children and Vulnerable Adults.

DBS clearance is a requirement of any post meeting any one of the following criteria:

- Has unsupervised access to children or vulnerable adults (regardless of regularity or duration).
- Has supervised access to children or vulnerable adults on a regular basis.
- Is based within a setting regularly occupied by children or vulnerable adults (regardless of direct access or nature of role), e.g. school, residential establishment, community centre, leisure centre, park, unless the presence is exclusively before or after children/vulnerable adults are on the premises.
- Entails visits to domestic residences, or has indirect contact with children or vulnerable adults via the telephone or internet.
- Has substantial access to highly sensitive personal details relating to the care of children or vulnerable adults. The "care of" refers to health, social care, looked after children, etc., as opposed to general data such as contained within registers and databases.

The level of check to be undertaken and the right to check the relevant barred list will be decided in conjunction with the management team, but in general terms, our staff, freelancers and volunteers tend to meet the criteria above, and so a DBS check will normally be made and updated for all roles (volunteer or otherwise). In the case of occasional freelancers, we will ask to see evidence of an existing, current DBS certificate.

The criteria applies equally to all types of employment, whether or not an established post, such as permanent, temporary, casual, supply, volunteer or unpaid. If agencies are used, agency staff must be subject to the same checks as permanent staff, and it will be up to the Manager to obtain and record confirmation from the agency that clearance has occurred.

Returned Traces

All current employees are covered by a specific clause in their employment contract to notify CAAS of any charges or convictions brought against them. Clearly where a role is subject to a satisfactory DBS check this clause becomes critical in determining what action should take place.

Depending on the nature of the offence we will determine whether:

- the charge or conviction is such as to affect, or be likely to affect, the suitability of the employee for the position in which he/she is employed
- or the business or reputation of the Employer,
- or where the existence of the charge or conviction could, in the opinion of the Employer, otherwise seriously undermine the trust and confidence that the Employer has in the employee.

Where a trace is returned during recruitment the recruiting manager and CEO (or delegated representative) will make a decision on these factors for recruitment and may decide not to appoint. Having a conviction will not necessarily bar individuals from working for CAAS. and each disclosure is assessed individually. Each individual case will be considered with reference to the sentence, severity and nature of the offence and the potential risk to children or vulnerable adults.

Where a current employee undergoes repeat DBS a senior manager from the organisation must also be involved in the repeat DBS check with the consent of the applicant where it is a DBS update check obtained.

Criminal charges or convictions for offences of dishonesty or violence committed outside working hours may result in disciplinary proceedings being taken against the employee up to and including summary dismissal.

Retention of Documents

As an organisation using the Disclosures & Barring service to help assess the suitability of applicants for positions of trust, we comply fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. We also comply fully with our 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 have a written policy on these matters, which is available to those who wish to see it on request.

Storage and access

Certificates 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. Certificates should not be kept longer than required.

A DBS tracking sheet should be used for recording information and the original certificate should be returned to the applicant as soon as practicable and no later than 6 months after recruitment.

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.

Recruitment Procedure

Where a DBS check is required, the appropriate text notifying candidates of this is inserted into the application form for the job. General information is available to applicants about what this involves, if requested.

The offer of any role (voluntary or otherwise) is conditional on receipt of a satisfactory DBS check. DBS checks will only be carried out on a candidate who has been recruited for the role.

Ongoing Employment/Volunteer Checks

Where a 3 year check is required during the course of employment for any individual employee, the employee/volunteer will be required to register with the update service within 28 days of their first certificate being issued. With the written approval of the staff member/volunteer an update recheck will be carried out and recorded.

Referral Procedures

In the event that any employee/Volunteer undertakes an act that is classed as;

- Engaged in 'relevant conduct';
- Satisfied the harm test; or
- Received a caution or conviction for a relevant offence;

a referral will be made to the Disclosures and Barring Service. This will be done in line with the Organisations duty to refer to the barring service, Safeguarding Policy and the provisions of the Protection of Freedoms Act.

Monitoring and Review

The CEO is responsible for managing this policy and overseeing its implementation. Every member of staff should take personal responsibility for conforming to it. If the matter is taken to the Trustees, then the Chair of Trustees is responsible for ensuring this policy is implemented in full.

This policy will be reviewed as needed, and at least every three years.

Appendix One : DBS Procedures and References

Context.
These procedures and references do not form part of the agreed policy, but are provided to ensure all staff know the specific processes that will occur as we deliver on our commitments to the policy.

DBS Update Service
https://www.gov.uk/dbs-update-service

Appropriate Identity Checks
https://www.gov.uk/government/publications/dbs-identity-checking-guidelines/id-checking-guidelines-for-standardenhanced-dbs-check-applications-from-1-july-2021

DBS Type Checker
https://www.gov.uk/find-out-dbs-check/y

NCVO Guidance
Deciding which DBS checks to carry out | NCVO

Trustees of Children's Charities
Any trustee of a children's charity can be asked to apply for an Enhanced DBS check in the child workforce. For DBS purposes, a charity is a children's charity if the charity workers or volunteers include those who carry out work that falls into the legal definition of regulated activity with children. CAAS falls into this definition, and all trustees will therefore be asked to apply for an Enhanced DBS check.

Wording to use on job application forms
I understand that if I am successful in this application CAAS will arrange for an Enhanced DBS check to be performed on me, and I agree to that taking place. (signed and dated)

Wording to use when requesting staff sign up to the DBS update service
We are asking you to sign up to the DBS update service, as being a more cost-effective way for us to comply with our DBS responsibilities. You'll need to pay for the service with a credit card, but do please give us the receipt and we will reimburse you. The fee will be taken each year, and we will reimburse you each time you are charged.

By signing up to the DBS update service, you are confirming that you are happy for CAAS to carry out a check on the DBS update service for the purpose of checking that you certificate is up to date for the role you are performing for us. You also confirm that we can check your DBS and share results with any other partners involved in our work (for example, if you work in schools, we will share your DBS check with those schools).

Please do read the attached DBS policy, which provides a full explanation of our approach to DBS here at CAAS.

I'd be grateful if you could please reply to this email to confirm you have understood your requirements under our DBS policy and procedures.

Wording to use when a DBS certificate expires and staff are not on the DBS update service
Our records indicate that the DBS update service is not currently open for you, and as we are now approaching three years since your last DBS check was completed, we need to undertake a new Enhanced DBS check for you. Please can you reply to this email, to confirm that you give permission to do this, and please note that refusal to give permission may impact on your employment with us.

Please can you also let us know if there has been a change in your current DBS status that we should be aware of or are awaiting the outcome to e.g. pending conviction awaiting court judgements since your last DBS check with us? We need to remind you that if you are convicted of an offence which could affect your work, you need to inform us immediately and a risk assessment will need to determine the level of risk arising.

Please do read the attached DBS policy, which provides a full explanation of our approach to DBS here at CAAS.

Wording to use when we wish to carry out a check on the DBS update service for people who have not previously given us permission to do so

Thank you for allowing CAAS to carry out a check on the DBS update service for the purpose of checking that your certificate is up to date for the role you will be performing for CAAS. By giving us your certificate number, you are agreeing that we can use the update service to check your current DBS status and sharing the results with other partners involved in the process. Please can you reply to this email to confirm that you consent to this.

Information to be recorded on our DBS information tracker

- Name
- Date of Birth
- Role
- DBS Application Position Job Title
- Type of DBS requested
- DBS Number
- DBS Date of Issue
- DBS Renewal Date (set at 2mths prior to the initial certificate expiry date, to ensure sufficient time for renewal)
- DBS Expiry Date
- Documents seen
- Copy of certificate retained in confidential file Y/N