

KINGSTON UNIVERSITY

CRIMINAL RECORDS BUREAU PROCEDURE FOR STAFF

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CRIMINAL RECORDS BUREAU PROCEDURE

Aim: To outline how and when to apply for criminal records checks for all staff within the University.

Applies to: All staff employed by the University (including agency staff, staff bureau and Hourly Paid Lecturers and Consultants)

1. Introduction:

- 1.1 This procedure is designed to inform Managers of the University's legal responsibility to safeguard children and vulnerable adults and to ensure safe working practices apply. The University is required to revise and tighten our policies and procedures in relation to our recruitment and continued employment checks.
- 1.2 The Criminal Records Bureau (CRB) is an executive agency of the Home Office, which provides the University with access to criminal record information. The CRB is designed to identify candidates who may be unsuitable for certain work. It is generally accepted that checks should be made on all individuals whose duties involve regular one to one contact with children and young people under the age of 18, the elderly, sick, and vulnerable people.
- 1.3 Access to criminal record information is via The Rehabilitation of Offenders Act 1974 (ROA), (Exceptions) Order 1975. The Act lists those occupations, professions and positions considered to be exempt from the ROA provisions, whereby criminal record information can be requested. These provisions are designed to protect individuals from unnecessary disclosure of their spent conviction history.
- 1.4 The Independent Safeguarding Authority (ISA), a single agency, maintains the registers that indicate whether individuals are barred from working with children or vulnerable adults. The ISA's primary role is to help prevent unsuitable people from working with children and vulnerable adults. The University is able to access the list via the CRB check process.
- 1.5 The ISA's new Vetting and Barring Scheme is currently being reviewed. Until the new scheme is launched, the University will use this interim procedure to obtain CRB enhanced disclosures for employees, exempt from the ROA.

2 Principles:

- 2.1 The University is committed to safeguarding and protecting children and vulnerable adults and will comply to the CRB Code of Practice (refer to the code of practice).
- 2.2 The purpose of this procedure is to provide guidance to managers and ensure a consistent and compliant process is applied to the recruitment and selection of

staff. The majority of checks will be carried out at the appointment stage, as part of the recruitment process.

- 2.3 CRB checks have to be requested by or through a body registered with the Criminal Records Bureau. The University currently holds registration and is able to request checks direct from the CRB, through the lead signatory or counter signatories.
- 2.4 Registered Bodies must treat applicants who have a criminal record fairly and must not discriminate because of a conviction or other information revealed.
- 2.5 The procedure will ensure a fair process is applied in line with the Rehabilitation of Ex-Offenders Act and the University's Recruitment of Ex-offenders procedure. A copy of the procedure will be made available to all disclosure applicants at the outset of the recruitment process. (refer to Recruitment of Ex-Offenders policy)
- 2.6 The University is committed to promoting 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.
- 2.7 CRB Disclosure information should only be discussed on a need to know basis and confidentiality should be respected by parties at all times.
- 2.8 Recruiting Managers should not agree on a start date until clearance has been received. Only in exceptional circumstances and with agreement from HR, can members of staff commence work prior to receiving clearance and the recruiting manager will be required to undertake a risk assessment.
- 2.9 The majority of posts within the University will not require a CRB disclosure and applicants will only be required to declare unspent criminal convictions. It is the individual applicant's responsibility to determine the status of any conviction, in line with the Rehabilitation of Offenders Act 1974.
- 2.10 All individuals who hold a post that requires CRB clearance, will be checked every three years. In exceptional circumstances, some posts may be required to have a one/two year renewal check.
- 2.11 All CRB checks on staff will be paid for by each Faculty/Department. The current cost for an Enhanced Check is £44 and for volunteers, there is no charge.
- 2.12 The CRB have the right to conduct audits to check compliance with its procedures and codes and to provide advice on good practice. An audit could be conducted at any time and counter signatories must be prepared for their work to be examined and to be questioned about their procedures.
- 2.13 This guidance should be considered in line with the CRB Policy document and the relevant Faculty/Departmental CRB Job Catalogue. The CRB Job Catalogue is a list of all faculty/departmental posts that require CRB clearance and provides the rationale for the disclosure.
- 2.14 Further advice can be sought from the Human Resources Department.

Areas of Responsibility:

- 2.15 The University Secretary Department has overall responsibility for ensuring that the University maintains suitable arrangements for obtaining checks and for internally approving signatory nominations for staff to be registered with the CRB
- 2.16 Deans and Heads of Department are responsible for overseeing the operation of the CRB check process within their management area. This will include ensuring that the faculty or department adheres to any requirements of the Criminal Records Bureau in relation to the obtaining, use or disposal of checks within their area.
- 2.17 All Faculties and Departments will be responsible for maintaining their own CRB catalogue, identifying all posts that require an up-to-date CRB check and the rationale for the check (ie the level of contact with children or vulnerable adults).
- 2.18 The HR Department will be responsible for the procedure on the recruitment of ex-offenders and for ensuring that a copy is provided to all applicants where a CRB check is required.
- 2.19 CRB checks on staff will all be processed by the Human Resources Department under the management control of the Deputy Human Resources Director

3 MainSteps:

3.0 Posts eligible for CRB Disclosure Check

- 3.1 The University can only apply for a CRB check if the position is:
 - exempt from the Rehabilitation of Offenders act or
 - falls under the Disclosure Access Category codes. (refer to category codes)
- 3.2 It is generally accepted that checks should be made on all individuals whose duties involve regular one to one contact with children and young people under the age of 18, the elderly, sick, and vulnerable people. The University have staff which fall into these categories and examples are provided below in 3.8.
- 3.3 An enhanced CRB check will be required for all regulated and controlled activity posts within the University.
 - i. A regulated position is defined as any activity of a specified nature that involves contact with children or vulnerable adults:
 - frequently, intensively and/or overnight and¹
 - in certain defined positions of responsibility (Examples include teaching, training, instruction, care, supervision, advice, guidance, treatment, therapy or transport)
 - ii. A controlled activity is defined whereby there is frequent or intensive support work in general health settings, the NHS and further education. An example of support work would include administration roles that have frequent access to sensitive records about children and vulnerable adults.

¹ *Whereby “Frequent” is defined as once per week or more and “Intensive” means on four days or more in a single month.

- 3.4 The Frequency and Intensiveness criteria should apply when determining whether a CRB disclosure is required for a particular post.
- 3.5 The University will be able to employ someone barred from regulated activity to carry out controlled activity provided the hiring manager puts in place appropriate safeguards. Hiring Managers will be required to undertake a risk assessment to ensure safeguarding practices apply. A copy of the risk assessment should be sent to the Human Resources department. (refer to risk assessment template).
- 3.6 It is not normally necessary for existing staff to have such checks carried out unless the nature of their job changes to a significant extent bringing them into one of the “regulated position” categories or to a position where they have regular one to one unsupervised contact. Where it becomes clear that the role of a member of staff has changed to encompass more contact with children or vulnerable adults, a CRB check would need to be requested. (using 3.7)
- 3.7 If the post is new then the following questions should be used as a guide to determine whether a CRB check should be requested. If the answer is yes, it should also fall under the category of either a regulated or controlled position and meet the frequency and intensiveness test
- Does the post involve regular contact with children or vulnerable adults?
 - Does the post involve frequent support work in a general health setting with access to children or vulnerable adults?
 - Does the post involve access to sensitive records about children and vulnerable adults?
 - Does the post involve placement work with children or vulnerable adults?
 - Does the post involve providing advice to children or vulnerable adults?
 - Does the post involve regular access to a working environment whereby children and vulnerable adults are present?
- 3.8 Examples of posts in the University that require a CRB check include:
- Lecturers visiting students on placement on a regular basis whereby regular contact/access with vulnerable groups apply.
 - Staff with designated responsibility for providing advice to students under 18 and are required to visit Schools on a regular basis.
 - Members of staff working within the University Nursery
 - Sports centre staff instructing or supervising under 18’s from schools, FE or external groups that come under the definition of a vulnerable adult.
 - Staff within HEI where normal duties of work involve regular contact with persons under 18 (including training, supervising and providing advice).
 - Staff undertaking one to one visits to schools as part of their normal recruitment work (e.g. Student Recruitment Officers);
 - Staff involved in Summer Schools/Schemes (e.g. Student Support Services).
- 3.9 It should be noted that the CRB may only hold very limited, if any, information for persons who have a substantial record of overseas residence or who have little or no previous UK residence. This will include British nationals with recent periods of overseas residence. A disclosure in such circumstances may be of limited value. Where an applicant is coming from overseas or has lived in the United Kingdom for less than five years it may be necessary to make additional enquiries about the

person's background. Current guidance on doing this can be found on the CRB website (www.crb.gov.uk)

4.0 Process for requesting CRB Disclosures

Prior to Recruitment Stage:

- 4.1 In the first instance, Managers should check their faculty/departmental CRB catalogue and liaise with their CRB lead contact to check whether the post has been authorised as requiring clearance. A nomination is required for each faculty/department who will manage and own the catalogue. In most cases, the CRB counter-signatory will be responsible for owning and managing the catalogue.
- 4.2 If the post is a newly created post, then the Recruiting Manager will need to establish whether a CRB check is required and ensure it is added to the Faculty/Departmental CRB catalogue.

Placing an Advert/Advertising Stage:

- 4.3 At the point of advertising, the Recruiting Manager should indicate the CRB check requirement when completing the on-line vacancy details form and ensure the Job Description is updated to include the requirement in the Person Specification under the essential criteria.
- 4.4 For all posts where a CRB check is required the online advertisement and the job description will state the requirement to complete a disclosure. Applicants should be notified of the requirement of the disclosure as soon as possible.
- 4.5 The HR department will check the online vacancy details form and cross reference with the job description before placing the advert.
- 4.6 The recruitment team will ensure applicants who will require a CRB check will be provided with a copy of the University's procedure on the recruitment of ex-offenders and have access to the CRB Code of Practice.
- 4.7 When applying online, all applicants (regardless of whether they need a CRB check) will need to declare if they have any unspent (current) criminal convictions. For posts that require a CRB check, applicants will also be required to declare any spent criminal convictions. Where appropriate, applicants will need to disclose the details of those convictions to the HR Department, marked in a confidential envelope to the Deputy HR Director. HR will be responsible for assessing the information prior to the interview stage.

Successful applicant stage:

- 4.8 Appointed applicants will receive the CRB application form following the online offer letter and will be required to complete the form using the guidance provided. The applicant should book an appointment with the Recruitment Team as soon as possible as the offer of employment will be subject to a satisfactory CRB clearance. No start dates should be agreed with the successful applicant prior to clearance. (see point 4.13)
- 4.9 The recruitment team will check the identity of the person for whom a request is being submitted. In each case original documents must be presented by the

applicant as photocopies are not acceptable. Documents to confirm identity will include those containing a photograph (the latest guidance can be found on the CRB website (www.crb.gov.uk)) (Link to guidance on completing the application form on staff space and will also be included in the pack to appointed candidates).

- 4.10 The recruitment team will check that the information supplied by the applicant is consistent with the information supplied on the application form. If the applicant claims to have changed his/her name by deed poll or any other mechanism, then evidence of that change must be requested. A previous CRB disclosure document will not be considered as evidence of identity.
- 4.11 The identity checks carried out by the recruitment team must be indicated on the CRB application form. It is essential that the CRB application form is completed correctly. If not, it will be returned to the University and the CRB will keep a record of such returns. Applications must be written in BLACK ink. (Insert link to guidance on completing the application form is available on Staff-space/HR pages).
- 4.12 CRB checks on staff will all be processed by the recruitment team who will maintain a central register of all staff checked. The disclosure information will only be made available to the Faculty Dean or Head of Department or to a relevant person nominated by the Dean/Head of Department.
- 4.13 Recruiting Managers should not normally agree on a start date until clearance has been received. Only in exceptional circumstances and with agreement from HR, can members of staff commence work prior to receiving clearance. As a general guide, 90% of enhanced checks are completed within 28 days. The Recruiting Manager will be required to complete a risk assessment to demonstrate safeguarding practices will apply in those exceptional circumstances where individuals start work prior to clearance. A copy of the risk assessment should be provided to HR for the recruitment file. (create a risk assessment template)
- 4.14 Once clearance has been received, the Recruitment Team will notify the Recruiting Manager that all pre-employment checks have been completed and a start date can be agreed. In most cases, the Manager will be provided with the CRB disclosure date and number for their records.
- 4.15 When the appointment has been confirmed, the Recruitment Team will destroy all disclosure information with immediate effect in line with the handling and storage guidelines. The Recruitment Team will update the CRB spreadsheet to ensure accurate records are maintained.
- 4.16 It is the responsibility of any recruitment agency to provide all necessary pre-employment checks including a CRB Disclosure for all agency staff recruited into posts that require a CRB check. The Recruiting Manager/Recruitment department should ensure the evidence is provided by the agency and recorded. All temporary and hourly paid lecturers should be checked in the same way as full-time contractual staff.
- 4.17 It is the responsibility of faculties and departments to advise the Human Resources Department of existing posts where a CRB check becomes necessary as a result of new or changing duties bringing contact with vulnerable people. The Faculty or Department will be responsible for updating the CRB catalogue. The Human Resources Department will arrange for the appropriate check(s) to be carried out.

Renewal Stage:

- 4.18 Disclosures do not have a period of validity because a conviction or other matter could be recorded at any time. The disclosure is only a snapshot of the position at the time when the information was checked and therefore renewal checks will be completed for all posts requiring CRB clearance.
- 4.19 The renewal period for most posts within the University will be every three years. In exceptional circumstances and for some specific posts that work with children or vulnerable adults daily, the renewal period will be every one to two years.
- 4.20 For renewals, the HR department will contact the individual and the line manager three months prior to the expiry date of the current check. The individual will be responsible for completing the CRB form with the recruitment team two months prior to the renewal to ensure clearance is received prior to the expiry date.
- 4.21 The HR department will notify the line manager if an individual has failed to complete the renewal form in time. The line manager will be responsible for meeting with the individual to follow the matter up. The line manager may seek HR advice if required.

5. Managing CRB Disclosures with convictions

- 5.1 A copy of the disclosure will be sent to the HR department and the Individual. The recruitment team will be responsible for checking the disclosure information when it is returned. If a conviction is highlighted, the recruitment team will pass to the relevant HR Advisor.
- 5.2 The HR Advisor should check the applicant's application form to check whether the conviction was disclosed at the outset of the recruitment process. Failure to reveal information that is directly relevant to the position could lead to the withdrawal of an offer of employment.
- 5.3 The HR Advisor will then discuss the situation with the Hiring Manager and escalate if required.
- 5.4 The Manager should undertake a full risk assessment to demonstrate the decision making process. The Manager should assess the relevance of the conviction to the role and weigh up the risks associated with the University employing the applicant in that capacity. (link to risk assessment template)
- 5.5 The Manager should provide a copy of the risk assessment to HR as part of the recruitment file.
- 5.6 If convictions are disclosed prior to the CRB application, the HR Deputy Director will consider the information and discuss with the Hiring Manager. Where appropriate, the Manager should make best use of discussing the nature of the convictions with the applicant as this information will form part of the evidence base of the risk assessment.
- 5.7 The Manager should ensure that an open and measured discussion takes place on the subject of any offences that might be relevant to the position.

- 5.8 The Manager should discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment. It is important to seek clarification on the details of the conviction.
- 5.9 The Manager should also seek advice from HR prior to meeting with the individual and prior to withdrawing any offer of employment.
- 5.10 Having a criminal record will not automatically bar applicants from a position that requires a CRB check. The Hiring Manager should keep an open mind and consider the nature of the crime, the circumstances involved, the requirements of the job, the safeguards against offending at work and the potential impact on the University. (link to rehabilitation of offenders act).
- 5.11 However, it may be a criminal act to make an application for employment in certain areas.
- 5.12 If the applicant disputes the information contained within the disclosure then the matter should normally be resolved before making the decision to confirm the provisional offer.
- 5.13 The applicant can also contact the CRB disputes department to resolve such matters. Disputes must be raised within three months of receipt of the disclosure.
- 5.14 Where, information is separately provided by the police the information must not be discussed with the applicant and must be kept confidential to the University. Any such cases should be referred to the Head of Secretariat for advice on how the matter should be handled.

6 Referrals to the ISA

- 6.1 Any Faculty or Department aware of a member of staff who is dismissed from the University due to harming a vulnerable adult or child must refer the matter to the University Secretary's Department, who will inform the ISA.

Further Information

7. This procedure should be read in conjunction with:
- The CRB Code of Practice and Explanatory Guide
 - The Kingston University Procedure on the Recruitment of Ex-Offenders
 - Staffspace/HR/CRB pages (need to develop as part of implementation)
 - Faculty/course policies for student courses
 - The CRB website www.crb.gov.uk

Outcome:

The procedure will ensure a fair and consistent process is applied and in line with the Rehabilitation of Ex-Offenders Act 1974 (ROA), Exceptions Order 1975

Records:

Review

This procedure will be reviewed periodically and in any event, formally reviewed after two years from the date of agreement.

References

- Rehabilitation of Ex-Offenders Act 1974 (ROA), Exceptions Order 1975
- The Kingston University Procedure on the Recruitment of Ex-Offenders

APPENDICES

APPENDIX I - Security, storage and disposal of disclosure records

- 1.1 As part of the CRB Code of Practice, the University is required to have a written procedure on the secure handling of disclosure information and all members of staff are required to comply to its principles.
- 1.2 Disclosure information is sensitive personal data and must only be available to those staff having a specific need to access it in the course of their duties. Disclosure to unauthorised persons can be an offence.
- 1.3 Disclosure information must be stored securely and each faculty and department holding disclosure data must identify a person responsible for its security. This should be the counter-signatory, who also has responsibility for the CRB catalogue.
- 1.4 Disclosure information should be kept in lockable, non-portable storage containers with access only available to named individuals.
- 1.5 The HR department will be responsible for storing staff disclosure information securely and once a recruitment decision has been made, disclosures will be shredded. No photocopies of disclosures will be allowed.
- 1.6 Neither disclosure data, nor any record of disclosure information may be retained longer than is necessary for the purpose for which it was obtained. This will normally be no longer than six months after recruitment has taken place or after the date on which any dispute about the disclosure information has been resolved. Any faculty or department wishing to keep any data longer than this period must seek the advice of the University Secretary's department. It may be necessary for the department to seek the consent of the Criminal Records Bureau to extended retention and this will normally only be given in exceptional circumstances.
- 1.7 A separate record should nevertheless be kept confirming that a check has been made on the individual. This record should include:
 - the date of disclosure
 - the name of the subject
 - the type of disclosure
 - the position / course in for which application had been made
 - the unique number issued by the CRB
 - the decision taken on the application
- 1.8 Disclosure information must be disposed of securely and should normally be shredded, burnt, or destroyed by a specialist confidential waste company which certifies destruction. Disclosure information must not be disposed of with normal rubbish unless it has been shredded. Data awaiting destruction must be kept securely under lock and key under the control of named individuals and not left in corridors, outside buildings or in any area where unauthorised people may have access to it.
- 1.9 A written record should be kept of those to whom disclosure information has been revealed.

APPENDIX II - Definition of Terms

Rehabilitation of Offenders Act 1974	Legislation aimed at helping ex-offenders into employment by allowing their criminal record to become 'spent' after a defined period of time. This means that the majority of applicants are not obliged to tell their potential employer of their criminal record, as long as it is not current.
CRB Code of Practice	A document that sets out the requirements that the University must comply to, as a registered body. The Code of Practice is intended to ensure and provide assurance that the information released will be used fairly.
Registered Bodies	A registered body is an organisation that is registered with the CRB to access the Disclosure service to check the staff that it recruits directly to eligible posts.
Independent Safeguarding Authority (ISA)	A non-departmental public body, which in 2009 will assume responsibility for decision-making regarding the barring of individuals from working with children and/or vulnerable adults and maintaining the respective registers indicating whether or not individuals are barred.
Criminal Records Bureau	An agency of the Home Office set up under the Police Act 1997 to carry out a criminal record check on prospective employees and volunteers
CRB Disclosure	Information received by a registered body from CRB ensuring the registered body makes safer recruitment decisions.
Counter-signatories	A person within a registered body whose role includes counter-signing applications, receiving the disclosure and control, use of and access to and the security of disclosures.
Enhanced Disclosure	Details of spent and unspent convictions, cautions, reprimands and final warnings together with non-conviction information from local police records.
CRB Job Catalogue	A job catalogue sets out all roles within each faculty and department, identifying which posts require an enhanced CRB check and the rationale for the check.
Disclosure Access Category Codes	A list of codes with associated categories to identify the professions, employments, work and occupations that are known as the exceptions to the Rehabilitation of Offenders Act 1974 and therefore eligible for an enhanced CRB check.