

NCG Criminal Records Disclosure Policy



<u>Policy Title</u>	NCG Criminal Records Disclosure Policy
<u>Policy Category</u>	Compliant
<u>Owner</u>	Director of People and Development
<u>Group Executive Lead</u>	Chief Executive Officer
<u>Date Written</u>	August 2021
<u>Considered By</u>	N/A
<u>Approved By</u>	Executive Board
<u>Date Approved</u>	September 2021
<u>Equality Impact Assessment</u>	The implementation of this policy is not considered to have a negative impact on protected characteristics and an assessment was carried out on 7 May 2019. This policy is available in alternative formats, if required.
<u>Freedom of Information</u>	This document will be publicly available through the Groups Publication Scheme.
<u>Review Date</u>	September 2023
<u>Policy Summary</u>	The purpose of this policy is to help assess the suitability of applicants for positions of trust and to confirm how positive disclosures and referrals to DBS will be dealt with. The policy is aimed at safeguarding and promoting the welfare of children and young people, the elderly and vulnerable groups of people who colleagues may have contact with in their work.

<u>Applicability of Policy</u>	<u>Consultation Undertaken</u>	<u>Applicable To</u>
Carlisle College	Yes	Yes
Group Services	Yes	Yes
Kidderminster College	Yes	Yes
Lewisham College	Yes	Yes
Newcastle College	Yes	Yes
Newcastle Sixth Form College	Yes	Yes
Southwark College	Yes	Yes
West Lancashire College	Yes	Yes

<u>Changes to Earlier Versions</u>	
<u>Previous Approval Date</u>	<u>Summarise Changes Made Here</u>
6 May 2015	Changes to procedure in regard to ownership, devolving decision making to people managers. Inclusive of all NCG colleges/training providers.
3 September 2019	Section 4 updated to include annual declaration that no change to a colleagues DBS status Section 7 – confirmation that not required to disclose protected convictions Section 8 updated to state that DBS check must be completed prior to employment starting. For agency staff it is the recruiting managers responsibility to ensure the person attending work is the person for who the check was carried out

<u>Linked Documents</u>	
<u>Document Title</u>	<u>Relevance</u>
NCG Recruitment Policy	Linked Policy

NCG Criminal Records Disclosure Policy



NCG Safeguarding Policy	Linked Policy
NCG Disciplinary Policy	Linked Policy
NCG Probation Policy	Linked Policy

1. Scope and Purpose of Policy

This policy does not form part of colleague's contract of employment and does not confer any contractual rights. It applies to all NCG colleagues, who are pending an offer of employment or employed on a permanent or temporary basis. It also outlines NCG's approach for conducting agency worker and volunteer criminal records checks.

2. Introduction

The purpose of this policy is to help assess the suitability of applicants for positions of trust and to confirm how positive disclosures and referrals to the disclosure and barring service (DBS) will be dealt with, in line with the DBS code of practice. The policy is aimed at safeguarding and promoting the welfare of children and young people, adults at risk, the elderly and vulnerable groups of people who colleagues may have contact with in their work.

3. Referral to an alternative policy / procedure

Where NCG are not informed of a positive disclosure, this may be managed in line with the Disciplinary Policy or Probation Policy if the colleague is within their probationary period.

Where a relevant allegation is made against a colleague, NCG will follow its Safeguarding Policy.

4. Criminal record checks

All individuals who accept an offer of employment with NCG will be required to undergo a criminal records check. Having a criminal record will not necessarily prevent an applicant from working within NCG. This will depend on the nature of the post they apply for, or are employed to do, and the circumstances and background of the offence(s).

However, if the information confirmed in the disclosure means that a person presents a risk, then the offer of employment will be withdrawn or employment terminated. The statement on the Recruitment of Ex-Offenders is shown at Appendix A.

NCG does not accept disclosures from newly appointed colleagues that have been carried out by an external body e.g. a previous employer. Therefore, all new colleagues must undergo a new criminal records check unless they have signed up to the 'Update' service and the level of the existing criminal records check is relevant to the offered role. Similarly, NCG will not 'share' disclosure information with any external body.

An enhanced criminal records check will be carried out for all colleagues whose main work location is a college site. Other colleague's type and level of check will

be determined by what is required of the role and if that activity is deemed as 'regulated'.

Checks against the Children and/or Adult barred lists will only be completed for those roles that undertake 'Regulated Activity'.

NCG has the discretion to seek a new Criminal Records check where there are grounds for concern about the suitability of an existing colleague or where their duties or role has changed and it is deemed relevant to do so. Otherwise, colleagues are checked as detailed above or as detailed in this policy.

Colleagues will be required to declare annually that there have been no changes to their DBS status since their most recent criminal record check was completed by NCG. Any declarations that may mean the colleague could present a risk will be managed in line with the Disciplinary Policy or Probation Policy.

For the purposes of this policy agency workers, external consultants, members of corporation and local board governors are managed in line with this process and are required to undergo Criminal Records checks. The level of check undertaken will be determined by the nature of their role.

5. Positive Disclosure:

The term 'positive' disclosure refers to a disclosure containing information relating to convictions, cautions and reprimands as well as information relating to non-convictions, but which police deem relevant.

6. Regulated Activity

Regulated activity refers to certain roles carried out by applicants in relation to children and vulnerable adults.

- **Adults at risk:** The following categories are classified as regulated activity in relation to vulnerable adults as defined by the Safeguarding Vulnerable Group Act 2006.
 - Providing health care by any health care professional.
 - Providing personal care.
 - Providing social work.
 - Providing assistance with cash, bills/shopping.
 - Assistance in conduct of a person's own affairs.
 - Conveying.
- **Children:** Regulated activity in relation to children can be split into two main categories; these include activities and places of work.
 - Work in a specified place: Specified places are named in the SVG Act and include 'an educational institution which is exclusively or mainly for the provision of full-time education to children'.

- Work of a specified nature: This includes: teaching, training, supervision, caring for children and providing advice or guidance to children.

7. Disclosing criminal record information when applying for a vacancy

All applicants must provide details if they have a criminal record at application stage. Including any criminal convictions, cautions and bind over orders. Spent sentences must be declared and are exempt from the rehabilitation of offenders act/regulated activity. Colleagues would not, however, be required to disclose protected convictions and protected cautions.

8. Obtaining a disclosure certificate

NCG uses the services of an external criminal records checking body. Individuals are required to comply with all requests relating to verification and completion of forms.

Applicants cannot start employment with NCG until the DBS check has been completed and deemed as satisfactory by NCG. Applicants will be sent a link to complete an online criminal records application form. This must be completed within 7 calendar days. Failure to complete the online application form within the time specified may result in the withdrawal of the offer of employment.

For agency workers, the recruiting manager is responsible for ensuring that the agency worker has had the appropriate criminal records check carried out by the Agency. NCG will only work with recruitment agencies who are compliant and provide assurance that criminal record checks will be conducted prior to an agency worker commencing on placement with NCG. The recruiting manager must seek written confirmation from the agency that the appropriate criminal record check has been carried out and is satisfactory based on the role the agency worker will fulfil. If an agency worker is brought into NCG without prior written confirmation from the agency that satisfactory checks have been completed, this may result in the NCG Disciplinary Policy being invoked against the recruiting manager.

For agency workers, it is a requirement that the recruiting manager check that the person presenting at the college, is the same person that the agency has provided the checks for.

Volunteer DBS checks will also be treated in line with this policy. The recruiting manager must ensure that the NCG employee operations team receive all information required, in order for the DBS application to commence. The DBS check must be completed and deemed as satisfactory by NCG before they commence volunteer work.

9. Regulated activity risk assessment

In exceptional circumstances and where there is a critical business need, for an applicant, agency worker or volunteer to commence employment prior to receiving their disclosure certificate, approval is required from the Principal / a member of the Executive Team and is subject to a regulated activity risk assessment being

completed (please see manager guidance document). Please note if the individual is engaging in regulated activity they must be fully accompanied at all times by a colleague with the appropriate disclosure clearance, until their clearance is received.

10. Disclosure update service

Where an individual has registered with the DBS update service they are required to provide evidence of their original disclosure certificate and give NCG authorisation to carry out an online check, prior to a start date being agreed. The existing disclosure certificate must be at the appropriate level for the offered role.

11. Receiving a disclosure certificate

NCG will be informed electronically from the checking body when a criminal records check has been completed. The disclosure certificate is sent directly to the applicant / volunteer from the checking body, which will detail any cautions or convictions. Where the disclosure certificate contains no convictions or cautions there is no further action required.

The recruitment manager's manager will be notified where there is a positive disclosure and they will invite the applicant / volunteer to meet with them to discuss the disclosure informally.

12. During the meeting

The meeting is an important part of verification, to ensure that the information contained on the disclosure relates to the individual concerned. At the meeting, the manager will ask the applicant/volunteer/colleague to discuss the background information relating to the positive disclosure.

The manager will make an assessment of the risk and a decision regarding the applicant/volunteer/colleagues suitability for employment, taking into consideration the following:

- The seriousness and nature of the offence(s). The nature of the appointment.
- Length of time since the offence(s) occurred.
- Number and pattern of offence(s).
- Explanation of the circumstances.
- Concealment of offence(s) at application stage.

13. Outcomes following the meeting

Following the meeting, the outcome may be:

- Applicant is cleared to work.
- Offer of employment is withdrawn.

- Employment is terminated in line with probation policy.
- Managed in line with the Disciplinary Policy (where a criminal records check has been completed at the discretion of NCG for an existing colleague).
- Volunteering opportunity does not progress.

The outcome will be confirmed in writing outlining any next steps, where appropriate. Where the outcome is a withdrawal of the offer of employment, there is no right to appeal.

Where the employment has been terminated in line with the probation policy, the colleague will be notified of their legal right to appeal.

14. Updating Disclosures

Criminal record checks have no period of validity, as the information on the disclosure is only relevant to the point that the disclosure was completed. NCG may request further checks during a colleague's employment at the following intervals:

- Teaching colleagues; every 3 years.
- Support colleagues; every 3 years.
- Change of job role (from non-regulated activity to regulated activity).
- Where there are concerns; immediately.

15. Charged or convicted of an offence whilst in employment

Colleagues must notify their manager if they are charged or convicted of an offence during their employment.

The notification to NCG must take place at the earliest opportunity to allow an appropriate assessment to be taken. Failure to notify, or to do so in a timely manner, may result in the NCG Disciplinary Policy being invoked.

16. Variations to this policy / procedure

This procedure is intended as an overview of how positive disclosures are managed, however, it may need to be adapted to suit the needs of each situation. On occasions, it may not be appropriate to follow each of the stages in turn or in the timescales suggested. Regardless of the stage at which this procedure is started, support will be offered and implemented to assist colleagues throughout the process.

Appendix A: Statement on the recruitment of ex-offenders

Statement on the Recruitment of Ex-offenders

As an organisation using the Criminal Records checking services to assess applicants' suitability for a position of trust, NCG will fully comply with the relevant Codes of Practice and undertake to treat all applicants fairly. It undertakes not to discriminate unfairly against any subject of a disclosure on the basis of a conviction or other information revealed.

NCG is committed to the fair treatment of its colleagues, potential colleagues or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities of dependants, age, physical/mental disability or offending background. NCG select candidates for interview based on their skills, qualification and experience.

NCG can only ask an individual to provide details of convictions and cautions that NCG are legally entitled to know about. The amendments to the Exceptions Order 1975 (2013) provide that certain spent convictions and cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account. Guidance and criteria on the filtering of these cautions and convictions can be found on the Disclosure and Barring Service website. Subject to the above, applicants are requested to list all such convictions, cautions, reprimands or other warnings on their application form.

At interview, or in a separate discussion, we wish to 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 or dismissal.

We undertake to discuss any matter revealed in a disclosure with the person seeking the position before withdrawing a conditional offer of employment or making a dismissal decision.

Appendix B: Criminal Record Checklist

An appropriate criminal records check will be carried out on the successful candidate, and any offer of employment will be conditional subject to the satisfactory clearance. To ensure we are able to progress your criminal records check please bring to your interview any combination of original documents from below. Should you be successful this will allow us to process your appointment without delay.

Route 1

You must be able to show:

- one document from Group 1, below
- 2 further documents from either Group 1, or Group 2a or 2b, below

At least one of the documents must show your current address.

Route 3

Route 3 can only be used if you're unable to provide the documents from Route 1.

For Route 3, you must be able to show:

- a birth certificate issued after the time of birth (UK and Channel Islands)
- one document from Group 2a
- 3 further documents from Group 2a or 2b

At least one of the documents must show your current address.

Group 1: Primary identity documents	
Document	Notes
Passport	Any current and valid passport
Biometric residence permit	UK
Current driving licence photocard - (full or provisional)	UK, Isle of Man, Channel Islands and EU
Birth certificate - issued within 12 months of birth	UK, Isle of Man and Channel Islands - including those issued by UK authorities overseas, eg embassies, High Commissions and HM Forces
Adoption certificate	UK and Channel Islands

Group 2a: Trusted government documents	
Document	Notes
Current driving licence photocard - (full or provisional)	All countries outside the EU (excluding Isle of Man and Channel Islands) (All driving licences must be valid)
Current driving licence (full or provisional) - paper version (if issued before 1998)	UK, Isle of Man, Channel Islands and EU (All driving licences must be valid)

Group 2a: Trusted government documents (Continued)	
Document	Notes
Birth certificate - issued after time of birth	UK, Isle of Man and Channel Islands
Marriage/civil partnership certificate	UK and Channel Islands
HM Forces ID card	UK
Firearms licence	UK, Channel Islands and Isle of Man

Group 2b: Financial and social history documents		
Document	Notes	Issue date and validity
Mortgage statement	UK or EEA	Issued in last 12 months
Bank or building society statement	UK and Channel Islands or EEA	Issued in last 3 months
Bank or building society account opening confirmation letter	UK	Issued in last 3 months
Credit card statement	UK or EEA	Issued in last 3 months
Financial statement, eg pension or endowment	UK	Issued in last 12 months
P45 or P60 statement	UK and Channel Islands	Issued in last 12 months
Council Tax statement	UK and Channel Islands	Issued in last 12 months
Work permit or visa	UK	Valid up to expiry date
Letter of sponsorship from future employment provider	Non-UK or non-EEA only - valid only for applicants residing outside of the UK at time of application	Must still be valid
Utility bill	UK - not mobile telephone bill	Issued in last 3 months

Benefit statement, eg Child Benefit, Pension	UK	Issued in last 3 months
Central or local government, government agency, or local council document giving entitlement, eg from the Department for Work and Pensions, the Employment Service, HMRC	UK and Channel Islands	Issued in last 3 months
EU National ID card	-	Must still be valid
Cards carrying the PASS accreditation logo	UK, Isle of Man and Channel Islands	Must still be valid
Letter from head teacher or college principal	UK - for 16 to 19-year olds in full time education - only used in exceptional circumstances if other documents cannot be provided	Must still be valid



Appendix C: Volunteer Process Flow

