



## DBS Policy

<b>Date established:</b>	March 2022
<b>Updated:</b>	January 2024
<b>Reviewed:</b>	Annually
<b>Purpose:</b>	This policy aims to set out the position of MITSkills regarding DBS (Disclosure and Barring Service) checks, and Duty to refer to the Disclosure and Barring Service.

- As an organisation, volunteer and employed applicants' suitability for positions (which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order) are processed through the Disclosure and Barring Service (DBS) using criminal record checks, MITSkills complies fully with the Code of Practice and undertakes to treat all applicants for positions fairly. MITSkills undertakes not to discriminate unfairly against any subject of a criminal record check based on a conviction or other information revealed.
- Link to DBS code of practice Last 2015 (checked Jan 2024)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/474742/Code\\_of\\_Practice\\_for\\_Disclosure\\_and\\_Barring\\_Service\\_Nov\\_15.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/474742/Code_of_Practice_for_Disclosure_and_Barring_Service_Nov_15.pdf)
- MITSkills ask for a DBS check as required under its legal obligations to protect those under 18. Currently due to flexibility of staff, any member of staff can be trained as part of their role to support our learners, including invigilation, IAG, and as such no role is exempt from DBS checks. All delivery and delivery support staff will be asked for an enhanced DBS check.
- MITSkills will comply with guidance in Department of Education Keeping Children Safe in Education 2022 Part 3 on safer recruitment and suggested good practice, including a 5-year update of DBS for employees.  
[https://assets.publishing.service.gov.uk/media/64f0a68ea78c5f000dc6f3b2/Keeping\\_children\\_safe\\_in\\_education\\_2023.pdf](https://assets.publishing.service.gov.uk/media/64f0a68ea78c5f000dc6f3b2/Keeping_children_safe_in_education_2023.pdf) (Checked Jan 2024)

We will adopt good practice for new starts which will allow updates to be available on demand. We encourage staff join the Update Service as the benefits of joining the Update Service are:

- Portability of a DBS check across employers.
- Free online checks to identify whether there has been any change to the information recorded, since the initial certificate was issued and advise whether the individual should apply for a new DBS check; and
- That individuals will be able to see a full list of those organisations that have carried out a status check on their account.



- MITSkills can only ask an individual to provide details of convictions and cautions that MITSkills are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended), MITSkills can only ask an individual about convictions and cautions that are not protected.
- MITSkills is committed to the fair treatment of its staff, potential staff, or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability, or offending background.
- MITSkills policy on the recruitment of ex-offenders is that they must have no serious offences on their DBS related to violence, terrorism, sexual offences, or exploitation of children or adults including modern slavery. Fraud and theft offences may also bar offenders from working with learners or in finance, or in areas with access to disposable assets. This policy is made available to all DBS applicants at the outset of the recruitment process.
- MITSkills actively promotes 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. MITSkills select all candidates for interview based on their skills, qualifications, and experience.
- An application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned (noting that all delivery staff positions, and delivery support staff require a DBS as part of MITSkills Safeguarding). For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position.
- MITSkills ensures that all those in MITSkills who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. MITSkills also ensures that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g., the Rehabilitation of Offenders Act 1974.
- At interview, or in a separate discussion, MITSkills ensures that an open and measured discussion takes place about any offences or other matters 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.
- DBS makes every subject of a criminal record check submitted to DBS aware of the existence of the Code of Practice and makes a copy available on request.
- MITSkills undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

### **DBS Checks for people who have lived overseas.**

A DBS Check is a check of UK police records only – the DBS is unable to access police records held overseas. If an applicant has spent time living overseas, then a DBS Check may not give a full picture of their criminal history. All applicants will be asked as part of the application process if they have lived overseas.



If an applicant has lived overseas, MITSkills will ask them to obtain an equivalent criminal record check from any other countries they have lived in. From Home Office guidance MITSkills understands this is the candidate's responsibility to obtain the equivalent DBS check if requested to do so by the employer. However, an employer can ask for a Criminal records check.

<https://www.gov.uk/criminal-record-checks-apply-role> (checked Jan 2024)

Employment in these circumstances will be based on an equivalent DBS check and will be assessed in line with the Rehabilitation of Offenders Act 1974.

Each country has a different process for obtaining a criminal record check. The DBS has published an [A-Z list of countries](#) (checked Jan 2024) detailing how to obtain a check from each one.

MITSkills will refer candidates to this list and follow the guidelines for any countries the applicant has lived in.

If they have lived in the UK as well, MITSkills will conduct a DBS Check in the usual way in addition to any overseas criminal record checks.

### **Carrying out an identity check for overseas applicants**

When applying for DBS Checks for people who have lived overseas, MITSkills will still need to conduct an identity check and will require the candidates to produce the original documents required.

If they are not from the UK, it may affect which identity documents they need to provide. MITSkills staff should use the [DBS identity checking guidelines](#) (checked Jan 2024) to check what each candidate should provide.

As always, the candidate must provide valid, current, and original documents – photocopies are not acceptable.

MITSkills will require that all subcontractor delivery and delivery support staff have evidence of a DBS check or enhanced DBS to meet safeguarding obligations and following the ESFA guidance for subcontracting will ask for appropriate evidence as part of due diligence.

### **Duty to refer to the Disclosure and Barring Service**

(See sections 347 to 350 KCSIE Keeping Children Safe in Education 2023)

When an allegation is made against a member of staff such that they may have to be removed/ or suspended from a regulated activity, an investigation will be carried out to gather enough evidence to establish if it has foundation (See our Safeguarding Policy) and that there is sufficient information to meet the referral duty criteria.

Where sufficient information to meet the referral duty criteria explained in the DBS referral guidance, (see link below), can be found - it will be the responsibility of the Safeguarding Officer and/or Managing Director to ensure a referral is made.

<https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs> Checked Jan 2024

MITSkills will follow its legal obligations. There is a legal requirement for all providers to make a referral to the DBS where they remove an individual from regulated activity (or would have removed an individual had they not left), and they believe the individual has:


- engaged in relevant conduct in relation to children and/or adults, and/or



- satisfied the harm test in relation to children and/or vulnerable adults, and/or
- been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence.

The DBS will then consider whether to bar the person. Detailed guidance on when to refer to the DBS (including what is the harm test and relevant conduct), and what information must be provided, <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs> Checked Jan 2024

Referrals should be made as soon as possible when an individual is removed from regulated activity. This could include when an individual is suspended, redeployed to work that is not regulated activity, dismissed or when they have resigned. It is important that as much relevant information is provided to the DBS as possible, as it relies on the quality of information provided MITskills when considering the referral.

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