



SAFEGUARDING YOUNG PEOPLE AND VULNERABLE ADULTS

GUIDANCE ON HR PRACTICES & PROCEDURES AND SAFER RECRUITMENT

These guidance notes should be used in conjunction with the Recruitment and Selection Policy.

1. Introduction and Overview.....	2
2. Deterring Unsuitable Applicants.....	3
3. Safer Selection	3
4. Safeguarding Checks	4
5. CRB/ISA Barred Lists Checks for New Appointments and for People Changing Roles.....	7
6. CRB Checks for Existing Staff/Volunteers.....	8
7. Staff and Volunteers etc Working with Young(er) Children.....	8
8. Partner Organisations.....	8
9. Secure Storage, Handling, Use, Retention and Disposal of Disclosure Information.....	9
10. Ongoing Employment of Offenders and Ex-offenders.....	9
11. Referral to Other Agencies/Police	10
12. Appendix 1 (Table showing types of check against job categories)	12

1. INTRODUCTION AND OVERVIEW

- 1.1. The College owes a duty of care to all its students, and has extended responsibilities for those who are young and vulnerable. Safeguarding describes the broad preventative and precautionary approach to planning and procedures that the College feels are necessary to have in place to protect children, young people and vulnerable adults from any potential harm or damage. Safer recruitment is an important aspect of safeguarding.
- 1.2. It is vital that the College adopts robust staff recruitment and selection procedures and other Human Resources management processes that help to deter, reject or identify people who might abuse children, young people or vulnerable adults or are otherwise unsuited to work with them. Safer recruitment is key to the effective application of safeguarding practice in further education. These updated guidelines have been prepared with reference to DCSF good practice advice, mandatory guidance and legal requirements relating to CRB, Independent Safeguarding Authority (ISA) and other vetting procedures in education, to brief and advise managers and others on the College's current arrangements for vetting job applicants and, in some cases, existing staff.
- 1.3. The vetting procedure is designed to ensure that:
 - Those who are known to be unsuitable do not gain access to children or vulnerable adults
 - Those who become unsuitable are detected at the earliest stage and prevented from continuing to work with children and young adults
 - And those who intend to do harm are discouraged and prevented at every possible stage from entering the workforce.
- 1.4. Because of the nature of jobs at the College, the College needs to know about any criminal convictions and/or pending prosecutions in relation to new and existing staff. All job applicants are therefore asked through the application form to provide information about criminal convictions and prosecutions pending. In relevant cases (i.e. jobs involving regular contact with children, young people under 18 years and vulnerable adults) the College is entitled to ask for, and job applicants are not entitled to withhold, information about convictions which, for other purposes, are "spent" under the provisions of the Rehabilitation of Offenders Act 1974. In these cases a check as to the existence of, and content of, a criminal record will be requested from the Criminal Records Bureau. Similarly the College requires staff (as per the terms of contracts of employment) to disclose details of any criminal charges or convictions acquired during employment with the College and is entitled to receive and act on information received from the police and safeguarding authorities. The College also checks to see that appointed staff are not barred from working with children or vulnerable adults. More detailed arrangements are described below.
- 1.5. Sussex Downs College is nevertheless committed to promoting equality of opportunity and welcomes applications from candidates with criminal records

where these are not relevant to employment at the College. The College undertakes to comply fully with the Criminal Records Bureau (CRB) Code of Practice and does not automatically exclude applicants on the basis of convictions or other information received (unless there is a legal bar). Candidates are selected for interview and for appointment based on their skills, qualifications and experience.

- 1.6. Recruitment and Selection procedures are therefore designed to prevent unsuitable people from gaining access to children and to maintain the integrity of the College, whilst at the same time respecting human rights and privacy issues and complying with the requirements of the data protection legislation.
- 1.7. Ongoing awareness during the course of employment is also important. Recruitment checks can only pick up the small percentage of abusers who have been convicted, come to the attention of the Police or who have been listed. The majority of individuals who are unsuited to work with children will not have any previous convictions or appear on the ISA barred lists. The College needs to maintain a culture of vigilance and managers, in particular, should be alert to any warning signs identified through normal line management activities or the appraisal process. The College's Child Protection Policy gives details about the arrangements for receiving and passing on concerns.
- 1.8. The College's HR Department maintains a central record of identity, CRB, ISA Barred list and other checks in accordance with DCSF requirements.

2. DETERRING UNSUITABLE APPLICANTS

- 2.1 Unsuitable applicants can be deterred from applying for a post at the College by overt signs of safeguarding activity. All advertisements for vacant posts thus contain an explicit statement that Sussex Downs College is committed to safeguarding and promoting the welfare of children. Where CRB checks are required this is prominently displayed.
- 2.2 Application forms contain an explicit statement of the College's commitment to safeguarding all its learners, a requirement to declare any criminal convictions or prosecutions pending and a warning that CRB checks may be required.
- 2.3 All new Job Descriptions contain a generic responsibility "Work to promote and apply the College's Safeguarding policy and practices". Further information packs highlight the requirement for checks to be carried out as appropriate, including CRB, identity, qualifications and professional registration.

3 SAFER SELECTION

- 3.1 The Chair of the interview panel is responsible for checking the reasons for gaps in employment (where relevant); ensuring that the candidate's attitude toward children and young people is explored where appropriate; assessing

and evaluating the candidate’s ability to support the College’s aims and responsibilities including safeguarding and promoting the welfare of children and vulnerable adults where appropriate; and ensuring that any identified criminal prosecution pending, caution or conviction is fully explored (before, during or after the interview as appropriate) in order to assess suitability for appointment.

- 3.2 Interview questions (where appropriate) should probe motivations for working with young people or vulnerable adults, understanding of safeguarding issues, emotional maturity and values.
- 3.3 Two references are taken up on each candidate selected for interview as an important way of checking identity and background and others may be requested at the discretion of the College. Where an applicant is not currently working with children, but has done so in the past and is applying for a post in regulated activity, a reference will also be obtained from the employer by whom the person was most recently employed in work with children. Any issues of potential concern in a reference are explored at interview or before confirmation of appointment (as relevant).

4. SAFEGUARDING CHECKS

- 4.1 The Safeguarding Vulnerable Groups Act defines all posts within a College as “Regulated” or “Controlled”.
- 4.2 **Regulated Activities** involve contact with children or vulnerable adults and are:

<p>Of a specified nature e.g. teaching, training, care, supervision, advice, healthcare treatment or transport</p>	<p>AND</p>	<p>Frequently, Intensively and/or overnight</p> <ul style="list-style-type: none"> • Once a month <p>Or</p> <ul style="list-style-type: none"> • Three or more occasions in a period of 30 days <p>Or</p> <ul style="list-style-type: none"> • Overnight between 2 – 6am
<p>Or In a specified place e.g. schools, children’s homes & hospitals, juvenile detention facilities, adult care homes</p>		

Regulated Activity also covers “Defined Office Holders” e.g. Corporation members. No distinction is made between paid and voluntary work.

Such posts are subject to CRB Disclosure checks (see section 5) which will include a check of both ISA Barred Lists (the “Children’s List” and “Vulnerable Adults List”). From October 2009 it became a criminal offence for an

employer to knowingly employ a barred person to work in regulated activity. From November 2010 it will be a criminal offence for an employer to allow a barred person to work for any length of time in a regulated activity or to take on a barred person in a regulated activity if they fail to check that person's status¹.

4.3 **Controlled Activity** is defined as:

- Frequent or intensive organisational support work in health, care (including adult social care) or education e.g. caretakers, cleaners, catering staff, car park attendants and receptionists
- Also those with access to sensitive records about learners.

Such posts may be subject to a CRB disclosure check and from November 2010 it will become a criminal offence for an employer to take on a person in a controlled activity if they fail to check that person's status. It will only be possible to permit a barred person to work in a controlled activity if sufficient safeguards are in place.

4.4 CRB checks are mandatory for staff new to the College and who are appointed to work in "regulated activity". CRB checks are also mandatory for staff transferring from a post not covered by CRB checks to a post covered by CRB checks, or where there is a cause for concern in relation to an existing member of staff. All offers of employment to these posts are conditional upon the College receiving a satisfactory check. The HR Department is registered to process CRB checks subject to strict confidentiality and data protection arrangements. CRB checks are initiated by HR, sent to the CRB via HR and returned from the CRB to HR. HR will liaise with managers on a confidential basis to jointly assess the relevance of any convictions or other matters revealed and determine whether an appointment can be confirmed.

4.5 A CRB Disclosure will reveal court convictions (including spent convictions) and cautions that have not been the subject of court proceedings. It will also involve cross checking with the two ISA barred lists for Children and Vulnerable Adults and the Sex Offenders Register. The ISA Barred Lists are lists of people barred from working with children and vulnerable adults and allow a record to be maintained of individuals who will not be permitted to work in regulated activity and who can only work in controlled activities with safeguards. In CRB Disclosures the Police may also provide additional concerns about the subject that they may have, or currently be investigating. Criminal penalties were introduced from October 2009 for barred individuals who seek to undertake work with vulnerable groups and for any employers who knowingly take them on.

4.6 A CRB Disclosure is only requested where it is considered to be proportionate and relevant to the position concerned (see section 5). For those positions where a Disclosure is required all application forms, job adverts and further details will contain a statement that a Disclosure will be requested in the event of an individual being offered the position.

4.7 Where a Disclosure is to form part of the recruitment process the College

encourages all applicants called for interview to provide details of their criminal record at an early stage in the application process. It is requested that this information is sent under separate, confidential cover, to a designated person within Sussex Downs College and it is guaranteed that this information is seen only by those who need to see it as part of the recruitment process.

- 4.8 At interview, or in a separate discussion, the College ensures 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 the withdrawal of an offer of employment or the termination of employment if an appointment has already taken place.
- 4.9 The College makes every subject of a CRB Disclosure aware of the existence of the CRB Code of Practice and makes a copy available on request.
- 4.10 The College undertakes to discuss any matter revealed in a Disclosure (unless this would be contrary to CRB guidance) with the person seeking the position before confirming or withdrawing a conditional offer of employment.
- 4.11 CRB Disclosure arrangements also apply for Agency Staff where these are used (in exceptional cases). HR will make the necessary arrangements.
- 4.12 It is not always possible to complete the CRB checking arrangements prior to the projected starting date, and therefore all appointments are made on a conditional basis. Where it has not been possible to complete the CRB checking arrangements, a check of ISA Barred lists will be undertaken by HR and no candidate appointed to a post for which a CRB Disclosure is required will be allowed to commence work without an ISA Barred List check having been carried out. Additionally, appropriate interim arrangements e.g. supervision and restricted duties, must be put in place to manage any risk to children, young people and vulnerable adults.**

From November 2010 it will not be possible to allow a new starter to commence work in a regulated activity without confirmation of registration with the ISA.

- 4.13 Checks of the ISA Barred lists are also carried out prior to commencing appointment for any newly appointed teaching staff who are not covered by CRB Disclosure arrangements i.e. those only teaching adults. This is currently carried out via an online facility provided by Teachers Pensions. From November 2010 this will be extended to all staff in controlled activity and any individuals listed can only be employed in controlled activity if sufficient safeguards have been put in place. HR will liaise with managers on a confidential basis to determine whether an appointment can be confirmed and will ensure that appropriate safeguards are in place.

5. CRB/ISA BARRED LISTS CHECKS FOR NEW APPOINTMENTS AND FOR PEOPLE CHANGING ROLES

- 5.1 The following arrangements for CRB and ISA Barred List checking are based on current DCSF and CRB guidance, and may be subject to periodic review and change.
- 5.2 Positions at the College are classified into four main categories for the purposes of CRB and ISA checking procedures:
- **Regulated Activity** - CRB Checks which will incorporate ISA Barred Lists checks. From November 2010 it will also become compulsory for a new starter to be ISA registered, which will provide an ongoing check of barred status. Such posts are excepted from the Rehabilitation of Ex-Offenders Act.
 - **Controlled Activity where the normal duties involve frequent or intensive contact with persons aged under 18 or vulnerable adults or include supervising or managing an individual in his work in a regulated position** - CRB Checks which will incorporate ISA Barred Lists checks. Such posts are excepted from the Rehabilitation of Ex-Offenders Act.
 - **Checks of the ISA Barred lists (standalone)** – for people in other positions providing education but not within regulated activity – e.g. teachers contracted to work exclusively with adult students.
 - **No checks currently required** – people in positions which do not meet the criteria described above.
- 5.3 **People who have lived outside the UK:** Additional background checks must be considered and may be required for new staff and others in positions covered by the CRB checking criteria who have lived outside the UK within the previous five years.
- 5.4 The table set out in Appendix 1 identifies the type of check required for different categories of staff and others in non employed positions.
- 5.5 For new staff these checks are carried out by HR staff following notification of the outcome of interview. Managers are asked to notify HR of the need for CRB checking using the check box on the standard result of interview form. In cases of uncertainty or query HR will check with the appointing manager to help determine the type of vetting required.
- 5.6 For new staff all offers of employment are made on a conditional basis, subject to satisfactory checks.
- 5.7 For others e.g. staff changing roles, volunteers etc – managers in charge should notify HR so that the relevant CRB checking arrangements can be initiated.

6. CRB CHECKS FOR EXISTING STAFF, VOLUNTEERS ETC

- 6.1 The current system for CRB checks was introduced in 2002 and doesn't cover staff employed or working on a voluntary basis before that introduction. CRB Checks on such staff and volunteers etc are currently only required *either* if there is a change of role e.g. a transfer from a post not involving regular contact with children or vulnerable adults to a post in one of the categories above involving regular contact, *or* where there is a "cause for concern".
- 6.2 However this position is due to change and from January 2011 a rolling programme will require all staff working within regulated activity to register with the ISA and undertake a CRB check if no previous CRB check has been undertaken.

7. STAFF AND VOLUNTEERS ETC WORKING WITH YOUNG(ER) CHILDREN

- 7.1 The College recognises that young children attending College Childcare provision and 14 – 16 year old children on Increased Flexibility and other programmes are especially vulnerable. It is thus particularly important that stringent safeguarding procedures are in place in relation to appointment to posts within these areas.
- 7.2 No staff (new or existing) or volunteers etc are to be permitted to start work in roles within these areas for which a CRB Disclosure would be required without checks having been completed. To facilitate this all recruitment (either to salaried or short-term posts) will be carried out through HR and only full application forms will be acceptable. Requests for references will be made prior to interview.
- 7.3 The interview panel will take particular care to stress the College's commitment to Safeguarding and the need to obtain CRB Disclosure and satisfactory references prior to the commencement of employment. Candidates will be specifically encouraged to declare the existence of any convictions at the interview stage.
- 7.4 Candidates will be asked to bring completed Asylum and Immigration documentation to the interview and in selected instances completed CRB forms in order to speed up the process.
- 7.5 Managers should ensure that cover arrangements are in place that utilise staff who have already obtained CRB clearance.

8. PARTNER ORGANISATIONS

- 8.1 HR retains a central record of College staff and volunteers and the appropriate safeguarding checks. The College also needs to be confident that staff employed by other partner organisations (who may either work at the College or offsite, in regulated or controlled activities with College students) have been subject to the appropriate checks. Managers responsible for arranging this sort of provision must ensure that HR has been informed of the position so that

confirmation of vetting status can be obtained from the relevant employer and recorded. Examples of this type of activity include staff employed by a Catering sub contractor or staff employed by a partner organisation to provide training for College students.

- 8.2 Similarly managers may receive requests for vetting information about College staff who are engaged in regulated or controlled activities with students from partner organisations e.g. staff working with 14-16 Increased Flexibility students from local schools. Any such requests should be referred to HR who will require a list of affected staff, and will be able to confirm the relevant information to the partner organisation.

9. SECURE STORAGE, HANDLING, USE, RETENTION AND DISPOSAL OF DISCLOSURE INFORMATION

- 9.1 Disclosure information will be kept separately and securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those entitled to see it as part of their duties.

- 9.2 In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. The College will maintain a record of all those to whom Disclosure information has been revealed and recognises that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

- 9.3 Disclosure information is only used for the specific purpose for which it is requested and for which the applicant's full consent has been given.

- 9.4 Once a recruitment decision has been made the College will not retain Disclosure information for longer than is absolutely necessary. The usual conditions regarding safe storage and strictly controlled access will prevail.

- 9.5 Once the retention period has elapsed, the College will ensure that any Disclosure information is immediately suitably destroyed by secure means i.e. by shredding, pulping or burning. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle. The College will not keep any photocopy or other image of the Disclosure or representation of the contents of a Disclosure. However, notwithstanding the above, The College will (as required by law) keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure the details of the recruitment decision taken, and the name of the person recording the Disclosure.

10 ONGOING EMPLOYMENT OF OFFENDERS AND EX-OFFENDERS

- 10.1 Ongoing awareness during the course of employment is vitally important in order to protect children, young people and vulnerable adults.

10.2 The College requires employees to disclose to the Head of Human Resources, details of any criminal charges or convictions acquired during the period of employment with the College. The College undertakes to treat any information so provided on a confidential basis.

10.3 Failure to disclose any such criminal charges or convictions may be deemed to be gross misconduct and lead to summary dismissal. The College undertakes to discuss any such criminal charges or convictions with the employee before reaching a decision about any action to be taken.

10.4 Any action deemed necessary by the College as a result of an employee receiving a criminal charge or conviction will be pursued with reference to the relevant provisions within the College's Disciplinary Policy.

11. REFERRAL TO ISA

11.1 Colleges have a duty to refer to the ISA in certain circumstances for consideration for the inclusion of an individual on a Barred List. This applies where the College holds information on disciplinary proceedings related to a person engaged in regulated or controlled activity - Colleges will be under a duty to provide the ISA with that information if the College 'withdraws permission for the person to engage in the activity' and the reason for this is because:

- the person has committed an offence that is subject to an automatic bar, or a bar with the right to make representations;
- the person has engaged in 'relevant conduct' as defined in the Act (see below);
or
- the 'harm test' is satisfied (see below).

'Relevant conduct' is:

- conduct which endangers or is likely to endanger a child or vulnerable adult;
- conduct which, if repeated against or in relation to a child or vulnerable adult, would endanger or would be likely to endanger that child or vulnerable adult;
- conduct involving sexual material relating to children (including possessing such material);
- conduct involving sexually explicit images depicting violence against humans;
and
- conduct of a sexual nature involving a child or vulnerable adult.

The **'harm test'** is that the person may:

- harm a child or vulnerable adult;
- cause a child or vulnerable adult to be harmed;
- put a child or vulnerable adult at risk of harm;
- attempt to harm a child or vulnerable adult; or
- incite another to harm a child or vulnerable adult.

This could be a situation involving:

- dismissal;
- a case that could have resulted in dismissal had the employee not resigned before the procedure concluded; or
- the College stops a person working in regulated/controlled activity but continues to engage him/her in other activity instead, which is neither regulated nor controlled activity.

11.2 If the College has a concern about an employee's behaviour this may be reported to the ISA. The ISA will consider all relevant information. For example, if a disciplinary case has not been completed but the college suspects that the individual may pose a risk of harm, it may refer him to the ISA.

11.3 A referral form template is available from the ISA for this purpose.

12. REFERRAL TO OTHER AGENCIES/POLICE

12.1 The College has a duty to refer any suspected safeguarding issues to the Local Authority Designated Officer for Safeguarding. In the case of an allegation against a member of staff such a referral would be via the College's Lead Safeguarding Officer, in liaison with HR. This may lead to the involvement of other external agencies such as Social Services and the Police (see 12.2 below).

12.2 The Sexual Offences Act 2003 makes it a criminal offence for a person in a position of trust to engage in any sexual activity with a person aged under 18 with whom they have a relationship of trust, irrespective of the age of consent and even if the basis for their relationship is consensual. A relationship of trust exists where a member of staff or volunteer is in a position of power or influence over a student by virtue of the work or nature of the activity being undertaken.

APPENDIX 1

CRB/ISA BARRED LISTS CHECKS FOR NEW APPOINTMENTS AND FOR PEOPLE CHANGING ROLES	
ENHANCED	<p>For people in regulated activity positions providing contact with learners of a specified nature (e.g. teaching, training, care, supervision, advice and transport that is frequent, intensive or overnight) e.g.</p> <ul style="list-style-type: none"> • Teachers of children, young people up to the age of 18 and vulnerable adults • Most staff in Learner / Student Services • Learning Resource Assistants, • Classroom Assistants, • Learning Centre Assistants • Learner Assistants • Personal Tutors • Childcare / Nursery staff • Minibus drivers • Examiners and Invigilators • Technicians, Instructors, Demonstrators • Host families <p>For people in controlled activity positions providing regular contact with persons aged under 18 or vulnerable adults or which include supervising or managing an individual in his work in a regulated position e.g.</p> <ul style="list-style-type: none"> • Corporation members • Support staff in relevant curriculum support teams • Some staff in Student / Learner Services • Premises Wardens • CST • Network Services • Learner Services • Catering Staff • Curriculum Heads and Managers • Some Support Heads and Managers • Duty First Aiders
ISA Barred Lists Only	<p>All teachers not covered by CRB checks i.e. working exclusively with non-vulnerable students over 18</p> <p>First Aid Appointed Persons</p>
To Be Determined In Individual Cases (on a basis of relevance and proportionality) e.g.	<ul style="list-style-type: none"> • Assessors • Volunteers • Freelance trainers • Independent contractors and consultants • Visiting Sports Instructors • Work Experience Placements at the College • Other visitors¹

¹ Colleges can assume that teachers and other visiting professionals from schools, LAs, the NHS and other FE Colleges have been CRB checked and do not need to see the checks, but do need to check identity.