**Article 3 Becoming a midwife –protecting the public through Disclosure and Barring Service checks.**

In the third article in this series the need for a Disclosure and Barring Service (DBS) check and issues arising through this are used to demonstrate challenges which may arise for students during recruitment or while awaiting DBS clearance. This will demonstrate how the public are protected during recruitment procedures.

**Disclosure and Barring Service checks**

Criminal Record Bureaux checks were introduced in 2002 following the tragic abduction and murder of Holly Wells and Jessica Chapman. Ian Huntley was a man with a known history who gained a position of trust as a school caretaker. Through a systems failure, it was not recognised that he was a danger to the public. The purpose of the DBS is to protectthe public by a system of recognition whereby applicants with a police caution or conviction for relevant offences is recognised.

The two levels of DBS are:

* The standard check is available for duties, positions and licences included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975, for example, court officers, employment within a prison, and Security Industry Authority (SIA) licences.
* A standard level certificate contains details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC) which have not been [filtered i](https://www.gov.uk/government/collections/dbs-filtering-guidance)n line with legislation.
* The enhanced check is available for specific duties, positions and licences included in both the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and the Police Act 1997 (Criminal Records) regulations, for example, regularly caring for, training, supervising or being solely in charge of children, specified activities with adults in receipt of health care or social care services and applicants for gaming and lottery licences.
* An enhanced level certificate contains the same PNC information as the standard level but also includes a check of information held locally by police forces.

<https://www.gov.uk/guidance/dbs-check-requests-guidance-for-employers>

An enhanced level disclosure is required for midwifery students. Universities will have a process for managing DBS applications. This is likely to include the applicants completion of a university self disclosure form and applying for an enhanced DBS. For the majority of midwifery these do not show any unfiltered spent/unspent cautions or convictions; however some may reveal a history that requires further consideration of whether the applicant could pose a possible danger to the public if admitted to the course. Applicants need to be aware that all ‘incidents’ will show on an enhanced DBS irrespective of the time frame of the incident or if the applicant was a minor.

Where relevant police cautions, convictions or reprimands are identified through an applicants’ personal declaration on a self disclosure form, applicants are likely to go through the joint university and practice screening process. An informed decision can be then made whether the individual is suitable to work with those that are vulnerable prior to an offer for a course being made. If a relevant caution or conviction becomes evident via a DBS check once the student has commenced a course but has not entered clinical practice; it is likely this will be managed through a Fitness to Practise procedure.

All spent and unspent convictions, cautions, reprimands and final warnings as well as any additional information held by the police that is reasonably considered relevant to the workforce being applied for will show on an enhanced DBS. Therefore a wide range of issues can become apparent that the University and Trust partners may have to consider in line with the current legislation on ‘filtering’ and the relevant time frames.

Examples that may be seen are: drink driving, drunk and disorderly, criminal damage, common assault, grievous bodily harm, theft and fraud.

**Screening panels**

Each institution will have its own process to follow where issues arise through self disclosure, this may include asking the applicant to provide a written statement of the incident, the circumstances, the dates and how their life has now changed. The applicant may be invited to provide at least two character references from employers or educational institutions who have employed the applicant following the offence. On receipt of this documentation the case is then reviewed as per local policy at a panel meeting with senior university academics, Trust representation and possibly a supervisor of midwives prior to acceptance on the course. Each case is reviewed according to the university policy on DBS and Fitness to Practise. The process is likely to be examination of the applicants self declaration, to see if they declared the incident, their written evidence is examined and the nature of the offence, the time frame, the number of offences and whether a pattern is evident. A determination is made on whether these pose a low, medium or high risk to the public. The character references are reviewed and a decision is then reached on whether the applicant can join the course. The panel may accept or reject the applicant to the course.

**Practice Activity:**

**Imagine that you are a senior academic sitting on a DBS screening panel: Consider the offence, the time frame, the level of risk to the public, the references and make a decision on whether you consider the applicant should be accepted or rejected for the midwifery course.**

**Consider how your decision will protect the public.**

* Razwana is 23 years old, she has a police caution showing on her enhanced Disclosure and Barring Services check for collusion with shoplifting 3 years ago. At the time she was on an undergraduate degree programme, she went shopping with a group of students; two of the students were found with items in their bags for which they had not paid. Razwana knew that the students had the items but she did nothing to stop this. Since completing her course she has worked for 18 months at a leisure centre as a receptionist and undertaken some voluntary work for a charity. Her two references are positive and supportive of her commencing a midwifery course. Razwana’s statement is reflective and acknowledges her past mistakes.

What is your decision and why?

* Carol has been working part time as a health care assistant, she pleaded guilty to two charges of failing to report a change of circumstances in relation to her claims for Housing Benefit (HB) and Council Tax Benefit (CTB). Carol claimed HB and CTB for 4 years as she was on a low income and her daughter was in receipt of Income Support, during an investigation it was found that Carol’s earnings had increased significantly in this time. Her daughter’s Income Support had ended. Failure to report both these changes led to overpayment of Housing Benefit of £5252.11 and Council Tax Benefit of £737.67 one year ago. Magistrates imposed a 12 month community order with 200

hours unpaid work and Carol was ordered to pay a victim surcharge of £60 and to make a contribution of £150 towards costs.

What is your decision and why?

**Fitness to Practice**

If an offence becomes apparent through a DBS disclosure after the student has commenced the course but prior to clinical placement this may result in a Fitness to Practise (FtP) hearing. An investigation of the facts will take place and the student will be asked to write a statement and invited to appear at the hearing represented (if desired) by the Student Union. The panel which is likely to comprise of a senior academic as the Chair, a senior university academic and senior Trust representation will consider the facts. The students’ statement, self declaration form, their DBS application and the offences that are on the enhanced DBS will be reviewed. If the student has not declared relevant offences on the self disclosure form, this will lead to questions about the students’ honesty and integrity (NMC 2015). A decision will need to be made as to whether the undeclared offences constitute a risk to the public and if the students honesty and integrity is compatible with course continuation.

**Practice Activity - Fitness to Practise hearing**

**You are a senior academic sitting on a Fitness to Practise hearing.**

**The allegation is: Mary has been dishonest in not declaring her convictions on her self declaration.**

* Mary was offered a place on the midwifery course commencing in September and completed her self disclosure form in July. She did not make any disclosure about spent and unspent convictions, cautions, reprimands or final warnings. However when her DBS arrived it showed:
* 3 months before the course commencement – in June, Mary received a community service order of 80 hours for assault and battery, a £100 victim surcharge and paid £500 compensation to the victim. This was the second occasion Mary has been convicted of assault and battery on her boyfriend, the first occasion being 2 months earlier. She writes that she was drunk and acted in self defence.
* Her two character references state that they consider her to be a suitable applicant for the course.
* Mary has not discussed the offences or circumstances with the course leader.
* Mary admits that she did not declare this on her self disclosure or discuss this with her course leader after starting the midwifery course. She offers mitigation that she was in an abusive relationship and she was frightened that if she admitted the offence she would be removed from the course.

**Practice activity:**

* **Will you uphold the allegation of dishonesty in not declaring the conviction on the self disclosure?**
* **Consider the risk to the public of the two convictions for assault and battery ,**
* **If the allegation is upheld, consider the possible sanctions within your university regulations,**
* **What sanction is most applicable?**
* **How this will protect the public.**

This article has considered some of the challenges arising in protecting the public through Disclosure and Barring Checks. A balance is needed in considering the nature of the offence, the time frame and in being fair and reasonable to a student and in protecting the public.

Once students are accepted and commence a midwifery course they have to move from being a member of the public to a health care professional who must have the values of the profession and be able to uphold these values in the eyes of the public. There is an expectation of professionalism, honesty and integrity and professional conduct in relation to the NMC Code (2015), confidentiality, use of social media and communication.

Communication skills encompass, verbal and non verbal skills, written communication within client notes, and in completion of course documentation and academic assignments. The AEI has a duty to prepare students for professional practice and to teach the principles of good academic practice. Challenges for the student may arise in either sphere either through accident, misunderstanding or failure to follow the guidance given. These issues are discussed in article four

Preparation for practice to facilitate students upholding the NMC Code may be through a variety of teaching approaches. An approach adopted at the University of West London is teaching through Interprofessional learning with other nursing, social work or Operating Department Assistants using lecture, film, case scenarios, role play and decision making on case scenario’s. Situations are chosen that are relevant to students such as breaching confidentiality, use of social media, academic offences such as plagiarism. Examples of issues are worked through and the students’ awareness of challenging situations is enhanced to promote conduct in line with the NMC Code (2015).

Article four will discuss of confidentiality, use of social media and completion of clinical practice records to demonstrate challenges which may arise for students.

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