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| **Policy Title** | **Disclosure and Barring** | **Date Implemented****or Date of Last Review** | **January 2020** |
| **CQC KLOE Reference** | **Well Led** | **Date of Next Review** | **January 2022** |

**Policy**

The Bevern Trust accepts its legal duty (e.g. Care Standards Act, Health and Social Care Act 2008 (Regulated Activities) Regulations 2010) to ensure that all employees are appropriately experienced for the tasks they are required to perform; can demonstrate the highest standards of honesty, integrity and competence relevant to the position they hold; are suited to the work that they are required to do; present no discernible risks to residents, and are not barred from being employed in what is referred to as “regulated activity” within The Bevern Trust.

Validation of information is an important feature of The Bevern Trust recruitment policy, (covering, as appropriate: education, experience, qualifications, training and criminal records) and all prospective employees (in any occupation) will be invited to provide information, at the outset, on whether or not they have a criminal record.

The Bevern Trust recognises that information relating to criminal convictions is highly sensitive personal data, and as such will ensure that any information obtained will be protected in accordance with principles/Codes of Practice published by the Information Commissioner and the Disclosure and Barring Service, (DBS).

At the time an offer of employment is made, or contemplated, the prospective employee will be invited to participate in the disclosure process administered by the DBS. The level of the disclosure will be appropriate to the duties and responsibilities of the position, and whether the occupation/role falls within those for which a standard, enhanced, or “enhanced with lists” check disclosure is available.

All job applicants will be advised of the level of disclosure being sought by The Bevern Trust, either in advertisements or if invited for interview.

Should new information come to light, following the receipt of disclosure information from the DBS, then the applicant will be invited to respond. The possession of a criminal record is not an automatic bar to employment at The

Bevern Trust. All cases will be dealt with according to their own circumstances and on their own merits. If individuals wish to query the accuracy of a disclosure with the DBS, they will be able to do so.

The Bevern Trust will not normally accept disclosure certificates which have been issued previously, unless the certificate was issued as part of the DBS’s update service, which commenced in 2013.

Additional policies refer to: -

1. Recruitment of ex-offenders, and
2. Handling of disclosure information.

All employees will be made aware of these and related policies.

The Bevern Trust will ensure that any information regarding criminal records is kept totally confidential, and adequately protected. Any deliberate and inappropriate disclosure of information will be treated as a disciplinary offence, which could lead to dismissal.

**Procedure**

**Code of Practice governing initial and ongoing registration of Registered Bodies within the DBS.**

The Bevern Trust subscribes to the Code of Practice regarding disclosure (established under section 122 of Part V of the Policy Act 1997), and, in particular:

* 1. Provides written policies on the recruitment of ex-offenders and handling of disclosure information;
	2. Informs all applicants for employment that The Bevern Trust will ask whether the applicant has a criminal record, and will seek the co-operation of the applicant in obtaining validation through the disclosure service operated by the DBS;
	3. Makes it clear that the possession of a criminal record will be taken into account, but will not necessarily bar the applicant from employment;
	4. Will discuss with the applicant matters arising through disclosure, before withdrawing any offer of employment;
	5. Will make applicants aware of this disclosure policy, and will make a copy available upon request;
	6. Provide guidance to employees on the employment and fair treatment of ex-offenders and the rehabilitation of offenders act.

**Disclosure**

The Bevern Trust will seek to ensure that all persons employed do not have a criminal record which would render them unsuitable to be employed at The Bevern Trust, and/or are not on a barred list, which would render it illegal for them to be employed. In performing these essential tasks The Bevern Trust will abide by the requirements of the DBS in every respect.

Individuals may request, from the DBS, a “basic disclosure” in their own right, but The Bevern Trust does not accept this level of disclosure as sufficient for its purposes in satisfying its obligations and legal duties.

**Applications for Standard or Enhanced Certificates from the DBS**

Establishing whether a person has a criminal record which might make them unsuitable to work at The Bevern Trust, or are on a barred list, which would make it illegal for them to be employed, is undertaken by applying for a check of National UK Police Records, and receiving a certificate from the DBS.

The Bevern Trust will advise the potential employee (or volunteer) at the time it requires a certificate, (and whether it is at the level of standard, enhanced, or enhanced with list checks) and the process to be followed. Given that the Bevern Trust is unlikely to make applications for more than 100 certificates each year, (and as advised by the DBS in such circumstances), it uses the services of an “Umbrella Body”, and one which is recognised by the DBS as an organisation suitable for making applications of this kind. This Body will make applications to the DBS for certificates, on behalf of The Bevern Trust, and forward these to The Bevern Trust when they have been received.

**Entitlements to make applications for Disclosure Certificates**

The Rehabilitation of Offenders Act 1975 deems it generally unlawful to request information about criminal convictions which are considered to be “spent.” However, by virtue of various “Exceptions Orders” (to the regulations), The Bevern Trust is both entitled to ask questions about convictions (even those that are “spent”) and required to obtain or view disclosure certificates for its employees.

Given the nature of The Bevern Trust, and the fact that every person working here is liable, at some time will come into contact with residents on a regular basis.

The Bevern Trust will request certificates via the umbrella registered body for everyone who either works or is a volunteer at The Bevern Trust at the appropriate level.

[standard, enhanced, or enhanced with children’s and/or adults barred lists check(s)].

| **Type of check**  | **What it will check for** |
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| **Standard**  | The standard check is available for certain specified occupations, licences and entry into certain specified professions. It contains details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC). |
| **Enhanced**  | The enhanced check is available for those carrying out certain activities or working in regulated activity with children or adults; applicants for gaming and lottery licences; and judicial appointments. It contains the same PNC information as the standard check but also includes a check of police records held locally. |
| **Enhanced with list checks**  | An enhanced check with barring lists is only available for those individuals who are in regulated activity. It contains the same PNC information and check of police records held locally as an enhanced check but in addition will check against the children's and/or adults barring lists. |

**Eligibility for Checks**

The Bevern Trust employs people in a variety of occupations, including those who are engaged in regulated activity. The Bevern Trust is entitled to ask questions about previous criminal convictions, and to apply for a disclosure certificate (at the standard level) for everyone employed at The Bevern Trust, in any position (including volunteers) by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, which provides exception to:

“Any office or employment which is concerned with the provision of care services to “vulnerable adults.”

Applications for checks at either the enhanced level, or enhanced level with lists checks will be made in accordance with the actual and anticipated duties of the

position, including whether any of the duties fall into the categories of “regulated activity”.

**Referral to the DBS**

The Bevern Trust relies on accurate information coming from the DBS so that it may make correct hiring decisions.

On rare occasions, The Bevern Trust may come across an individual who is on a barred list, as result of previous conduct, and, most likely, having been referred by a previous employer. Such a situation would immediately put a halt to any prospective employment. The Bevern Trust accepts its moral responsibility and legal duty to always refer employees of the Bevern Trust to the DBS, using the appropriate form, in the following circumstances, for possible inclusion of the individual on the list of persons barred from working with adults and/or children: If The Bevern Trust:

* Has dismissed them because they harmed a child or adult;
* Has dismissed them because they might have harmed a child or adult; otherwise
* Was planning to dismiss them for either of these reasons, but the person resigned first.

In all cases the Bevern Trust disciplinary procedures will be followed.

**Acceptance of previously issued disclosure certificates**

In most cases The Bevern Trust will not accept previously issued disclosure certificates from applicants for employment for the following reasons:

* The applicant's criminal record or other relevant information may have changed since its issue;
* The decision made by a Chief Police Officer to disclose information on a CRB/DBS certificate was made based on the position for which the criminal record check was originally applied for. The Bevern Trust cannot assume that no other intelligence would be disclosed for a different position;
* The information revealed was based on the identity of the applicant, which was validated by another registered body, at the time that the original check was requested.

**DBS adult first**

The Disclosure and Barring Service's (DBS) adult first service allows an individual to be checked against the DBS adults barred list while waiting for the full criminal record check to be completed. The requests carry strict criteria:

* The position must require a criminal record check by law;
* The position must be eligible for access to the DBS adults barred list.

On occasion the Bevern Trust will apply for a DBS adult first check, (for those employees engaged in “regulated activity”) after having made an application for an Enhanced Disclosure Certificate in the correct manner. Provided that the Applicant is confirmed as not being on a barred list, (and the Bevern Trust has not been asked to wait for the full DBS certificate) then employment may commence, **under supervision**, subject to satisfactory completion of the criminal records check, in its entirety. This option is not available for employment with both adults and children, or children only.

**DBS Update Service**

In 2013 the Bevern Trust will take advantage of the DBS Update Service whereby applicants for employment may produce disclosure certificates, previously issued by the DBS. The Bevern Trust will then make direct contact with the DBS in order to confirm that what is recorded on the certificate is current and accurate, in every case, and before employment commences.

**Overseas applicants for employment**

It is understood that the Disclosure and Barring Service (DBS) cannot access criminal records held overseas, but it is possible to submit an application while the applicant is overseas. In a small number of cases overseas criminal records are held on the UK Police National Computer and these would be revealed as part of a criminal record check. In situations where The Bevern Trust is considering employing someone from overseas then criminal records checks will be made through contact with the embassy or high commission of the country in question.

**Certificates of good conduct**

Where possible, and available The Bevern Trust will attempt to obtain a certificate (translated into English, if necessary) of good conduct and any other references from potential overseas employees.

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| **References to Legislation and Fundamental Standards** |
| **Health and Social Care Act 2008 (Regulated Activities) Regulations 2014** | **Regulation 19** |
| **Fundamental Standards** | **Persons employed must be of good character, have the necessary qualifications, skills and experience, and be able to perform the work for which they are employed** |