

Criminal Records Policy

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Mission, Values & Behaviours

Strategic Mission

KFM has a strategic mission which is:

- *To provide safe and effective and timely patient care through fully managed services.*

This policy reflects and supports delivery of this overall mission.

Values and Behaviours

Our values are:

- **Quality is the priority**
We put quality at the heart of everything we do and are tenacious in pursuing excellence
- **Accountability is the foundation**
We are accountable and deliver services we are proud of
- **Working Together gets it done**
We will work together as a close knit team and collaboratively with our clients
- **Positive Energy delivers results**
We are passionate about what we do and openly express the pride we have in working for KFM

This policy reflects and supports these values and behaviours.

Equal Opportunities and Dignity at Work

KFM is committed to:

- *Achieving an inclusive and diverse workforce and to equal opportunity and access for all.*

In applying this and all other HR policies KFM seeks to create a working environment free of bullying, harassment, victimisation and unlawful discrimination, promoting dignity and respect for all, and where individual differences and the contribution of all staff are recognised and valued.

1. Introduction

- 1.1 This document outlines the approach of KFM to carrying out criminal record checks and to employing staff with criminal records.
- 1.2 KFM is required to ensure that certain employees who work with patients and in patient facing roles are suitable to do so. As part of these pre-employment checks, and as part of a rolling process throughout employment with KFM, employees may be subject to a criminal record check at a level appropriate to the role.
- 1.3 KFM uses the Disclosure and Barring Service (DBS) to assess suitability of successful candidates, and continuing suitability of employees.
- 1.4 KFM complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. The Code of Practice is intended to ensure – and to provide assurance to those applying for basic, standard and enhanced Disclosures – that the information released will be used fairly.
- 1.5 KFM complies fully with its obligations under the Data Protection Act 2018, Rehabilitation of Offenders Act 1974, Protection of Freedoms Act 2013 and the good practice outlined in the NHS Employment Checks Standard - Criminal Records Checks September 2019.

2. Scope

- 2.1 This policy applies to all applicants, staff and bank workers.
- 2.2 Agency staff and contractors will, where necessary, have had appropriate checks conducted by their employing agency, including a criminal records check where this is appropriate to the role.

3. Purpose

- 3.1 This Policy is intended to assist King' FM employees, prospective employees and line managers to:
 - Understand the importance of prospective employees and current employees undergoing a criminal records check
 - Be aware of the different levels of criminal records check and when it is appropriate to use each of these
 - Understand the implications of employees commencing employment without a having undergone a criminal records check
 - Understand the confidentiality and retention issues associated with the check.

4. Key Principles

4.1 Refusal to participate

Refusal by a candidate, employee or volunteer to participate in the criminal record checking process will disqualify the candidate from appointment or lead to disciplinary action. This includes a failure to present the DBS certificate upon request.

4.2 **Providing false, inaccurate or misleading information**

Where it is found that an individual has provided false, inaccurate or misleading information relevant to their position, this may disqualify them from appointment, or lead to disciplinary action.

4.3 **Failure to disclose a criminal record**

Where it is found that an individual has failed to disclose a criminal record, where they are required to do so, this may disqualify them from appointment, or lead to disciplinary action if they are in employment at the time of the failure to disclose.

This is considered to be gross misconduct and could lead to dismissal from employment, referral to a relevant professional registration body and referral to the Disclosure and Barring Service for review.

4.4 **Data protection**

KFM recognises that there is a requirement to maintain confidentiality of data relating to convictions and cautions and in particular that it is an offence punishable by fine or imprisonment to pass information detailed on a DBS certificate to anyone not authorised to receive it.

4.5 **Eligibility for criminal record checks**

Where a role is included on the *Rehabilitation of Offenders Act 1974 Exceptions (Order) 1975, as amended in 2013*, KFM is entitled to request a criminal records check from the Disclosure and Barring Service, KFM will only request an appropriate level of Criminal Record Check, in line with current legislation and guidance. A full list of roles eligible for checks can be found at Appendix C, along with the appropriate level of check.

This list is monitored by HR and any newly created, or changed, positions should be referred to the HR team for agreement on the level of criminal record check required.

5. **Levels of Criminal Record Check**

5.1 **Basic**

A Basic criminal record check will provide details of an individual's convictions, cautions, reprimands or warnings recorded on police central records and includes only 'unspent' convictions.

5.2 **Standard**

A Standard criminal record check will provide details of an individual's convictions, cautions, reprimands or warnings recorded on police central records and includes both 'spent' and 'unspent' convictions.

To be eligible for a standard level DBS certificate, the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

5.3 **Enhanced**

An Enhanced criminal record check will provide the same details as a standard check, together with any information held locally by police forces that it is reasonably considered might be relevant to the post applied for

To be eligible for an enhanced level DBS certificate, the position must be included in both the ROA Exceptions Order and in the Police Act 1997 (Criminal Records) regulations.

5.4 Enhanced with Barred List Check

An Enhanced criminal record with barred list check (Adults and Children) will provide the same details as an Enhanced check and will also check to see if the individual is barred from working with both vulnerable groups.

To be eligible to request a check of the children's or adults' barred lists, the position must be eligible for an enhanced level DBS certificate as above and be specifically listed in the Police Act 1997 (Criminal Records) regulations as able to check the appropriate barred list(s).

6. Applications for a Criminal Record Check

6.1 Notification of requirement

All applicants to KFM, whether internal, external, paid or voluntary will be notified if they are applying for a role which requires them to have a criminal record check and the level of check associated with the role.

This will be notified to them on the NHS Jobs online system at the application stage.

A full list of roles eligible for checks can be found at Appendix C, along with the appropriate level of check.

6.2 New employees

New employees will be asked to complete an application for a criminal record check when they are made a conditional offer of employment. It is a condition of this offer that this check is satisfactory.

The HR team will process these checks as part of the pre-employment checking process.

6.3 Current employees applying for a new role

Current employees will be asked to complete an application for a criminal record check when they are made a conditional offer for their new role.

- If they have already had a criminal record check conducted by KFM, which is at or above the appropriate level for their new role, a new criminal record check is not required.
- If the criminal record check is not at or above the appropriate level for their new role, then a new criminal record check will be required.

The HR team will process these checks.

6.4 Rolling checks – every three years

Current employees who are working in a role which requires them to have a criminal record check will be required to apply for a new check every three years.

The HR Team will process these checks.

7. Overseas criminal record checks

7.1 Circumstances

Where staff have only recently moved to the UK, or have lived outside of the UK for 6 months or more within the last 5 years; there is a risk that they may have committed offences outside of the UK which will not be reported through a UK criminal record check.

In these circumstances KFM will ask the individual concerned to provide a police certificate, with translation if required, covering the period they were overseas.

7.2 Obtaining an overseas criminal record check

If the person does not hold a relevant police certificate already, these can often be obtained from the Embassy in the UK of the country concerned.

KFM will provide a supporting letter to be used in conjunction with the application for the overseas police check in these circumstances.

7.3 Responsibility for compliance

It will remain the responsibility of the individual concerned to provide the overseas police certificate, and translation if necessary, to KFM in a timely manner.

7.4 Costs

KFM will reimburse the costs of any overseas criminal record checks which are required. This will only be on the production of a receipt or invoice marked as paid, and will only take place on commencement of employment.

Where the police certificate reveals information which was not previously revealed to KFM, or where this information is unacceptable to KFM, no contribution will be paid whatsoever.

8. Criminal Record Disclosures

8.1 At Recruitment

KFM will ask all applicants to complete a criminal record declaration form. This declaration will be appropriate to the level of check that is being carried out.

Role	Declaration
No DBS Check	Declaration A details of unspent convictions only
Basic DBS Check	Declaration A details of unspent convictions only
Standard DBS Check	Declaration B details of spent and unspent convictions
Enhanced DBS Check	Declaration B details of spent and unspent convictions

These declaration forms are included at Appendix A and B to this policy.

8.2 **During Employment**

Under the KFM contract of employment, employees are obliged to inform their line manager and Human Resources if they, at any point during their employment, receive a conviction, caution, reprimand or warning which is recorded on their criminal record.

8.3 **Self-Disclosure of a Criminal Record**

KFM undertakes to discuss any matter revealed in a self-disclosure with the applicant or employee. This may take the form of an interview to enable an open and measured discussion to take place regarding any offences or other matters that might be relevant to the position.

Having a criminal record will not necessarily bar a potential employee from working with KFM. This will depend on the nature of the position and the circumstance and background of the offence(s).

8.4 **Risk Assessment**

After a discussion with the employee or applicant about the criminal offences disclosed a risk assessment will be carried out to inform the approach of KFM to the employee or applicants ongoing employment.

This risk assessment will take into account the nature of the information disclosed and the outcome of a DBS check to confirm the information disclosed. This risk assessment will be carried out in line with the provision of the Rehabilitation of Offenders Act 1974, as well as best practice guidance from NACRO.

The risk assessment will be made available to the individual concerned regardless of the outcome.

9. **Certificates containing information**

9.1 **Risk Assessment**

KFM will give due consideration to criminal record information that it receives in line with the DBS Code of Practice and with regard to the appropriate limitation of risk to patients, staff and property.

9.2 **Driving Convictions**

Where there is information released concerning driving convictions, including those for driving under the influence of drink or drugs, and the person is required to drive as part of their role, KFM will take the appropriate rehabilitation period into account within the risk assessment process.

9.3 **Discussion**

Where the outcome of a risk assessment of a current employee indicates that employment should not continue by reason of the conviction itself then there may be grounds to terminate the employment relationship.

9.4 **Termination of Employment**

Where the outcome of a risk assessment of a current employee indicates that employment should not continue by reason of the conviction itself then there may be grounds to terminate the employment relationship.

10. Starting work before completion of a criminal record check

10.1 Acceptable Circumstances

KFM recognise that there may occasionally be a need for staff to commence in post prior to receiving the result of a criminal record check. If this is likely to be the case this should be discussed with HR.

10.2 DBS Risk Assessment

Starting work prior to the completion of a criminal record check will depend on the outcome of a DBS Risk Assessment, which will be completed by the recruiting manager and an HR representative.

This interim risk assessment form can be found at Appendix E and will need to be signed off by the Director of HR and Communications.

10.3 Delayed result from a criminal record check

If the result of a criminal record check is still pending after such a training programme, the employee will be suspended with no pay, until such time as an acceptable result has been received from the criminal record check.

10.4 Termination of Employment

New staff who start their employment in non-patient facing activities, in the circumstances described above must note that their continued employment is subject to the satisfactory return of their criminal record check.

If there are any discrepancies between the information previously disclosed (as recorded on the Interim Criminal Record Risk Assessment Form) and the information contained on the DBS Certificate will result in disciplinary action being pursued, and possible termination of employment.

11. Recording of criminal records information

11.1 DBS Code of Practice

KFM will, at all times, comply with the DBS code of practice in relation to the storage, handling and retention of DBS certificate information, and any other criminal record information which is made available to KFM.

11.2 Recording Check Information

Basic information regarding a check being carried out will be recorded electronically on the Electronic Staff Record (ESR) system. This will include:

- ◆ Name of subject
- ◆ Date of the disclosure
- ◆ Type of disclosure
- ◆ The post title in question
- ◆ The unique reference number issued by the DBS
- ◆ The recruitment and selection decision taken

11.3 Recording Risk Assessment Information

KFM will keep a secure electronic log of all risk assessments undertaken and the outcome of those risk assessments.

Where the risk assessment results in a decision to recruit or to confirm employment, the risk assessment will be kept securely, separately from the HR file, for the duration of employment.

Where the risk assessment results in a decision to withdraw an offer, or to terminate employment, the risk assessment will be kept securely, separately from the HR file, until such time as any disputes are resolved.

11.4 Retention of DBS Certificates

With due regard to the DBS code of practice KFM will not retain DBS certificates or copies of these for any longer than is necessary to undertake the risk assessment and decision making process.

In the case of a decision being made to withdraw an offer of employment, or terminate employment which has commenced, a copy of the certificate may be held on file for up to 6 months whilst any HR processes are concluded.

Appendix A

Criminal Records Declaration Form A

For roles subject to the Rehabilitation of Offenders Act 1974

You should read our Criminal Records Policy carefully before completing this form.

The role you have been appointed to is subject to the Rehabilitation of Offenders Act 1974, this means that we are only asking about convictions which are **unspent**.

The presence of a criminal record on a DBS check does not automatically prevent a member of staff from working in their role, however this should be disclosed at the earliest opportunity to your line manager and/or HR.

Any criminal record information which is provided by a member of staff will be treated in the strictest confidence and would be used to assess the appropriateness of the member of staff continuing to work for KFM in their current role, or in any role. Decisions made in relation to continuing employment will always follow the DBS guidance in relation to decision making.

All cases will be examined on an individual basis and will take the following into consideration:

- Whether the conviction is relevant to the position applied for.
- The seriousness of any offence revealed.
- The age of the applicant at the time of the offence(s).
- The length of time since the offence(s) occurred.
- Whether the applicant has a pattern of offending behaviour.
- The circumstances surrounding the offence(s) and the explanation(s) offered by the person concerned.
- Whether the applicant's circumstances have changed since the offending behaviour.

It is important that applicants understand that failure to disclose all **unspent** convictions could result in disciplinary proceedings or dismissal.

Name:	
Position:	
DBS Check Level:	[Basic / Not Required – Declaration Only]

This post is not exempt from the Rehabilitation of Offenders Act 1974. We only ask applicants to disclose convictions which are not yet spent under the Rehabilitation of Offenders Act 1974. If you are not sure whether your convictions are spent, please contact [Nacro](#) for further advice.

Do you have any unspent convictions?		<i>Place an X in the relevant box</i>
Yes – please complete the following page		
No – please sign the declaration at the bottom of the following page		

If Yes, you have two options on how to disclose your criminal record;

Option 1: Please provide details of your criminal record in the space below.

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Option 2: You can disclose your record under a separate cover provided that you mark a cross on the line below and attach the details in an envelope stapled to this form. The envelope should be marked **CONFIDENTIAL** and state your name and the details of the post.

I have attached details of my conviction separately: _____

Declaration

I declare that the information provided on this form is correct. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role with KFM.

Signed:		Dated:	
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Please return this completed form to the KFM HR team by emailing it to:
kch-tr.kfmhr@nhs.net

Appendix B

Criminal Records Declaration Form B

For roles exempt from the Rehabilitation of Offenders Act 1974

You should read our Criminal Records Policy carefully before completing this form.

The role you have been appointed to is exempt from the Rehabilitation of Offenders Act 1974, this means that we are asking about convictions which are both **spent and unspent** that are not considered protected.

The presence of a criminal record on a DBS check does not automatically prevent a member of staff from working in their role, however this should be disclosed at the earliest opportunity to your line manager and/or HR.

Any criminal record information which is provided by a member of staff will be treated in the strictest confidence and would be used to assess the appropriateness of the member of staff continuing to work for KFM in their current role, or in any role. Decisions made in relation to continuing employment will always follow the DBS guidance in relation to decision making.

All cases will be examined on an individual basis and will take the following into consideration:

- Whether the conviction is relevant to the position applied for.
- The seriousness of any offence revealed.
- The age of the applicant at the time of the offence(s).
- The length of time since the offence(s) occurred.
- Whether the applicant has a pattern of offending behaviour.
- The circumstances surrounding the offence(s) and the explanation(s) offered by the person concerned.
- Whether the applicant's circumstances have changed since the offending behaviour.

It is important that applicants understand that failure to disclose both **spent and unspent** convictions that are not considered protected could result in disciplinary proceedings or dismissal.

Name:	
Position:	
DBS Check Level:	[Standard / Enhanced / Enhanced with Barred Lists]

This post is exempt from the Rehabilitation of Offenders Act 1974. We ask applicants to disclose convictions which are both **spent and unspent** that are not considered to be protected. If you are not sure whether your convictions are protected, please contact [Nacro](#) for further advice.

Do you have any spent or unspent convictions which are not considered protected?

Place an X in the relevant box

Yes – please complete the following page

No – please sign the declaration at the bottom of the following page

If Yes, you have two options on how to disclose your criminal record;

Option 1: Please provide details of your criminal record in the space below.

Option 2: You can disclose your record under a separate cover provided that you mark a cross on the line below and attach the details in an envelope stapled to this form. The envelope should be marked **CONFIDENTIAL** and state your name and the details of the post.

I have attached details of my conviction separately: _____

Declaration

I declare that the information provided on this form is correct. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role with KFM.

Signed:

Dated:

Please return this completed form to the KFM HR team by emailing it to:
kch-tr.kfmhr@nhs.net

Appendix C

Roles Eligible for DBS Checks

The following roles have been assessed by the KFM HR team as being eligible for DBS checks in accordance with the relevant legislation and guidance available from the Disclosure & Barring Service.

Directorate	Role	DBS Check
Supply Chain	All Supply Chain Roles based on hospital site; <ul style="list-style-type: none">- Inventory Coordinator- Purchasing Support Coordinator- Inventory & PS Team Leader	Basic
Managed Services	Endoscopy Technicians	Basic
	Technicians & Technologists	Standard
	Head of Technical Services	Standard
	Pharmacists	Enhanced
	Dispensers <i>*only where working in an outpatient / hospital setting</i>	Enhanced
Managing Director	All Directors	Basic

Appendix D

Disclosure and Barring Service Checks Information for Applicants & Employees

This information is provided for current staff or applicants who have been requested to undertake a Disclosure and Barring Service (DBS) check as part of a new role or their current role with King's Facilities Management (KFM).

KFM uses DBS checks as one part of our ongoing commitment to ensuring we have a safe and suitable workforce to undertake the work we provide to our client

If you have been asked to apply for a DBS check this means that your role has been identified as being eligible for a check at one of the following levels;

- Basic
- Standard
- Enhanced
- Enhanced with Childrens Barred List
- Enhanced with Adults Barred List
- Enhanced with Childrens & Adults Barred List

For more information about the DBS check levels and the type of criminal conviction information which is provided to us, you can consult the DBS website at: www.gov.uk/db.

As part of the application process, staff are asked to provide a number of forms of identification and complete an online form. The online form asks staff to declare if they have any criminal convictions, cautions, reprimands or warnings.

It is important that staff complete this declaration truthfully, as any declaration which is found to be false at a later date could result in disciplinary action, up to and including dismissal or withdrawal of a job offer.

The presence of a criminal record on a DBS check does not automatically prevent a member of staff from working in their role, however this should be disclosed at the earliest opportunity to your line manager and/or HR and reflected truthfully on the online form.

Any criminal record information which is provided by a member of staff will be treated in the strictest confidence and would be used to assess the appropriateness of the member of staff continuing to work for KFM in their current role, or in any role. Decisions made in relation to continuing employment will always follow the DBS guidance in relation to decision making.

Rehabilitation Periods

NOTE: Sentences of imprisonment of more than 48 months can never be spent.

Sentence	Rehabilitation period for adult offenders	Rehabilitation period for young offenders
Imprisonment of more than 30 months and up to or consisting of 48 months	7 years from the date the sentence is completed	42 months from the date the sentence is completed
Imprisonment of more than 6 months and up to or consisting of 30 months	48 months from the date the sentence is completed	24 months from the date the sentence is completed
Imprisonment for 6 months or less	24 months from the date the sentence is completed	18 months from the date the sentence is completed
Dismissal from HM's Service	12 months from the date of conviction	6 months from the date of conviction
Detention	12 months from the date the sentence is completed	6 months from the date the sentence is completed
Fine	12 months from the date of conviction	6 months from the date of conviction
Compensation order	The date on which the payment is made in full	The date on which the payment is made in full
Community or youth rehabilitation order	12 months from the date provided for by or under the order	6 months from the date provided for by or under the order
A relevant order	The date provided for by or under the order	The date provided for by or under the order

DBS Guidance: Filtering rules for criminal record check certificates

For those 18 or over at the time of the offence:

An adult conviction will be removed from a DBS criminal record certificate if:

- 11 years have elapsed since the date of conviction; and
- it is the person's only offence, and
- it did not result in a custodial sentence.

Even then, it will only be removed if it does not appear on the list of offences relevant to safeguarding. If a person has more than one offence, then details of all their convictions will always be included.

An adult caution will be removed after 6 years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.

For those under 18 at the time of the offence:

- The same rules apply as for adult convictions, except that the elapsed time period is 5.5 years
- The same rules apply as for adult cautions, except that the elapsed time period is 2 years.

Appendix E

Interim Criminal Records Risk Assessment

RISK ASSESSMENT FOR A CANDIDATE COMMENCING IN POST AWAITING DBS CLEARANCE

It is only in exceptional circumstances that a candidate may commence in post without clearance and this must be discussed with the local HR Business Partner before completing this risk assessment to be signed off by the Director of HR & Communications.

Candidate name	
Position applied for	
DBS Ref No. and type of clearance required	
Department/ Directorate	
Manager and contact no.	
HR Contact	
Date of Request	

Why do you require the candidate to commence in post without DBS clearance?

Please detail the rationale for this request in the space below:

What duties will the candidate be undertaking whilst awaiting DBS clearances?

Please detail below the duties the candidate will be undertaking e.g. training/ shadowing/ clerical duties etc.:

Please indicate below what clearances have been received:

OH Clearance	
All References	
Qualifications	
Professional Registration	
Secondary employment & conflicts of interest	
Right to work in the UK	

Please provide a detailed assessment of the risks associated with the candidate commencing in post without DBS clearance and your measures to mitigate this risk.

Please note that the risk may be greater where candidates are awaiting enhanced/ barred clearance

Possible Risks	Likelihood (H/M/L)	Impact (H/M/L)	Measures in place	Timescale for Review	Person Responsible

Manager Signature:

Director Signature:

HR Signature:

Date completed: