



AGENDA ITEM

6.2

PEOPLE & CULTURE COMMITTEE

**DISCLOSURE BARRING SERVICE (DBS)
ASSURANCE UPDATE**

Date of meeting	14/07/2021
FOI Status	Open/Public
If closed please indicate reason	Not Applicable - Public Report
Prepared by	Claire Nicholas, Head of Policy, Compliance and Agenda for Change
Presented by	Karen Wright, Assistant Director of Workforce
Approving Executive Sponsor	Executive Director for People
Report purpose	FOR NOTING

Engagement (internal/external) undertaken to date (including receipt/consideration at Committee/group)

Committee/Group/Individuals	Date	Outcome
(Insert Name)	(DD/MM/YYYY)	Choose an item.

ACRONYMS

AfC	Agenda for Change
CRB	Criminal Records Bureau
DBS	Disclosure Barring Service
ESR	Electronic Staff Record
FAQ	Frequently asked questions
HIW	Health Inspectorate Wales



ISA	Independent Safeguarding Authority
TUPE	Transfer of Undertakings (Protection of Employment) Regulations 2006
NWSSP	NHS Wales Shared Services Partnership

1. SITUATION/BACKGROUND

- 1.1** It should be noted that the Criminal Records Bureau (CRB) was established under Part V of the Police Act 1997 and was launched in March 2002. At this time it was agreed across Wales not to retrospectively check those employees substantively employed in post at that time.
- 1.2** CRB checks were replaced by DBS checks in 2012, when the functions of the CRB and the Independent Safeguarding Authority (ISA) were merged, under the Protection of Freedoms Act 2012. The DBS check process started operating on 1 December 2012.
- 1.3** Following the conviction of Mr W for the murder of his neighbour, HIW undertook a review of Abertawe Bro Morgannwg Health Board's (ABMUHB) handling of the recruitment of Mr W and the subsequent allegations made by three patients alleging sexual misconduct. The review found that Mr W had not been required to undertake a Disclosure and Barring Service (DBS) check by ABMUHB, despite the role requiring him to work with vulnerable adults with learning disabilities and it being a mandatory requirement to complete such a check.
- 1.4** As a consequence of the HIW findings, in mid-2019 all NHS organisations were requested to review their DBS check compliance and take remedial action as required.
- 1.5** A paper that was presented to the Cwm Taf Morgannwg University Health Board (CTM) Management Board in February 2020, which provided an update on the CTM DBS check process and the findings of an internal audit, undertaken the CTM Workforce Compliance Team.
- 1.6** This report presents the findings in respect of the current position, at that time in relation to DBS compliance and level of assurance.



2. SPECIFIC MATTERS FOR CONSIDERATION BY THIS MEETING (ASSESSMENT)

- 2.1** In 2020 a high level action plan was produced outlining all those areas across CTM where there were identified shortfalls in the capturing DBS information on eligible employee records. The purpose of the action plan was to provide assurances that DBS checks have been undertaken, in respect of those employees and worker that require one and that this information was recorded on Electronic Staff Record (ESR).
- 2.2** Since March 2020 the Workforce Compliance Team has continued to undertake work to reduce the identified shortfalls in the recorded number of DBS checks, for eligible employees and workers. This was placed on hold during the first two COVID-19 Waves, however, work against the action plan was picked up again in December 2020 and is ongoing.
- 2.3** An updated DBS compliance report was run in June 2021 from ESR, to identify the progress made, in respect of those employee and worker's that did not have a DBS check recorded on ESR.
- 2.4** The updated position is noted below, which show a decrease in the number of missing DBS Checks on ESR:

	Match	Not required	Missing	% Missing
Agenda for Change (A4C)	6185	2051	1732	17.38% ↓
Medical and Dental (M&D)	819	7	166	16.73% ↓
Bank	1406	105	490	24.49% ↓
	8140	2163	2388 ↓	18.42% ↓

- 2.5** As the number of employees in post alters daily, it is impossible to compare the previous findings side by side, as there are constantly new starters and leavers and people change posts internally, which may result in a different level or no DBS check being required. However, the arrows above demonstrate the progress that has been made in finding missing and matched DBS Checks and identifying employees and workers who were employed by CTM before CRB (now DBS) checks were required.

2.6 Bridgend Boundary Change – Impact on Data:

On the 1 April 2019, CTM assumed responsibility for providing healthcare services for people in the Bridgend County Borough Council area. As a result of this change, employees were TUPE transferred from Abertawe Bro Morgannwg University Health Board (ABMUHB) into Cwm Taf Morgannwg University Health Board. The legal TUPE process required the former ABMUHB employer to transfer the complete personnel file, in respect of each of the transferring employees.

It should be noted that the former ABMUHB managers retain the paper or electronic employee personnel files, within their departments, as there was no centralized filing function. Post transfer the Princess of Wales managers have continued to securely hold the personnel of their employees, locally within their department

The review of the level of DBS check compliance amongst former ABMUHB employees at the time of transfer was as follows:

- 2.6.1 51.9% of the DBS checks missing were in respect of AfC employee who were identified as ABMUHB employees who had TUPE transferred into CTM.
- 2.6.2 46.54% of the DBS checks missing were in respect of Medical and Dental employees who had TUPE transferred into CTM.
- 2.6.3 Pre-DBS checks are difficult to identify from the Princess of Wales Hospital data, as the start dates on ESR are the employee's TUPE Transfer date i.e. 1 April 2019).
- 2.6.4 ABMUHB employees who retired and returned prior to the TUPE transfer, are also difficult to identify as CTM does not have a record of who they are, as they were not required to provide this as part of the transfer process.

2.7 Action Taken from March 2020 to Date

2.7.1 Medical Workforce

Following the previous review of outstanding records, any DBS check information located has been updated into the relevant employee's ESR record. This work was temporarily put on hold at the end of 2019, due to Medical Workforce staff shortages

and the needs of the service. The plan was to pick up this work again in the 2020/21 financial year, following the February 2020 changeover of trainees, when capacity would under normal circumstances been available. However, as a result of the COVID-19 pandemic, the priorities and demands on the Medical Workforce service changed dramatically and this work was once again placed on hold.

2.7.2 **Staff Bank**

The Staff Bank had commenced updating DBS check information on ESR, when this was available to them. However, as a result of the COVID-19 pandemic the demands on the service changed dramatically, with the focus on recruiting bank staff and supporting clinical areas with staffing requirements.

The Bank Team completed the validation exercise to identify active bank workers and de-register those who had not undertaken bank shifts in the previous 6 months (excluding anyone who was on maternity or sick leave). However, given the time lapse, bank worker records will be reviewed again in year and a further validation exercise undertaken.

The validation exercise also identified that bank workers who TUPE transferred from ABMUHB are now recorded on ESR as CTM workers.

From February 2021, all pre-employment checks for Bank workers are now being undertaken by NWSSP, which should ensure that DBS checks are always undertaken as necessary and that the information is recorded on ESR.

2.7.3 **The Pathways to Employment Project**

This route for healthcare support workers to join the Bank stopped due to COVID-19 in May 2020.

As part of an exercise undertaken during January 2021, the DBS check details for a significant number of healthcare support workers were identified from personal files and added to their ESR records.

2.7.4 All Other Staff Groups

The Workforce Business Support Manager was deployed to another area to help out during the COVID-19 pandemic. The

work to request DBS check information from employees directly, where the team were unable to find the details on personnel files, did not therefore commence as planned.

From January to March 2021, two agency workers were engaged to check all electronic systems for evidence of missing DBS checks. This involved checking recruitment records on Trac and ESR, to establish whether a DBS had been recorded on a previous staff record, electronic personnel files. This exercise was undertaken for bank workers, medical and dental and all other staff groups.

In total 3659 electronic records were checked and DBS information for a further 1188 staff were found and updated in ESR.

- 2.8** To date, given the resource and time constraints imposed on the compliance team during COVID-19, limited work has continued over the past 12 months internally, to attempt to locate the identified missing DBS checks.
- 2.9** During the current financial year, the Compliance Team will prioritise this work. The approach will required the Team to contact those employees that pose a higher risk, i.e. employees working directly with children and / or vulnerable adults, in the first instance.
- 2.10** It is anticipated that CTM's DBS check compliance rates will begin to improve significantly, once individual employees are communicated with, regarding whether or not they have a current DBS check that they can provide to the Compliance Team, to update their record.
- 2.11** It is recognised that some employees may feel anxious and worried, especially if they have historical offence(s) and they were not requested to provide a DBS check as part of their appointment and pre-employment check process. All employees will therefore be encouraged to make a voluntary disclosure, and provided with assurances that CTM will take an understanding, balanced and considerate approach to this information, in the strictest of confidence.

- 2.12** The voluntary disclosure of offences process will be underpinned by a risk assessment, undertaken by the employee and their line manager. The risk assessment will consider the nature of the voluntary disclosed offence(s), the duties that are required to be performed, patient contract, with particular reference to children and vulnerable adults and the circumstances in which the work is carried out, pending the completion of a formal DBS check.
- 2.13** A SharePoint page will be set up, to provide employees and managers with access to useful information, FAQs and as a means to signpost employees to the CTM wellbeing resources and services.
- 2.14** As CTM is constantly recruiting new employees, the Compliance Team will commence monitored, via a monthly new starters report, DBS check compliance for all eligible new employees. The purpose of the report will be to ensure that those employees that require a DBS check have completed one and the details are recorded on ESR. Where information is missing this will be identified and followed up immediately. This approach will ensure that CTMUHB can continue to maintain high levels of compliance moving forward, while still actively taking steps to reduce the overall number of missing DBS checks.

3. KEY RISKS/MATTERS FOR ESCALATION TO BOARD/COMMITTEE

- 3.1** The risk of an eligible employee commencing work within CTM without an appropriate DBS check is limited due to the robust on boarding / recruitment pre-employment check processes. However, due to transfer of data between various IT systems, the DBS record can be lost at various stages during the recruitment process. This in turn compromises compliance assurances that can be provided within this report.
- 3.2** Undertaking new or rechecks of existing employees, with no current DBS recorded on ESR may uncover historical offences that had not previously being disclosed. This risk can be mitigated by managers by utilising the DBS Policy and DBS Guidance for Managers and seeking advice from their Workforce Business Partner, as appropriate.



4. IMPACT ASSESSMENT

Quality/Safety/Patient Experience implications	Yes (Please see detail below)
	Patient safety may be compromised if eligible employees do not have a DBS check or the appropriate level of DBS check.
Related Health and Care standard(s)	Governance, Leadership and Accountability
	If more than one Healthcare Standard applies please list below:
Equality Impact Assessment (EIA) completed - Please note EIAs are required for <u>all</u> new, changed or withdrawn policies and services.	No (Include further detail below)
	Not required
Legal implications / impact	Yes (Include further detail below)
	Potential for individuals to be working in DBS applicable posts without a suitable DBS check. Risk of harm to patients and legal claims against CTM.
Resource (Capital/Revenue £/Workforce) implications / Impact	There is no direct impact on resources as a result of the activity outlined in this report.
Link to Strategic Well-being Objectives	Provide high quality, evidence based, and accessible care

5. RECOMMENDATION

- 5.1** The People and Culture Committee is asked to **NOTE** the content of the update paper.