

DISCLOSURE AND BARRING SERVICES AND REHABILITATION OF OFFENDERS POLICY

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1. Introduction

The Trust is committed to safeguarding the welfare of children who attend the school through the effective use of the Disclosure and Barring Service (DBS) Disclosure vetting process for all relevant groups of employees, especially roles that involve direct contact with Children. The Trust uses the DBS Disclosure process as part of a range of options for assessing the suitability of preferred candidates, volunteers, contractors, agency staff and the continued employment of those in specific roles which require assessment.

2. Policy objectives

Policies objectives: -

- Maximise protection for all children who attend school within the Trust
- Ensure that Disclosure information is used fairly in the recruitment process and to prevent any unfair discrimination against any subject for a Disclosure on the basis of conviction or other information revealed.
- To fully comply with the DBS Code of Practice to ensure sensitive personal information released in disclosures is used fairly and handled appropriately and only kept for as long as is necessary.

3. Principles

The Trust supports the development and understanding of the different cultures, values and ways of working which exist within the school and across external and partner organisations. The Trust is committed to the equality of opportunity for all job applicants and aims to select people for employment with the organisation on the basis of their individual skills, abilities, experience and knowledge irrespective of their age, disability, gender reassignment, marriage and civil partnership, pregnancy, maternity, race, religion and belief, sexual orientation, and caring responsibilities.

As an employer, the Trust will:

- Treat all applicants with a criminal record fairly and not discriminate unfairly against the subject of a Disclosure, on the basis of conviction or other information revealed
- If requested provide information on our DBS policy in relation to recruitment of ex-offenders to applicants where the post they are applying for requires a DBS check (Policy statement in Appendix 1)
- Ensure that sensitive personal information is held securely and only those entitled to see it in the course of their duties have access to it. DBS disclosures will only be stored for as long as it is necessary then confidentially destroyed

4. Levels of disclosure

Types of DBS Check to be applied are: -

- **Standard checks:** The position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975
- **Enhanced checks:** The position must be included in both the ROA Exceptions Order and in The Police Act 1997 (Criminal Records) Regulations
- **Enhanced checks with adult's and/or children's barred list check(s):** Positions that involve caring for, supervising or being in sole charge of children or adults require an enhanced DBS check. This includes checking whether someone is included on the 2 DBS 'barred lists' of individuals who are unsuitable for working with children and/or adults. It is against the law for employers to employ someone or allow them to volunteer for this kind of work if they know they are on one of the barred lists

5. Eligibility for Disclosure

For those positions where a DBS check is assessed as being required, all application forms, job adverts and recruitment briefs will contain a statement that a DBS check will be requested in the event of the individual being offered the position. The decision as to who will be checked will be made with reference to the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges.

6. DBS Disclosure validity

A disclosure carries no period of validity. This is because a conviction or other matter could be recorded against the subject of the Disclosure at any time after the Disclosure is issued. However, the Trust supports the DBS Update Service.

The Trust encourages employees to register with the DBS Update Service and will refund the employee their registration fee. The Update Service allows individuals to have their DBS Certificate kept up to date and take it with them from role to role, within the same workforce where the same type and level of check is required. With the employee's permission, the Trust as their employer may carry out an instant online check to see if any new information has come to light since the DBS original date of issue.

7. Starting Employees/Volunteers/Academy Committees/Trustees prior to receiving a DBS Check

DBS checks will be undertaken on prospective Trust employees, volunteers, Academy Committees and Trustees, if their post requires a DBS Disclosure, as part of the pre-employment/volunteering/committee/board checks prior to the individual joining the Trust.

The Trust will use a Risk Assessment process and record this for all situations where an employee's, volunteer's, Academy Committee or Trustee's DBS Disclosure has not been received prior to their commencement. No person will be permitted to commence employment in a post which requires a DBS Disclosure until a DBS check has been carried out, unless a risk assessment has been completed and authorised by the CEO/Headteacher or Chair of Academy Committees/Trustees. (A model Risk Assessment is at Appendix 2).

A copy of the risk assessment will be retained on the employee's personal file.

In all these matters the Trust will follow the guidance set out in the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges.

8. Frequency of DBS re-checks

Re-checks will be undertaken in accordance with the Trust's current policy which will be set after reference to guidance in the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges. Re-checks will be by a new application or, for staff who have registered with the DBS Update Service and with the employee's permission; the Trust will carry out an instant online check.

9. Dealing with Positive Disclosures

Having a criminal record will not necessarily bar an applicant from employment. This will depend on the nature of the position as well as the circumstances and background of the offence(s). However, failure to declare a conviction or sentence may disqualify

an applicant from appointment or result in summary dismissal if the discrepancy comes to light later.

Where a positive Disclosure is provided to the Trust, the CEO/Headteacher or Chair of Academy Committees/Trustees may contact their HR service to provide advice and guidance. The Trust will use a Risk Assessment process and record this for all situations where an employee, volunteer, Academy Committee/Trustee, has a positive Disclosure.

Where a positive or Trace Disclosure notification is received by the Trust, the CEO/Headteacher or delegated senior manager will arrange a confidential meeting/interview with the individual to ask if they are prepared to discuss the circumstances of the conviction (their age and personal circumstances at the time, their subsequent life choices and work experience including whether they have been given positions of trust, and their reflections and any contrition for their actions) and complete a risk assessment form (Appendix 3).

The DBS only issue original certificates to the individual and they should be asked to bring their certificate to the meeting/interview. The Trust will ensure that an open and measured discussion will take place with the individual, on the subject of any offences or other matter that might be relevant to the position as failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

The CEO/Headteacher or Chair of Academy Committees/Trustees must consider and approve the risk assessment which has been undertaken before an individual can commence/continue in employment. The risk assessment is to determine whether the risk of employing or continuing to employ an individual can be taken and what safeguards need to be put in place to minimise the risk.

In accordance with the Rehabilitation of Offenders Act a criminal conviction may not automatically prevent an individual from working for the Trust.

In making recruitment/employment decisions, the Trust will consider: -

- nature and seriousness of the offence
- offence or other matter in relation to the position applied for
- age of the applicant at the time of committing the offence
- the applicant's subsequent record and length of time since the offence
- whether the applicant has a pattern of offending behaviour or other relevant matters
- whether the applicant's circumstances have changed since
- circumstances surrounding the offence and the explanation
- how relevant the offence is to the post applied for

A copy of the risk assessment will be retained on the employee's personal file.

In all these matters the Trust will follow the guidance set out in the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges.

If a decision not to appoint or continue employing an individual is based on **additional information** provided by the DBS Disclosure this cannot be disclosed to the applicant. This information is provided by a chief police officer for the purpose of preventing or detecting a crime and is not provided on the applicant's copy of the DBS Disclosure. To

reveal such information to the applicant could jeopardise any ongoing or future police investigations.

It is important to note that the DBS disclosure is just one element in the pre and post-employment checks carried out during recruitment and selection.

10. Portability of DBS Disclosures

Portability refers to the re-use of a 'normal' DBS check, obtained for a position in one organisation and later used for another position in another organisation. In all these matters the Trust will follow the guidance set out in the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges.

The DBS Update Service, however, allows individuals to have their DBS Certificate kept up to date and take it with them from role to role, within the same workforce where the same type and level of check is required. With the employee's permission, the Trust as their employer may carry out an instant online check.

11. Appointing workers from overseas

Where a candidate has never lived in the UK, they must provide a Certificate of Good Conduct (or equivalent) from their country of origin in addition to a DBS Disclosure. DBS Disclosures do not record convictions that were committed abroad. When recruiting candidates who have spent a period of time living or working abroad a DBS Disclosure or equivalent from the country(s) concerned may also be required. In all these matters, the Trust will follow the guidance set out in the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges.

12. Agency Workers

The agency is responsible for ensuring all the necessary pre-employment checks are carried out prior to the employee commencing in their role.

In all these matters the Trust will follow the guidance set out in the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges.

13. Volunteers

CEO/Headteachers or Chair of Academy Committees/Trustees are responsible for ensuring that DBS Disclosures are obtained for volunteers prior to the individual starting their volunteering placement where the role requires a Disclosure.

In all these matters the Trust will follow the guidance set out in the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges.

14. Partners, Contractors and sub-contractors

Employees of organisations who the Trust work in Partnership with, and Contractors and sub-contractors must be assessed against the same criteria as those working directly for the Trust. It is the responsibility of the relevant organisation or contractor for ensuring that any of their staff who may come into contact with children undergo the appropriate checks. The relevant organisation or contractor is also responsible for ensuring that any subcontractors they may use follow the same process.

In all these matters the Trust will follow the guidance set out in the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges.

15. Disclosure of Criminal Convictions during employment

Should a member of staff be convicted or cautioned for any offence during their employment with the Trust, they are required to immediately notify the CEO/Headteacher where relevant, in writing of the offence and the penalty. This includes motoring offences/fines, which result in court action and licence penalty points, but not parking offences/fines where no penalty points are incurred. The effect of their conviction or caution will be considered with regard to the particular post they occupy and the nature and severity of the offence and penalty. Any action taken by the Trust will be in full accordance with the Disciplinary Procedure.

16. Referring an employee or volunteer to the DBS

The Trust will refer someone to DBS if they:

- dismissed them because they harmed a child or adult
- dismissed them or removed them from working in regulated activity (as defined by the DBS) because they might have harmed a child or an adult
- were planning to dismiss them for either of these reasons, but the person resigned first

N.B an employer is breaking the law if they do not refer someone to DBS for any of these reasons.

17. Storage, Handling and Retention of DBSs

Presentation of DBS original certificate

The DBS only issue certificates to the individual and they should be asked to bring the original certificate for examination by the CEO/Headteacher or an appropriate member of staff delegated to check and record the details as required for the Single Central Record or other record. Certificates have security features to prove they are genuine, including:

- a 'crown seal' watermark repeated down the right side, visible both on the surface and when held up to the light
- a background design featuring the word 'Disclosure', which appears in a wave-like pattern across both sides of a certificate; the pattern's colour alternates between blue and green on the reverse
- ink and paper that change colour when wet

Storage and access

The DBS certificate, its content, or any representation of the same in any format should not be retained for longer than is necessary and for a maximum of six months following the recruitment decision unless a dispute is raised, or in exceptional circumstances where DBS agreement is secured. If necessary, to retain the DBS, the Trust will ensure that Disclosure information is kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with section 124 of the Police Act 1997, the Trust will ensure that Disclosure information is only passed to those who are authorised to receive it in the course of their duties. It is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage

The Trust will ensure that Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Disposal

Once a recruitment decision has been made, the Trust will not keep Disclosure information for any longer than is necessary.

The Trust will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure. However, notwithstanding the above, the Trust will 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, whether the individual is registered for the DBS Update Service, and the details of the recruitment decision taken.

In all these matters the Trust will follow the guidance set out in the current Department for Education 'Keeping Children Safe in Education' statutory guidance for schools and colleges, especially in relation to the Single Central Record.

Once recorded, the Trust will ensure that any Disclosure information is immediately destroyed by secure means i.e., by shredding, pulping or burning. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle (e.g., waste bin or confidential waste sack).

18. Training

The Trust will ensure that those who are involved in the recruitment process have been suitably trained/are provided with support and guidance to identify and assess the relevance and circumstances of offences. The Trust will also ensure that such staff have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g., the Rehabilitation of Offenders Act 1974.

Scope

- This policy statement applies to all employees of the Trust, secondees, third party contractors and volunteers, whose posts have been identified as needing DBS clearance
- In educational establishments with fully delegated budgets, it is for the relevant Academy body to decide whether or not it is appropriate to apply this policy. Where it is decided that it is not appropriate, the Academy body is reminded of its obligation as an employer to nevertheless satisfy the requirements of the law and, where appropriate, the requirements of specific conditions of service.
- The term 'employee' refers to any member of staff whether teaching or support staff, employed to work by the Trust either within a School or the wider Trust

Delegation

- The term 'Headteacher' refers to Headteacher/Executive Headteacher or CEO

As per the policy

Policy Statement for the recruitment of ex-offenders

As an organisation using the Disclosure and Barring Service (DBS) service to assess applicants' suitability for positions of trust, the Trust complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a DBS check on the basis of a conviction or other information revealed.

The Trust is committed to the fair treatment of its staff, potential staff and volunteers, and aims to select people for employment within the organisation on the basis of their individual skills, abilities, experience and knowledge irrespective of their age, disability, gender reassignment, marriage and civil partnership, pregnancy, maternity, race, religion and belief, sexual orientation, and caring responsibilities or offending background.

This policy statement on the recruitment of ex-offenders will be made available, upon request, to all DBS applicants at the outset of the recruitment process.

We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.

A DBS check is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a DBS check is required, all application forms, job adverts and recruitment briefs will contain a statement that a DBS check will be requested in the event of the individual being offered the position.

Where a DBS check is to form part of the recruitment process, we encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process. We request that this information is sent under separate, confidential cover, to a designated person within the Trust and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.

Unless the nature of the position allows the Trust to ask questions about your entire criminal record, we only ask about 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974.

We ensure that those in the Trust who are involved in the recruitment process have been suitably trained or supported to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training.

At interview, or in a separate discussion, we ensure 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 withdrawal of an offer of employment.

We make every subject of a DBS check aware of the existence of the DBS Code of Practice and make a copy available on request.

We undertake to discuss any records of conviction/cautions revealed in a DBS check with the person seeking the position before withdrawing a conditional offer of employment.

Having a criminal record will not necessarily bar an applicant from employment. This will depend on the nature of the position as well as the circumstances and background of the offences. However, failure to declare a conviction or sentence may disqualify an applicant from appointment, or result in summary dismissal if the discrepancy comes to light later.

The Trust complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure Information. It also complies fully with its obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.

Before acting as the Trust's umbrella organisation (one which countersigns applications and receives Disclosure information on behalf of other employers or recruiting organisations), the Trust's umbrella organisation will take all reasonable steps to ensure that they can comply fully with the DBS Code of Practice. The Trust's umbrella organisation will also take all reasonable steps to satisfy itself that they will handle, use, store, retain and dispose of Disclosure information in full compliance with the DBS Code and in full accordance with this Policy Statement. The Trust's umbrella organisation will also ensure that any body or individual, at whose request applications for Disclosure are countersigned, has such a written policy and, if necessary, will provide a model policy for that body or individual to use or adapt for this purpose.

The Trust's umbrella organisation will co-operate fully with requests from the DBS to undertake assurance checks as to the proper use and safekeeping of Disclosure information.

DBS Risk Assessment Checklist

Starting work prior to DBS Certificate being seen

This risk assessment should be completed when considering whether to allow a new member of staff to start work before a new DBS certificate has been seen by the school.

Name of Person

Role

Interview Date

Proposed Start Date

DBS Check application date

[The person must not start without an application being made]

Is the person in 'Regulated' Activity? Yes No

Reason for starting without seeing a new DBS Check

- Continuity of the school's provision to pupils
- Other (please state)

Known Information

Have all the following checks been satisfactorily completed?

- Identity check (photographic) [Essential]
- Verification of current address [Essential]
- Barred list check (if legally appropriate) [Essential]
- Prohibition check (for teachers) [Essential]
- Overseas checks (where relevant)
- Right to Work in the UK [Essential]
- Confirmation of qualifications [Essential]
- Two references [Essential]

Any other information (please state)

.....

.....

Previous DBS Certificate

If the person has a previous DBS, on what date was it issued?

When was the person's last day at work in their previous school or college?

If the person's proposed start date and their last day at their previous school or college are less than three months apart, then a new Enhanced DBS check is not required in law, although most schools will instigate a new one. Therefore, given that there is sufficient other information, the person could be assessed to be of low risk.

Decision

- High Risk** – Person **should not** be allowed to start without a new Enhanced DBS, as there has been a break in service of more than three months (or they do not have an Enhanced DBS certificate) and/or there is insufficient information about the person in the 'Known Information' list above.

- Medium Risk** – Person may start work and although there is sufficient other information listed above, because there is a gap in service of three months or more (or they do not have an Enhanced DBS certificate), the person must be supervised* at all times and **should not** undertake 1:1 work, personal care activities or residential visits. (* The unchecked person must always be 'within sight and hearing' of a person with an Enhanced DBS check).

- Low Risk** – Person may start work, without additional supervision, as they already hold an Enhanced DBS check and there is no break in service of three months or more and all other checks have been satisfactorily completed.

Authorisation

CEO/Headteacher (Print Name)
.....

CEO/Headteacher (Signature)
.....

Date

To be kept on the personal file: A copy of this form will be kept on the employee file.

CONFIDENTIAL - Positive (Trace) DBS Risk Assessment

NAME: being considered for appointment to /engaged in the position of **JOB TITLE:**

The Disclosure Code of Practice requires that employers discuss any matters revealed on a disclosure with the person before withdrawing an offer of employment. The attached template will provide a framework for that meeting and for the risk assessment should recruitment proceed.

<p>Interview: - Explain that the role involves actual or potential unsupervised access to children and, because a positive DBS Disclosure has been received, a risk assessment must be undertaken before a decision is made to proceed with employment or not. In these circumstances the candidate is interviewed as part of that assessment process.</p>	
<p>Suggested questions: - 1) Do you dispute the accuracy of the information disclosed? <i>If yes, they need to be advised to contact the DBS</i> 2) Can you tell me about your offence(s)? 3) How did you feel about them at the time? 4) How do you feel about them now? 5) How can I be sure that you are no longer a risk? 6) How is your life different now?</p>	
<p>Assessing the risk: – Relevance - Whether the conviction or other matter revealed is relevant to for the position they are being considered Seriousness - The seriousness of any offence or other matter revealed Age of offences - The length of time since the offence or other matter revealed Pattern of offending - Whether the applicant has a pattern of offending behaviour or other relevant matters Changed circumstances - Whether the applicant’s circumstances have changed since the offending behaviour, the circumstances surrounding the offence and the explanation(s) offered by the convicted person</p>	

Name of Recruiting Manager/HR Manager: **Signature** **Date**

Agreed to proceed with recruitment:

Name of CEO/Headteacher/Chair of Trustees: **Signature** **Date**

A copy of this form will be kept on the employee file