



<b>Policy</b>	<b>Disclosure &amp; Barring Service checks</b>
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## 1. Introduction

- 1.1 This policy document sets out the procedures for Disclosure and Barring service (DBS) checks. These checks are essential and undertaken as part of a sound and safe recruitment process in Academies. Safer employment processes extend beyond recruitment and Academies and Trust should ensure each worker understands their duty of care as well as which behaviours make up safer practice and which behaviours to avoid.
- 1.2 The Trust is committed to complying with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information.
- 1.3 The Trust fully complies with its obligations under the Data Protection Act and other relevant legislation regarding the safe handling, use, storage, retention and disposal of Disclosure information.

## 2. Legal position

### 2.1 Legal framework

#### **The Rehabilitation of Offenders Act 1974 and The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2014**

The Rehabilitation of Offenders Act 1974 aims to ensure that a person who has been convicted of a criminal offence in the past and who has not re-offended for a specified period is, so far as possible, freed from the stigma of that conviction, and is treated as if the offence and conviction for it never occurred.

Under the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2014 some jobs and categories of employment are exempt from the provisions of the Act and in such cases 'spent' convictions must be disclosed. If a person is employed in an Academy or the Trust they must disclose their convictions.

The amendments to the Exceptions Order 1975 (2014) provide that certain spent convictions and cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account. This filtering is applied by the DBS.

## 2.2. Legal requirements of the DBS

- All staff on the Trust's payroll, whether supervised or not remain in regulated activity and checks on these individuals will continue in the same way. This includes all staff such as cleaners and caretakers working in Academies.
- Enhanced DBS checks can be obtained where a post or situation meets the criteria outlined in Schedule 4 of the Safeguarding vulnerable Groups Act 2006. Where reference is made to this check throughout this policy this criteria will need to be met.
- A volunteer in a Academy will not be in regulated activity if they are supervised to a reasonable level in which case an enhanced DBS check with barred list check would not be a requirement (for guidance on what is a reasonable level of supervision see Appendix B). An Academy does have the discretion, however, to request an enhanced DBS check for a volunteer. If the volunteer is unsupervised, they will be in regulated activity and will therefore be required to receive an enhanced DBS check with barred list check.
- It is an offence for an employer to engage in regulated activity someone whom they know has been barred by the DBS
- A person who is barred by the DBS from working in regulated activity will be breaking the law if they work or volunteer, or try to work or volunteer in regulated activity
- If the Academy provides regulated activity and dismisses a member of staff or a volunteer because they have harmed, or posed a risk of harm to a child or vulnerable adult, or the Academy would have dismissed if they had not left, the Academy must refer this information to the DBS.
- Police may use common law powers to provide information directly to employers in cases where this is necessary, for example to prevent harm to others. Where information is disclosed from the police using their common powers this must not be fed back to the candidate(s). Discussions must take place and an agreement reached with the police in terms of the information that will be provided to the candidate to ensure current police investigations are not compromised

## 2.3 DBS Update Service

Individuals can now subscribe to the DBS Update Service for a small annual fee. This enables an individual to take their DBS check with them from role to role, within the same type of workforce (i.e. working with children and/or working with adults), where the same type and level of check is required. Employers can then go online to see if the information presented is still current and valid, i.e. carry out a "status check". The Academy must see the original check to ensure that they are undertaking a check at a similar level and for similar work eg an enhanced check with barred list check for children. If it is not the same check at the same level then a new DBS check is required. The individual's permission is required to check the update service.

Applicants are able to subscribe to the DBS Update Service when the DBS application is under way. If they wait to subscribe with their DBS certificate number they will only have 14 calendar days, from the date the certificate is issued, to subscribe.

If the individual does not subscribe to the DBS update service (this is not mandatory) or they do not give their permission then a DBS check must be requested in the usual way. If the response to the check via the update service is not clear it means that something has changed since the DBS was done and a full DBS must be applied for.

### **3. Trust position**

- 3.1 An enhanced DBS check with barred list check is compulsory for all new appointments to the Trust regardless of role. A DBS update service check can be undertaken in place of a full DBS check, if the individual is subscribed to the service and gives their permission for the check to go ahead. If this is the case the Academy must see the individual's original DBS certificate along with ID to check the name on the certificate matches the identity of the individual and ensure that it is for the same level of check and for the right workforce. The Trust will conduct teacher prohibition checks also as applicable.
- 3.2 The Trust does not have a policy on rechecking staff in its Academies. Therefore checks will only be done on new appointments regardless of whether they have worked in schools/Academies previously. The Trust will also carry out checks including barred list checks when an existing employee changes their role within the Trust and will also undertake teacher prohibition checks/Section 128 checks as appropriate.
- 3.3 All regular volunteers will also be checked to ensure there will be no safeguarding issues.
- 3.4 The Trust will also check all Governors and Directors of the Trust to an enhanced level.
- 3.5 Contractors for services eg cleaning, catering, grounds maintenance are required to provide staff lists of those employed within the Academy including assurance that they have an enhanced DBS check in place.
- 3.6 For senior post holders within the Trust and Governors/Directors section 128 checks will also be undertaken to ensure they are not barred from managerial positions within the Trust.

### **4. The deployment of staff**

- 4.1 Offers of employment to successful candidates, including NQTs, are conditional upon a satisfactory enhanced DBS check with barred list check where applicable (or update service check). A copy of the check will be taken as evidence and to enable it to be recorded on the Single Central Record and, where appropriate, in the individual's file.

**Please note that until a satisfactory enhanced DBS check with barred list check (and a clear prohibition from teaching check) has been received, the person must not be deployed to work directly with children or in a situation where they can have unsupervised access to children.**

4.2 However, if an enhanced DBS check with barred list check has been applied for but has not been received before they are due to start work, the Trust does have the discretion to allow the person to start work provided that the Principal is confident that all other pre-employment checks have been carried out, i.e.:-

- obtaining and scrutinising comprehensive information from the person, and taking up and satisfactorily resolving any discrepancies
- obtaining independent professional and character references that answer specific questions to help assess the person's suitability to work with children and following up any concerns
- a face to face interview that explores the person's suitability to work with children as well as their suitability for the post
- verifying the person's identity
- verifying that the person has any academic or vocational qualifications claimed
- checking their previous employment history and experience
- verifying that they have the health and physical capacity for the job
- a check against the DBS children's barred list. This list contains details of those who are banned or restricted from working in an education setting
- check of their eligibility to work in the UK
- prohibition from teaching check or Section 128 check – if applicable
- reviewing any recent previous DBS check the individual may have from another organisation

and provided that the person is not deployed to work directly with children or in a situation where they can have unsupervised access to children. In other words, all possible action has been taken to ensure that no risk to children could arise. In these situations, a full risk assessment must be undertaken – see Appendix A.

**DBS barred individuals seeking to undertake work with vulnerable groups may face a prison sentence or a fine. Employers in regulated activity who knowingly employ barred individuals may face a prison sentence or a fine.**

4.3 Detailed records relating to the recruitment and selection process for all staff will be retained securely as evidence that sound and safe processes have been followed. This includes recording information on the single central record. Recruitment appointment information should be kept on the successful candidate's personal file for the time they are employed plus 7 years. For unsuccessful candidates information will be retained for one year before being destroyed. The Trust will only retain the top part of the DBS Disclosure which holds the individual's information, the disclosure number and the date on their file as evidence checks have been carried out.

## **5. Agency Supply teachers**

5.1 If the Academy is using a supply agency, the Academy must receive written confirmation and evidence that all relevant checks have been undertaken. DBS checks must be enhanced and include a check of the barred list. The Academy must

require the supply agency to provide the written notifications and copies of the enhanced DBS check with barred list check where appropriate through the contract or other arrangements which it makes with the supply agency. Where there are matters disclosed a risk assessment should be undertaken and signed off by the CEO. The Academy should check and take copies of ID of agency supply staff on arrival to place with the other documentation.

## **6. Invigilators/casual staff**

- 6.1 By the very nature of examinations and casual employment, there will necessarily be gaps between periods of employment. Provided that an enhanced DBS check with barred list check was obtained when the individual was first employed, together with all the other pre-employment checks listed above, we can reasonably advise that where a casual member of staff is used regularly by the Academy, it will not be necessary to seek further DBS disclosures each time they are subsequently used.
- 6.2 However, if there is a significant gap between periods of employment of over 6 months a further DBS check will be necessary or further check via the update service.

## **7. Overseas teachers**

- 7.1 As the DBS cannot access criminal records held overseas, an enhanced DBS check or an enhanced DBS check with barred list check may not provide complete picture of an individual's criminal records. The DBS will not normally be able to provide a disclosure if an applicant has never previously lived in the UK, no purpose will be served by seeking a disclosure through the DBS on their arrival in this country as the person concerned will not have a criminal record in this country nor will they appear on DBS barred lists.
- 7.2 In some countries, applicants can apply to their home Police Force for a "Certificate of Good Conduct". The level of information contained in these certificates varies from country to country: some are complete extracts from the criminal record; others are partial. The applicant will be required to access and provide information to show their previous record prior to commencing employment. Certificates should be originals, not copies and a copy will be retained for the file and for recording on the Single Central Record.
- 7.3 The Trust will also ensure that the normal pre-employment checks of identity, qualifications and references are carried out thoroughly before confirming an appointment, i.e. to confirm that all reasonable steps have been taken to ascertain the integrity and identity of the person concerned.
- 7.4 Overseas teachers must have the right to work in the UK. The Immigration, Asylum and Nationality Act 2006 as updated places an onus on the Trust to ensure that employees start work on or after 26 February 2008 having the right to work in the UK Academies will be subject to a significant fine for negligently employing a worker who is not a resident of a European Economic Area Country. For deliberately employing such workers there will be an unlimited fine or imprisonment. Before a potential employee starts work, the Trust must check and copy for employee files, documents which confirm the person's identity and right to work in the UK. Where a

photographic document is utilised, the photograph must be clearly identifiable from the copied image, therefore it is advisable that a colour copy or scanned image is retained. Guidance on documents required to ensure the Trust is not employing illegal workers is available on this link.

<https://www.gov.uk/disclosure-barring-service-check/documents-the-applicant-must-provide->

## **8 Volunteers**

- 8.1 Children see volunteers as safe and trustworthy adults. For avoidance of doubt and the need for supervision, all regular volunteers will require an enhanced DBS check. The volunteer will be unable to commence until the Trust has seen the DBS Disclosure and a copy has been taken for the records and entry on the Single Central Record.
- 8.2 for full information see the Policy on Volunteers and Work Experience. In all cases ID checks should be undertaken and letters of assurance retained or DBS copied even if provided from another organisation.
- 8.3 In other circumstances, e.g. where a volunteer's role will be "one-off", accompanying teachers and pupils on a day outing, helping at a concert or Academy fete, those kind of measures would, in the majority of cases, not be eligible for an enhanced DBS check with barred list check. Academies need to consider this and ensure that a Risk Assessment has been undertaken and the volunteer is supervised at all times.
- 8.4 Parents who voluntarily transport pupils for Academy activities (e.g. sports activities and visits) would not expect to undergo an enhanced DBS check with barred list check if this is agreed with the other parents. However, if the transport is organised by the Academy **and** is a regular occurrence (4 or more days in a 30 day period) there would be a requirement for the parent to undergo an enhanced DBS check with barred list check if they are not supervised by someone who is in a regulated activity.
- 8.5 Where volunteers recruited by another organisation to work in a Academy, e.g. sports coaches from a local club, the Academy should obtain written assurance from that organisation that the person has been properly vetted and this confirmation should be retained by the Academy and produced if required during an Ofsted inspection.
- 8.6 Where volunteers will be working unsupervised in a Academy they are in regulated activity so will be required to undergo full checks including an enhanced DBS check with barred list check or a check by the Update service.

## **9 Contractors**

- 9.1 Where Academies use contractors that are provided by a contractor, it is the responsibility of that contractor to have its staff checked. This must be a specific requirement contained in any contract for these services with the Academy. The Academy should seek written confirmation that these checks have been carried out by the contractor and we would encourage Principals to routinely check with workers the contractor sends to the Academy that they have had an enhanced DBS check and bring to the attention of the contractor any concerns arising. Academies are not

able to request an enhanced DBS check with barred list check on contractors unless they meet the definition of regulated activity under the Protection of Freedoms Act 2012. Or a check can be undertaken via the Update Service if appropriate.

## **10 Educational visits (including residential)**

- 10.1 All employees and volunteers accompanying residential visits must hold an enhanced DBS check with barred list check before the visits take place. For day visits only, where volunteers will be supervised at **all** times, there is no requirement to undertake an enhanced DBS check.
- 10.2 When planning residential visits it is important to plan well in advance to give sufficient time for the DBS process to be completed.
- 10.3 Academies should satisfy themselves that the appropriate safeguarding procedures have been followed in terms of checks on employees and volunteers going on the trip.
- 10.4 When using external providers for activities, transport or accommodation where their staff could have significant unsupervised access to young people, the Academy should seek assurances that the provider has sufficient safeguarding systems in place by ensuring they have supplied the relevant information on checks for the staff involved in the activities.

## **11 Work experience placements**

When work placements for pupils are arranged, the Academies must ensure that employers and training organisations are aware of safeguarding issues and asked to cooperate in putting appropriate safeguards in place.

There is no requirement to request enhanced DBS checks with barred list checks for staff supervising children aged 16 to 17 on work experience. However, Academies may be concerned about whether a children's barred list check should be carried out on staff specifically designated to supervise a child under the age of 16 while on work experience. In many instances it may not be necessary. It depends on the circumstances of the work experience, in particular the nature of the supervision and the frequency of the activity being supervised, to determine if any checks are necessary. The considerations would include whether the person will be:

- unsupervised: and
- providing the teaching/training/instruction/supervision frequently (at least once a week or on more than three days in a 30 day period, or overnight)

If the person working with the child is unsupervised and the same person is in frequent contact with the child, the work is likely to be in a regulated activity. If this is the case Academies could ask the employer providing the work experience to ensure the person providing the supervision is not a barred person. Academies should not ask an employer to conduct a check on staff who are simply working alongside the student.

Enhanced DBS checks with or without a barred list check cannot be requested for anyone who is under the age of 16.

### **13. Storage and Access**

Disclosure information in its entirety will not be kept on the personal file. Once received, only the top part of the Disclosure containing the number and date and details of the individual and level of disclosure will be kept. No information on any convictions will be retained. The lower part of the form will be destroyed in a suitably secure manner.

Access to personnel files is strictly limited.

### **14. DBS Outcomes**

- 14.1 If a clear Disclosure is received then arrangements can be made for the individual to commence work provided all other checks have been satisfactorily completed.
- 14.2 Where the DBS check has been received and shows criminal convictions, the employment cannot be confirmed until and unless the CEO has given authorisation. In the decision making process the following will be considered:-
- Whether it has been declared by the applicant during the recruitment process
  - Number of the convictions
  - The period of time covering any convictions
  - Type of convictions and relevance to the role
  - How recently the conviction(s) occurred

This process may include meeting with the individual to gain more information.

The CEO's decision will be final and will be recorded and communicated by the HR department.

- 14.3 This applies equally to employees, supply staff, volunteers and contractors.

## Appendix A – Risk Assessment for those without a DBS in place

This form is **for use in exceptional circumstances only** to justify the exemption from the standard requirement to obtain a valid Enhanced Disclosure and Barring Service (DBS) check prior to an employee commencing their new role working with children.

If the Principal believes there are sufficient grounds for allowing work to commence before a DBS check is complete, they must complete this form in full and hold this on the employee's file with an appropriate note being made in the Single Central Record. The Enhanced DBS process must be completed as soon as possible. **No employee can be allowed to commence work without a satisfactory Barred List check and a prohibition from teaching check being completed (where applicable).**

This form will be completed by the relevant manager and signed off by the Academy Principal once they are happy that appropriate measures have been put in place to minimise any risk to the organisation and its pupils.

Individual's Details	
Mr / Mrs / Miss / Ms / Other	
First name	
Surname	
Name of current/last employer	
Length of service with that employer	
Is the previous service in a relevant role	
Proposed start date	
Post Details	
Post on offer	
Is this in regulated activity	
Is the post essential to the provision of statutory services	
Current arranged for covering the post	
How long has the post been vacant	
Reason for the need to fill this post prior to gaining the appropriate DBS clearance	
Employment Checks undertaken	
Has an interview been undertaken exploring the applicant's suitability to work with children	
Have 2 satisfactory written references been received (one from the last/most recent employer) which do not raise concerns about the candidate's suitability to work with children	
If references raise concerns – what action has been taken	
Have any gaps in employment history been accounted for – give details	
Has the candidate indicated they have convictions in their equal opportunities information submitted with their application. If so provide the details of	

offences and dates	
Date DBS submitted	
Has a DBS barred list check been undertaken – give date and result	
Has the person had a DBS check in the last 12 months – if so attach copy and state if clear	
Has the employer for the DBS check one of the referees above	
Has the prohibition from teaching check been done – give date and outcome	
To your knowledge has the applicant ever been subject to an investigation or disciplinary enquiry in respect of their conduct towards children or young people If so give details of the discussion with the relevant manager – with the candidate's permission	
Has satisfactory medical information been received from the candidate	
Have the candidate's academic and vocational qualifications been verified – copies should be kept on file	
Has the candidate's identify been verified	
Has the candidate's right to work in the UK been verified	
Will the individual's induction include cover the child protection and safeguarding process and standards required by the Academy	
What other measures will be taken to minimise the risk to pupils and the organisation should the individual commence work before the DBS check is complete Eg supervision for majority of work.	

I confirm that the information on this form is accurate.	
Signature:	Date:

The Principal should review this information and confirm on the basis of the content of this form whether or not they are in agreement to the candidate commencing work without a DBS check being received. If there are any fundamental concerns then authorisation should not be given. If in doubt please refer to HR for assistance.

<b>Authorisation by the Principal</b>
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I **am** / **am not** (please delete as appropriate) in agreement for the candidate to start without a DBS check being received

Signed:

Date:

Name:

## Appendix B: Regulated Activity – Children

Regulated activity relating to children comprises of:-

- (i) Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children;
- (ii) Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, Academies, children's homes, childcare premises. Not work by supervised volunteers;

Work under (i) or (ii) is regulated activity only if done regularly. Regularly means carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period (or in some cases, overnight). The statutory guidance about supervision of activity, which would be regulated activity if unsupervised (for volunteers in Academies) is included in summary form in Appendix B.

- (iii) Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;
- (iv) Registered childminding; and foster-carers

## **Appendix C: Supervision guidance for Academies (volunteers)**

This guidance applies when an Academy decides to supervise a volunteer with the aim that the supervised work will not be regulated activity (when it would be, if it was not supervised). Where the volunteer is being supervised the law makes three main points to ensure that the supervision provided is robust enough for the volunteer to remain out of regulated activity:

- the volunteer must be supervised by a person who is in regulated activity
- supervision must take place “on a regular basis”. This means that supervision must not, for example, be concentrated during the first few weeks of an activity and then tail off thereafter, becoming the exception not the rule. It must take place on an ongoing basis, whether the volunteer has just started or has been doing the activity for some time.
- The supervision must be reasonable in the circumstances: within the statutory duty, the level of supervision may differ, depending on all the circumstances of a case. Academies should consider the following factors in deciding the specific level of supervision the organisation will require in an individual case:
  - ages of the children, including whether their ages differ widely;
  - number of children that the individual is working with;
  - whether or not other workers are helping to look after the children;
  - the nature of the individual’s opportunity for contact with children;
  - how vulnerable the children are (the more they are, the more a Academy might opt for volunteers to be in regulated activity);
  - how many workers would be supervised by each supervising worker.

In law, an organisation will have no entitlement to do a barred list check on a worker who, because they are supervised, is not in regulated activity.