

# DBS Policy

<b>Approved Date</b>	<b>December 2022</b>
<b>Review Date</b>	<b>December 2023</b>

## Contents

- 1. Policy Statement – page 3**
- 2. This applies to – page 3**
- 3. Roles and responsibilities – page 3**
- 4. Definitions – page 4**
  - 4.1 Disclosure & Barring Service
  - 4.2 Eligibility
  - 4.3 Standard Disclosure
  - 4.4 Enhanced Disclosure
  - 4.5 Barred Lists
  - 4.6 Regulated Activity
  - 4.7 Update Service
- 5. Principles – page 5**
  - 5.1 Storage & Access
  - 5.2 Handling
  - 5.3 Usage
  - 5.4 Retention
- 6. Disclosure with content – page 6**
- 7. Appointment Decision – page 6**
- 8. Guidance – page 7**
  - 8.1 Commencing Employment
  - 8.2 Re-checks
  - 8.3 Engaging Contractors and Tendering for Services
  - 8.4 Engaging Agencies and Agency Staff
  - 8.5 Checking Job Applicants and Employees from Overseas
- 9. Links to related topics – page 9**
- 10. Review – page 9**
- Appendices: Positive Disclosure Decision Sheet – page 10**

## **1. POLICY STATEMENT**

Having a criminal record will not necessarily prevent an individual from being employed by the Trust. This will depend on the nature of the role, professional suitability and the circumstances, nature and background of the offence(s).

The Trust complies fully with the DBS Code of Practice, with an undertaking to treat all job applicants and volunteers fairly, and not discriminate on the basis of conviction or other information revealed.

DBS checks will only be sought where a job is eligible to be checked, and after an applicant has been made a conditional offer of employment.

The Trust reserves the right to require a disclosure and barring check/follow up disclosure on employees.

## **2. THIS APPLIES TO**

All permanent, temporary and casual employees, governors, volunteers, and work placements to other third parties engaged in work for or on behalf of the school, where the duties to be performed require the individual to have a Standard or Enhanced DBS disclosure.

## **3. ROLES AND RESPONSIBILITIES**

The Trust Board has the ultimate responsibility to:

- Ensure that a DBS checking procedure is in place and that checks are carried out lawfully and in line with this policy.
- Ensure that the Single Central Record of DBS checks is maintained, and that the appropriate security measures relating to storage and access are in place.

Headteachers/Managers must:

- Ensure that all school based employees have an Enhanced DBS check.
- Ensure that all volunteers who meet the eligibility criteria (see below) have an Enhanced DBS check.
- Ensure that the applicant presents their disclosure certificate for checking once they have received it.
- Decide whether an appointment will be confirmed or the offer withdrawn, where there is a positive disclosure.
- Consider whether information disclosed by employees in relation to a change in criminal record status impacts on their continued suitability for employment.

Job Applicants/Volunteers/Employees/Work placements must:

- Co-operate fully with the checking procedure.
- Present the disclosure certificate to the recruiting Headteacher/Manager as soon as possible once it is received (and at the latest, within 28 days of receipt).
- Inform their Headteacher/Manager of any changes to their circumstances which affect their criminal record status. This may impact upon the individuals' suitability to undertake their role and will be reviewed.

Failure to disclose information may result in disciplinary action being taken.

The Trust will:

- Provide an up-to-date DBS Policy for schools to adopt.

#### 4. DEFINITIONS

##### 4.1 Disclosure & Barring Service

The Disclosure and Barring Service (DBS), previously the Criminal Records Bureau (CRB), allows authorised users to obtain information about a person's criminal record for approved purposes. Criminal record certificates (known as disclosures) are issued by the DBS.

The DBS offers the school a means to check the criminal background of job applicants, volunteers, governors and where relevant existing employees and volunteers for specific categories of posts, to ensure that they do not have a criminal history that would make them unsuitable.

##### 4.2 Eligibility

The Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (amended 2013 and 2020), lists the types of work, employment or professions for which employers can legally obtain a DBS check. All employees in posts which are eligible will be required to undergo a DBS check.

Where a post is classified as 'regulated activity' (see 4.6 below) under the provisions of the Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012), an Enhanced Disclosure will be required.

##### 4.3 Standard Disclosure

To be eligible for a standard DBS check the position **must** be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975

A Standard disclosure contains details of all spent and unspent convictions, cautions, reprimands and final warnings held on the Police National Computer.

##### 4.4 Enhanced Disclosure

All schools based employees, volunteers and governors are eligible for an Enhanced Disclosure and are included in both the ROA Exceptions Order and in Police Act Regulations.

An Enhanced disclosure is the highest level of criminal record check. It will contain the same information as the Standard check but also includes a check of police records held locally.

Any role identified as regulated activity (see 4.6), will be eligible for an Enhanced disclosure with a check of the DBS barred lists.

##### 4.5 Barred Lists

The Children's List holds information on individuals who have been classified by the DBS as unsuitable to work with children, and the Adults List holds information on individuals classified as unsuitable to work with (vulnerable) adults. Individuals placed on either list are legally barred from working with the relevant group, and employers are prohibited from employing them in regulated activity.

#### 4.6 Regulated Activity

The definition of 'regulated activity' includes where individuals:

- Are responsible, on a regular basis, for teaching, training, instructing, caring for or supervising children; or
- Carry out paid, or unsupervised unpaid, work regularly where that work provides an opportunity for contact with children; or
- Engage in intimate or personal care or overnight activity, even if this happens only once

#### 4.7 Update Service

Individuals undergoing a DBS check from June 2013 onwards can choose to register with the Update Service on an annual basis. The service keeps DBS certificates up to date so that they are transferable from role to role (within the same workforce i.e. children/adults), where the same type and level of check is required.

Where applicants have subscribed to the DBS Update Service, and meet the criteria out lined in section 8.2 regarding breaks in service, the school will seek their consent to undertake an on-line check of their DBS status. Applicants will still be required to produce a hardcopy of their most recent DBS certificate.

Where the status check says that the DBS certificate remains current (i.e. no new information recorded), then there is no requirement to undergo a full DBS check.

### **5. PRINCIPLES**

#### 5.1 Storage and Access

Disclosure information is kept securely with access strictly controlled and limited to those who are entitled to see it as part of their duties.

#### 5.2 Handling

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. The school maintains a record of all those to whom disclosure information has been revealed and recognises that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

#### 5.3 Usage

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.

#### 5.4 Retention

The school 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 and the details of the recruitment decision taken. The school will hold this information on the Single Central Register.

Only the information detailed above can be held by the school. Hard copies of an individual's DBS certificate must not be kept. All information will be destroyed or deleted when the employment contract or term of engagement ends. The retention of data will be held subject to General Data Protection Regulations 2018.

Disclosure information in relation to the withdrawal of job offers is not retained for any longer than is absolutely necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, the school will consult the DBS about this and will give full consideration to the Data Protection and Human Rights of the individual subject before doing so. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.

## **6. DISCLOSURE WITH CONTENT**

Your DBS provider will inform you if they are advised of a disclosure with content. The Headteacher/Manager should arrange an appointment with the individual to view the paper disclosure in full and complete a Positive Disclosure Decision Sheet (PDDS) (see Appendix 1) which is designed to help them make a balanced decision on whether to employ the individual, and acts as a record of the decision-making process. The completed form will be retained in school or placed on the employee's personal file.

## **7. APPOINTMENT DECISION**

Where the DBS Disclosure contains no content, or the Headteacher/Manager has considered a Disclosure with content and determined that it is appropriate to continue with the appointment; the individual will be issued a contract of employment. The employment will be confirmed where it has been offered subject to satisfactory checks.

Where the Headteacher/Manager does not wish to continue with the appointment, they should contact Central Services who will assist with the written correspondence to the individual withdrawing the offer of employment.

## **8. GUIDANCE**

### **8.1. Commencing Employment**

Safeguarding and Education – the Department for Education strongly recommend that Disclosures are obtained for individuals before they take up post. However, they recognise that in certain instances there may be a need to employ at short notice. In these circumstances, headteachers/managers have the discretion to employ staff who have not yet received their Disclosure, provided that:

- they have been checked against "List 99"/Children's Barred List now known

as Section 142 of the Education Act 2002.

- all other relevant pre-appointment checks have been carried out.
- they do not have unsupervised access to children until their full disclosure is received.

### Casuals and Volunteers

Where a DBS check is required, a Disclosure (and they must also complete and comply with the Trust's "Safer Recruitment Checks" including annual disclosures and self-declaration, KCSIE Guidance 2021 Staff and Volunteer Acceptable use ICT policy agreement) must be received before individuals commence,

#### 8.2 Re-checks

There is no legal requirement or mandatory time period for undertaking DBS re-checks on existing employees. However, the trust has decided that providing staff complete the Annual Suitability Declaration then a re-check would be completed every five years.

For all employees, casuals, volunteers, governors, work placements and agency workers, where there is a break in service of 3 months or more the school will require a recheck. Where employees have subscribed to the DBS Update Service, the school will seek their consent to undertake an on-line re-check of their DBS status (as per 6.1 above).

If a new employee is appointed from a school or any organisation where the Trust is not the employer, then a new check must be done.

If there are concerns that an individual has acquired or is in the process of acquiring another conviction, caution, reprimand, warning or has been added to the either of the Barred Lists, the Headteacher/Manager will need to discuss with Central Services whether a DBS re-check or other action is necessary.

#### 8.3 Engaging Contractors and Tendering for Services

Managers/ Headteachers who have responsibility for engaging contractors and tendering for services must ensure that the terms of any contract make clear the contractor's responsibility to ensure that the provisions relating to safeguarding children are followed.

This should include obtaining details of their policy in relation to DBS and Barred List checks, and where appropriate, ensuring that the appropriate level of DBS Disclosure has been obtained and appropriate records are maintained. The Trust recognises that it is unable to determine third party organisations' DBS expiry period, i.e. some third party organisations providing letter of assurance chose a longer validation period which exceeds Horizons' stated period of 5 years. These requirements should be explicitly written into any contract or Service Level Agreement.

#### 8.4 Engaging Agencies and Agency Staff

Managers / Headteachers with responsibility for engaging agencies and agency staff must ensure that the terms of any contract make clear the agency's responsibility to ensure that provisions in relation to safeguarding children are followed.

This should include obtaining details of their policy in relation to undertaking DBS checks (including barred list checks), ensuring a Disclosure, at the right level, is repeated at least every 3 years or the length of time stated in their policy . If the person has been out of the workforce for 3 months or over or their circumstances change, another DBS check must be done by the agency.

Managers / Headteachers should obtain written confirmation from the agency that all the appropriate checks have been carried out before accepting the member of staff. Details of these checks need to be set out in the single central list/ record. The Trust recognises that it is unable to determine third party organisations' DBS expiry period, i.e. some third party organisations providing letter of assurance chose a longer validation period which exceeds Horizon' stated period of 5 years.

#### 8.5 Checking Job Applicants and Employees from Overseas

Newly appointed staff who have lived outside the UK must undergo the same pre- employment checks as other staff. This includes a DBS check as appropriate for the role.

The DBS can only check applicants from the date they arrive in the UK, as it does not have access to overseas criminal records. If an individual has resided overseas within the past 5 years, they will be advised to obtain a Certificate of Good Conduct and appropriate criminal checks from the country of residence. Where the applicant has lived in several countries, then all countries must be checked.

Guidance on checking applicants who have spent time overseas can be found on the DBS website at the following link: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

<https://www.gov.uk/check-job-applicant-right-to-work>

If the details for the country required are not listed, then the individual should contact the relevant embassy to establish the process to be followed.

Where there is a fee payable, then the applicant must pay this fee. Reimbursement will be at the discretion of the recruiting manager but will not ordinarily be paid for by the school.

The Certificate of Good Conduct belongs to the applicant and must remain in their possession; the school can take a copy of this document. It is the responsibility of the applicant to have these documents translated.

#### 8.6 Letter of assurances

Managers / Headteachers with responsibility for engaging third party organisations must ensure that the terms of any contract; service provision or agreement make clear the organisation's responsibility to ensure that provisions in relation to safeguarding children are followed.

The trust will seek to obtain letter of assurances annually from all third party organisations that provide personnel that visit school or central sites on a regular basis, for example ICT support

providers; Sport provision providers or health care professionals. This information will be stored securely on the Single Central Register and access limited to those that require the information.

The Trust recognizes that it is unable to determine third party organisations' DBS expiry period, i.e. some third party organizations providing letter of assurance chose a longer validation period which exceeds Horizon' stated period of 5 years.

## **9. LINKS TO RELATED TOPICS**

- Safer Recruitment Policy
- General Data Protection Policy

## **10. REVIEW**

This policy does not form part of the employee's contract of employment and the Trust retains the right to change the policy at any time.

This policy will be reviewed as necessary to ensure that it complies with current employment legislation and the requirements of the school.

### **Positive Disclosure Decision Sheet**

#### **For use with Notifiable Occupation Scheme (NOS) Notifications**

#### **Page 1 of 2**

The NOS relates to professions or occupations which carry special trust or responsibility. A positive NOS disclosure is where the Police provide details of convictions and other information to relevant parties such as employers, where the person is in a role that involves working with children and young people or vulnerable adults, called a "Notifiable Occupation".

This Decision Sheet has been produced to help managers assess what impact the disclosure has on the continued employment of the employee. The employee must be offered the opportunity to discuss the content of the disclosure with the line manager prior to any decision being made. It is also important to establish that the disclosure is for the identified employee as part of the discussion.

This sheet should then be completed by the manager once a discussion has taken place with the employee and placed on the employees personal file.

This sheet should also be used for Casual workers and Volunteers with a copy being placed on the employees personal file for Casual Workers and held by the Line Manager in respect of Volunteers.

**Name of employee:** \_\_\_\_\_

Question	Response	Notes/Manager comments – please provide a response to each question
1. What is the nature of the offence?		
2. When did the offence occur?		
3. Is the conviction relevant to the position?	Yes/No	
4. Are there any safeguarding risks? If yes, please detail	Yes/No	If “yes” inform the relevant Safeguarding Unit. HR advice should also be sought.
5. Does the current role provide an opportunity for the employee to potentially re-offend?	Yes/No	
6. What measures will be taken to mitigate any potential risk ? e.g. level of supervision, training etc)		
7. Does the disclosure show a pattern of offending behavior, or was the offence a one-off) (Review of previous DBS or NOS disclosures required)	Pattern/One-off	
8. Does the post involve responsibility for finance, items of value or other high risk areas that require consideration in respect of the disclosure?	Yes/No	

**Positive Disclosure Decision Sheet**  
**For use with Notifiable Occupation Scheme (NOS) Notifications**  
**Page 2 of 2**

**Decision (\*please circle):**      Continue to employ with adjustments to role\* / Conduct an Investigation\* / No further action required\*

**Please record the actions taken and the full reason for the decision, including listing any adjustments to the role if appropriate:**

**Print Name:**

**Signature:**

**Date:**