



Disclosure and Barring Service Policy and Procedure Version 3.5

<p>Important: This document can only be considered valid when viewed on the Education Alliance website. If this document has been printed or saved to another location, you must check that the version number on your copy matches that of the document online.</p> <p>Name and Title of Author:</p>	<p>Lisa Longstaff, Director of HR and Governance</p>
<p>Name of Responsible Committee/Individual:</p>	<p>Trust Board</p>
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<p>Target Audience:</p>	<p>All staff</p>
<p>Related Documents:</p>	<p>Home Office Code of Practice for Registered Persons and Other Recipients of Disclosure Information OFSTED guidance (www.ofsted.gov.uk) DBS guidance (www.gov.uk/home-office) Keeping Children Safe in Education Statutory Guidance Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020)</p>

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POLICY STATEMENT

We are here to make great schools and happier, stronger communities so that people have better lives. We do this by:

- Always doing what is right
- Trusting in each other and standing shoulder to shoulder
- Doing what we know makes the difference

Doing what is right means always acting with integrity, in the interests of others and being honest, open and transparent.

The safety of children and young people is paramount and the trust is committed to safeguarding and promoting the welfare of children and young people and to the rigorous implementation of Disclosure and Barring (DBS) procedures, guidelines and arrangements, Department of Education advice and guidance and OFSTED requirements. 'Keeping Children Safe in Education' states that 'all staff have a responsibility to provide a safe environment in which children can learn'. This policy must be read in conjunction with the trust's Recruitment and Selection Policy and Procedure and school child protection and safeguarding policies. We aim to prevent those who pose a risk of harm from working with children, ensuring the trust and its schools adhere to legal and statutory responsibilities.

The trust has robust recruitment and selection processes in place and DBS checks form part of those processes, alongside barred list checks, prohibition checks, carefully designed assessment processes with skilled and trained assessors working collaboratively to ensure all recruitment and selection decisions are well considered and evidence based.

The DBS was launched on 1 December 2012 and it replaced the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA). Following the Protection of Freedoms Act 2012, further changes to DBS guidelines were made. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) ensures that candidates are not unfairly treated and that risk assessments take into account the nature of the disclosure and its relevance to the role the candidate has applied for. This policy and procedure is underpinned by this legislative and statutory framework.

Whilst a DBS check will only be undertaken after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned, it is likely that most appointments will require an enhanced DBS certificate, which includes the barred list information as most roles within the school engage in regulated activity. For those positions where a DBS check is required, relevant recruitment documentation 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 forms part of the recruitment process, all applicants will be encouraged to provide details of their criminal record at the interview stage of the recruitment process. This information will be managed by the HR Department and will only be seen by those who need to see it as part of the recruitment process.

The trust will ensure that staff involved in the recruitment process are suitably trained and the HR Department will work with senior managers, the CEO and, where appropriate, members of the Board of Trustees and Local Governing Bodies, to identify and assess the relevance and circumstances of offences. Offences will be discussed in an open, measured way with the individual. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment. Failure of current staff to reveal a change in their DBS status may result in further investigation under the Trust's Disciplinary Policy and Procedure.

Every subject of a DBS check will be made aware of the existence of this policy and a copy will be made available on request. The trust undertakes to discuss any matter revealed in a DBS check with the individual alongside a thorough risk assessment prior to any action (such as the withdrawal of a conditional offer of employment) being taken.

Applicants can subscribe to the Update Service with a new application of certificate. The Update Service will then keep their certificate up-to-date. Once the individual has subscribed, they can take their certificate with them from role to role where the same level and type of check are required. Registration lasts for one year and the cost to individuals is £13 per annum and free for volunteers. The trust will pay casual workers to access the update service, as there may be substantial periods of time where they do not work and a review of their DBS status would be required.

1. PURPOSE

Under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020), a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the Act. The trust must ensure that it does not breach the requirements of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020). The trust's DBS Policy details the actions the trust undertakes to ensure that it meets its statutory and legal obligations.

This policy applies to all staff and candidates that meet the criteria (e.g. where work is defined as a regulated activity relating to children, as specified within the DBS guidance). As an organisation using the DBS service to assess applicants' suitability for positions of trust and for staff undertaking regulated activities, the trust complies fully with DBS guidance and undertakes to treat all staff and applicants fairly. The trust will not discriminate unfairly against any subject of a DBS check on the basis of a conviction or other information revealed. The trust also takes into account other forms of statutory guidance such as 'Keeping Children Safe in Education' and 'Working Together to Safeguard Children'.

The trust is committed to fair treatment of staff, potential staff and other stakeholders, regardless of age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation or marriage and civil partnership.

This policy will be made available to DBS applicants at the outset of the recruitment process.

2. SCOPE

This policy applies to all employees and candidates as well as contractors/agency staff, visitors, volunteers, trustees, governors and trainee teachers.

3. ROLES AND RESPONSIBILITIES

The **Trust Board** is responsible for ensuring this policy is regularly reviewed and applied fairly and consistently across the trust. The Chair of the Board or Chair of a Local Governing Body can approve or refuse any request made to commence employment of a new member of staff prior to receipt of a DBS clearance.

The **CEO** is responsible for ensuring candidates and employees are treated fairly and consistently across the trust.

The **Local Governing Bodies** are responsible for monitoring the application of this policy within their respective schools, and **Headteachers** are responsible for adhering to this policy within their schools.

The **HR Department** is responsible for overseeing the introduction, implementation, monitoring and review of this policy and will report to the CEO, the Trust Board and Local Governing Bodies as required. The HR Department will provide advice, guidance and support in the implementation of this policy and procedure, acting as a point of contact for managers. The HR Department will ensure that this policy is implemented fairly and consistently, whilst also ensuring that relevant employment legislation and statutory guidance is adhered to.

Managers must ensure that before recruiting new staff they familiarise themselves with both the trust's Recruitment and Selection Policy and Procedure, the trust's DBS Policy and the school's child protection and safeguarding policies. They must ensure that they deal with any disclosure made by staff, candidates, visitors, contractors, agency staff or volunteers with discretion, sensitivity and objectivity, ensuring that the DBS Policy is followed. Managers must seek advice from the HR Department when a disclosure is made. Managers procuring services must also ensure that the provider of that contract undertakes appropriate safer recruitment checks on staff that are going to work at trust premises and/or on behalf of the trust, which will include DBS checks for those staff that meet the criteria. Where agency workers, contractors, sub-contractors, visitors and volunteers do not meet the criteria for a DBS check, the responsible manager must undertake a thorough risk assessment prior to the commencement of that activity with support from the HR Department, ensuring appropriate supervision is in place at all times.

4. EQUALITY AND DIVERSITY

The trust is committed to:

- Promoting equality and diversity in its policies, procedures and guidelines, adhering to the Equality Act 2010.
- Delivering high quality teaching and services that meet the diverse needs of its student population and its workforce, ensuring that no individual or group is disadvantaged.

The DBS offers a confidential checking process for transgender applicants. This process is for transgender applicants who do not wish to reveal details of their previous identity to the person who asked them to complete an application form for a DBS check. Information about the transgender process can be found in the DBS transgender applications guidance section on the DBS website.

5. LEVELS OF DISCLOSURE

All staff employed to work at the trust must provide a DBS check prior to commencing employment. This is due to the nature of the environment and the unsupervised access staff have to children on a day-to-day basis. There are three types of DBS checks:

- Standard – available for duties, positions and licences included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. It contains details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC) which have not been filtered in line with legislation;
- Enhanced – available for specific duties, positions and licences included in both the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) and the

Police Act 1997 (Criminal Records) regulations. It contains the same PNC information as the standard check plus a check of information held by police forces; and

- Enhanced with a barred list check – available for those individuals who are carrying out regulated activity and a small number of positions listed in the Police Act 1997 (Criminal Records) regulations. It contains the same PNC information and check of information held by police forces as an enhanced check, plus a check against the children’s and/or adults barred lists.

DBS subjects must be aged 16 or above. When candidates or staff are required to provide the trust with a DBS check, if they are a member of the Update Service, with their permission the HR Department can use their DBS Certificate and carry out a free, instant online check to see if any new information has come to light since its issue,

The trust uses an umbrella body to undertake its DBS checks, via an online system. The HR Department validates the applicant’s identity via DBS approved document checks, and the HR Department then accesses an online DBS checking system, which is secure and approved by the DBS to deliver this service. The DBS no longer automatically issues a copy of the applicant’s DBS Certificate to the Registered Body, therefore when the trust undertakes DBS checks, the HR Department will ask the applicant for sight of their DBS Certificate (copies will not be accepted). In only issuing applicants with a copy, the DBS is placing the individual in charge of their own data.

6. PEOPLE REQUIRING A DBS CHECK

It is likely that all **newly appointed staff** will be required to complete an Enhanced Disclosure prior to taking up a post at the trust due to the environment they are working in and their regular unsupervised access to children and young people. The trust will carefully assess whether or not a barred list check and/or a prohibition check is also required.

Only when a DBS Certificate is provided that contains no information that may preclude the individual from working with children, can it be considered that they have DBS clearance.

New rules on DBS filtering came into effect on 28th November 2020, resulting in youth cautions, warnings and reprimands no longer being disclosed automatically on a Standard or Enhanced DBS certificate. Other offences such as those on the specified offences list from DBS will always be disclosed in addition to all convictions resulting in a custodial sentence, whether or not they were suspended. The amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) provides that when applying for certain jobs and activities, certain convictions and cautions are considered ‘protected’. This means that they do not need to be disclosed to employers, and if they are disclosed, employers cannot take them into account. Guidance about whether a conviction or caution should be disclosed can be found on the Ministry of Justice website (<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>).

Due to recent changes in legislation, the trust will not ask candidates to declare criminal record information until the interview has been undertaken and a preferred candidate is agreed. If the information the candidate discloses differs to the information received on the DBS certificate, a discussion will take place with the candidate. As part of that discussion we will consider whether a genuine mistake or misunderstanding has occurred or whether the issue brings into question the honesty and integrity of the candidate. Where an employment offer is made prior to receipt of the DBS certificate, we will ensure that the offer is conditional upon receipt of a satisfactory DBS certificate.

Staff must discuss any concerns or changes to their DBS status as they arise. Failure to disclose any criminal activities or investigations, convictions or warnings may result in an investigation under the trust's Disciplinary Policy and Procedure. Where a member of staff applies and secures an alternative post at the trust, their DBS status should be reviewed as they may require a DBS check if they haven't had one previously or if their previous role only required a Standard Disclosure.

Trainee/Student Teachers are likely to be engaged in regulated activity; therefore, the trust will ensure that all necessary checks have been undertaken. It is the responsibility of the initial teacher training provider to carry out the necessary checks and the trust will obtain written confirmation from the ITT provider that these checks have been carried out and that the trainee has been judged by the provider to be suitable to work with children. The trust will undertake DBS checks on behalf of the Yorkshire Wolds Teacher Training School-Led Initial Teacher Training (SCITT).

Visitors who do not have unsupervised access to children should be risk assessed and appropriately supervised. Visitors that have unsupervised access to children should be DBS checked by their employer. Their school contact must ensure that written confirmation that an appropriate check has been undertaken, when and by whom, must be received and a copy sent to the HR Department and cleared as satisfactory by the HR Department or the central administrative team prior to the visitor having unsupervised access to children and young people within the trust.

Contractors, sub-contractors and agency workers that come into regular contact with children and young people should be detailed on the single central record, and written confirmation must be provided by their employer that an appropriate check has been undertaken, when and by whom, and a copy must be sent to the HR Department.

Volunteers are defined in the Police Act 1997 (Criminal Records) Regulations 2002 as 'any person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party and not a close relative'. To qualify for a free-of-charge DBS check the applicant must **not**:

- Benefit directly from the position for which the DBS application is being made
- Receive any payment (except travel and other approved out-of-pocket expenses)
- Be on a work placement
- Be on a course that requires them to do this job role
- Be in a trainee position that will lead to a full time role/qualification

Governors, Members and Trustees are required to have an enhanced criminal records certificate from the DBS.

The trust must check that those staff working in **childcare provision** and those directly concerned with the management of such provision are not disqualified under the Childcare (Disqualification) Regulations 2009, adhering to the statutory guidance 'Disqualification under the Childcare Act 2006' (February 2015).

7. ID VALIDATION

The HR Department will undertake an ID check as part of the recruitment and selection process and applicants required a DBS check (e.g. preferred candidates) will be required to provide a range of ID documents in line with the DBS guide. The trust will therefore:

- Follow the three route ID checking process

- Check and validate the information provided by the applicant on the DBS online application form
- Establish the identity of the applicant by examining the range of documents provided by the applicant in line with the DBS guidance. Ensure the applicant provides details of all the names they have been known by
- Check the information that has been input from the identification check is accurate

If fraud is suspected, the HR Department will ask the applicant for further clarification and may contact the DBS for further advice. Where fraud is suspected, the Director of HR and Governance will be notified and will notify the CEO prior to making a referral to the DBS. The National Document Fraud Unit in the Home Office has published guidance on examining identity documents, which is located at www.gov.uk.

The HR Department will:

- Only accept valid, current and original documentation
- Not accept photocopies
- Not accept documentation printed from the internet
- Validate the identity information for the applicant's name, date of birth and address when initiating the online DBS application
- Seek documents with photographic identity in the first instance (e.g. passport and/or new style driving license) and compare this to the applicant's likeness
- All documents must be in the applicant's current name
- One document must confirm the applicant's date of birth
- Ensure the applicant declares all previous name changes and provides documentary evidence to support the change of name
- See at least one document to confirm the applicant's current address
- Ensure the applicant provides a full and continuous address history covering the last 5 years and where possible, seek documentation to confirm this address history
- Cross-match the applicant's address history with any other information they provide as part of the recruitment process (e.g. application form and employment history)
- Ensure the applicant submits a document from each of the groups only once (e.g. the Trust will not accept two bank statements if they are from the same bank as the sources for each document must be different as per the DBS guidance)

There are three routes of ID checking and, where possible, the HR Department should seek documentation from the applicant in line with route 1 of the DBS guidance first. The routes are:

- Route 1 – one document from group 1 and two further documents from either group 1, 2a or 2b
- Route 2 – this route can only be used if it is impossible to use route 1. If the applicant doesn't have any documents in group 1 they must be able to show one document from group 2a and two further documents from either group 2a or 2b
- Route 3 – this route can only be used if it is impossible to process the application through routes 1 or 2. For route 3 the applicant must show a birth certificate issued after the time of birth (UK, Isle of Man and Channel Islands) and one document from group 2a and three further documents from Group 2a or 2b

The HR Department will follow the DBS guidance regarding trusted documents, which can be found at www.gov.uk.

Where an applicant cannot meet the requirements for route 1, 2 or 3, they will be asked to consent to attending a police station for fingerprinting to take place.

8. UPDATE SERVICE

With the individual's permission, the HR Department can go online for a free and instant check (where the individual has subscribed to the Update Service) to find out whether the individual's certificate is up-to-date. Casual employees and agency/contractor staff are encouraged to use the Update Service as there may be occasions where they have not worked for 3 months or more within the trust and would then require a review of their DBS status. The trust will pay for casual workers to use the update service.

If a Status Check shows that there has been a change in status since the last DBS Certificate was issued and the applicant has not produced their new certificate within 28 days of its issue, the HR Department will apply for a copy of their certificate.

Online Status Checks are available at www.gov.uk/dbs-update-service. A result of 'no status change' means that the certificate remains valid and up-to-date, whereas a result of 'status change' means that the certificate is out of date and the trust will be required to apply for a new certificate to see the new information.

9. DBS GUIDANCE

The trust complies with DBS guidance, ensuring that the processes for applying for DBS checks are appropriate and that sensitive, personal information, disclosed by the DBS is handled and stored appropriately, and that information is used fairly.

The 'Position Applied For' field on the DBS application form provides a relevancy test when releasing non-conviction information about an individual. The relevancy test is based on the type of workforce rather than the actual job role, therefore DBS certificates can be taken from role to role within the same workforce (e.g. working with children or adults or both). When completing a DBS application form the HR Department must ensure that, the 'Position Applied For' section is completed accurately. The workforce descriptors are as follows:

- Child workforce
- Adult workforce
- Child and adult workforce
- Enhanced Disclosure only (no barred list check)

HR staff will ensure that staff and applicants:

- Have the right to work in the UK
- Understand why a DBS check is required and what it is
- Understand where they can obtain independent advice on the DBS application process
- Are given the opportunity to declare information and to explain whether a check will reveal information about them

HR staff will ensure that DBS checks are only carried out for those people that meet the criteria for a DBS check. They will check and confirm the applicant's identity and verify evidence of their name,

date of birth and current address. If there are any discrepancies, further clarification will be sought via the applicant in the first instance. Suspected identity fraud will be reported to the DBS.

DBS checks are undertaken online, and copies of certificates are not retained. The HR Department confirms on its online HR system that a satisfactory DBS clearance has been viewed, by whom and when, in line with the Single Central Record requirements. Where an issue is highlighted on a DBS certificate, HR teams in schools inform the Director of HR and Governance, who assesses the risk with the Headteacher, advising the CEO/Executive Principal on the next steps and the relevancy of the issue, undertaking a robust risk assessment prior to a decision being taken regarding the suitability of the individual for the role they have applied for or the role they are already employed in.

10. DBS CHECKS FOR OVERSEAS APPLICANTS

The DBS cannot access criminal records held overseas, but it is possible to submit an application while the applicant is overseas. In a small number of cases, overseas criminal records are held on the PNC and these could be revealed as part of a DBS check. Where a preferred candidate is working abroad, the HR Department will contact them and advise them on what they need to do to access confirmation regarding their overseas DBS status. This may include the individual being required to contact the embassy or High Commission of the country in question. The Home Office has published guidance relating to criminal record checks for overseas applicants and the Department for Education has issued guidance on the employment of overseas-trained teachers. The HR Department will ensure this guidance is followed in such circumstances and any concerns will be raised with the Headteacher and the CEO.

Where preferred candidates have worked overseas, the DBS certificate may not provide a complete view of the applicant's criminal record. The HR Department will assess with the recruiting manager the risks associated with potential gaps in the criminal record check and may initiate a further overseas check. The HR Department will ensure the individual is aware of this prior to a further overseas check being undertaken and the relevant Headteacher and the CEO will be notified.

11. DISCLOSURES

Information revealed by the DBS must be dealt with sensitively and cautiously. HR teams must notify the Director of HR and Governance of any information revealed on a DBS certificate. In deciding whether the information revealed results in an applicant being unsuitable for the post, the following considerations may be helpful:

- How long ago did the conviction/caution/warning/issue occur?
- Is there a pattern of behaviour?
- What were the circumstances at the time?
- Has the subject been open and honest?
- Does the disclosure relate to the work they would be/are employed to undertake?
- What are the risks?

Following interview, any candidate proceeding to the next stage will be provided with a declaration form to complete, which asks them to declare relevant criminal convictions/cautions. This form details the 2020 DBS filtering changes and signposts the candidate to the Ministry of Justice website (<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>). The HR Department will advise the recruiting manager and the Headteacher, and any

declarations and/or anomalies will be shared with the Director of HR and Governance. The decision to appoint will be made by the Headteacher, with advice from the Director of HR and Governance.

12. COMMENCEMENT OF EMPLOYMENT PENDING DBS CLEARANCE

Ideally, DBS clearances for new starters are received by the trust prior to their commencement in their post. Where it is vital that a new employee commences prior to the receipt of a DBS clearance, a robust risk assessment will be undertaken by the recruiting manager with HR and the decision sits with the CEO and the Chair of the Board/LGB, with advice from the Director of HR and Governance. If the decision is made to commence employment prior to receipt of a DBS clearance, the CEO and the relevant Headteacher will ensure that appropriate supervision is in place and that all other checks detailed in the 'Keeping Children Safe in Education' statutory guidance have been satisfactorily completed. The individual will be required to sign a declaration form prior to commencing work. The trust will only commence someone prior to the receipt of a DBS clearance under exceptional circumstances.

13. REFERRING SOMEONE TO THE DBS

The trust has a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult. An assessment must be undertaken regarding the following considerations:

- Anyone who has harmed or poses a risk of harm to a child or vulnerable adult
- Where the harm test is satisfied in respect of that individual
- Where the individual has received a caution or conviction for a relevant offence
- If there is reason to believe that the individual has committed a listed relevant offence
- That the individual has been removed from working (paid or unpaid) in regulated activity or would have been removed had they not left

Where a teacher is dismissed (or could have been dismissed had they not left) because of serious misconduct, the CEO and the Director of HR and Governance must consider whether or not the Teaching Regulation Agency (TRA), acting on behalf of the Secretary of State for Education, should be notified. The TRA is responsible for investigating allegations of serious misconduct against teachers and headteachers in schools in England. If appropriate, the TRA can prohibit a teacher from teaching in schools, relevant youth accommodation, sixth form colleges and children's homes in England.

14. MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THE POLICY

Effectiveness and compliance of this policy will be monitored on an annual basis by the HR teams across the Trust.

15. REVIEW

This policy and procedure will be reviewed within two years of the date of implementation with recognised trade unions via the JCNC.