

# DISCLOSURE AND BARRING SERVICE (DBS) CHECKS POLICY AND PROCEDURE FOR SCHOOLS

This policy will apply to both teaching and non-teaching staff and has been agreed with the following recognised unions: ATL, NUT, NAHT, NASUWT, ASCL, Unison, GMB and Unite

Index

Section	Page
Introduction	3
Who is included in these arrangements?	3
Who is excluded?	3
Commitment to safer recruitment and safeguarding	3
Working with children and young people	4
Agency workers	4
TUPE transfers	4
The role of the Wiltshire Council DBS team	4
Obtaining DBS checks	5
Information required from the applicant	5
Overseas candidates	6
Ex-service personnel who have served abroad	6
DBS check application forms (only used in exceptional cases as online ebulk is the accepted way to apply for a DBS check)	6
Regulated activity at the school	6
Headteacher's role – checking the DBS check	6
Disclosure of past convictions – for all roles exempted from the Rehabilitation of Offenders Act 1974	7
Protected convictions/cautions	7
The employment of ex-offenders	8
Barred lists	8
Prohibition orders - teachers	8
Transgender applications	9
Handling of DBS data	9
Secure storage and handling of data	9
Policy Issues	9
The disciplinary policy	9
New offences for existing employees	9
Roles and responsibilities	9
Related Information	11

## **Introduction**

1. This DBS checks policy and procedure:
  - outlines the school's procedure for obtaining disclosure and barring service (DBS) checks. From 1<sup>st</sup> December 2012 CRB checks are known as DBS checks.
  - confirms the school will undertake enhanced DBS checks as part of its pre-employment processes for all posts
  - confirms that those CRB checks which were obtained prior to 1<sup>st</sup> December 2012 remain valid until their expiry date becomes due. There is no need to obtain DBS checks for all roles formerly requiring a CRB check until such time as the CRB disclosure expires or unless new information is added to the DBS due to a new warning, caution, reprimand or conviction

## **Who is included in these arrangements?**

2. This policy applies to anyone applying for or working for Staverton CE Primary School
3. It also applies to proprietors of the school and volunteers.

## **Who is excluded from these arrangements?**

4. Ordinary visitors to the school although visitors must be accompanied at all times when on visit.

## **Commitment to safer recruitment and safeguarding**

5. The governing body of the school is committed to safer recruitment and safeguarding.
6. The school is committed to promoting the safety and wellbeing of all pupils and employees, particularly those who would be incapable of protecting themselves from physical or sexual abuse, financial exploitation, or where there is a potential danger that their will or moral wellbeing may be subverted or over-powered.
7. The school is committed to safer recruitment practices when recruiting new employees to work for the school or when using volunteers.
8. Enhanced disclosure and barring service checks are required for all roles at the school as they are all regulated activities, and for proprietors of academies. DBS checks are only one element of a wider framework of safer recruitment practices the school undertakes.

### **Working with children and young people**

9. The school will ensure all employees, temporary staff and volunteers act in accordance with the “Guidance for safer working practice for adults who work with children and young people”.

### **Agency workers**

10. The Head teacher will be responsible for checking that the agency (as the agency worker’s employer) has carried out an up to date DBS check for the role. The Head teacher will ask to have sight of this and/or ask the agency to confirm the date of the DBS check and that it was obtained in relation to the role the agency worker will now be carrying out with the school. It may not be sufficient to use a previous DBS check – a new one may need to be applied for.
11. Breaks in employment will be investigated.
12. The school will carry out a risk assessment, even if the agency has carried out their own risk assessment, before the person begins work at the school.
13. Advice will be sought from the Wiltshire Council recruitment team or your umbrella body as required.

### **TUPE transfers**

14. Where employee(s) transfer to the school as part of a service transfer under the Transfer of Undertakings (TUPE) Regulations, the DBS checks of such employee(s) will transfer to the school. However, the school must conduct their own clearances and right to work checks for all TUPE transferred employees within 60 days of the transfer taking place. This is regardless of the transferor having passed evidence of these clearances and handing the relevant records over to the transferee. This applies to all required clearances such as DBS, identity checks, prohibition checks etc.

### **The role of the Wiltshire Council DBS team**

15. The DBS team/your umbrella body will continue to work with the disclosure and barring service and will comply with the DBS guidelines and regulations as part of its role as a registered body.
16. The DBS /your umbrella body will strive at all times to ensure that all applications are legitimate applications based on the specific DBS category codes. Refer to.

<https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance>

### **Obtaining DBS checks**

17. At the point of having a DBS check the employee can opt to subscribe to the DBS's online update service which has an annual subscription fee payable by the employee. A DBS check from a previous role or employer within the same workforce will be portable if the employee has subscribed to this online DBS update service. 'Within the same workforce' means within and across schools and schools.
18. For all employees who have subscribed to the DBS online update service, the school will request permission from the employee to check the status of their DBS check, which is carried out online. The school will apply for a new DBS check if additional information has been added to the DBS check since it was last issued. Additional information means:
  - a new caution
  - a new warning
  - a new reprimand
  - been banned from working with children or vulnerable adults or both
  - a new conviction
  - any new, relevant police information
19. For employees who are not subscribed to the online update service the school will apply for a DBS check in the usual way via the ebulk service that the school has access to.
20. The DBS check will be sent to the applicant / employee by the DBS. The school will not have sight of the check first. The school will request from the applicant / employee sight of the original DBS check as part of the safer recruitment process. This will be checked before the applicant / employee can begin work.

### **Information required from the applicant**

21. In order to carry out thorough DBS disclosure checks, the school will need to know any names, name changes, or aliases by which the applicant may have been known in the past, including maiden names, assumed name of step parent, change of name by deed poll, etc. The applicant will be required to produce originals of three documents from two specific lists, including an original copy of their birth certificate. The

school will also need to see the applicant's original DBS certificate, if one was previously issued.

22. This information is also required as part of the recruitment procedure to meet with the school's obligations under the Asylum Act 2002 and under the government's Immigration (Employment of Adults Subject to Immigration Control)(Maximum Penalty)(Amendment) Order 2014 and the Immigration (Restrictions on Employment)(Codes of Practice and Amendment) Order 2014.
23. For employees who choose to subscribe to the DBS online service the school will ask for permission to check their DBS check online.

### **Overseas candidates**

24. If a candidate has not previously worked in the UK, or has lived overseas for some time it will be necessary to obtain a 'certificate of good character' (a criminal record check) from their country of origin. The process for obtaining such a certificate varies from country to country. Further information can be found at – <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>.
25. The school should also request references and follow up any written references by telephoning the referees and noting that this has been done on the single central record.

### **Ex-service personnel who have served abroad**

26. Where an offer of employment is made to a member of the armed forces it will be necessary to not only carry out a DBS check into the successful candidate's background, but also to ask for the relevant branch of the armed forces (RAF, Army, Navy) to confirm in writing whether the candidate has a criminal record.
27. Partners of former armed forces personnel who are returning to work in the UK from abroad at the school will need to supply a 'certificate of good conduct' from the country they were based in.

### **DBS check application forms (only used in exceptional cases as online ebulk is the accepted way to apply for a DBS check)**

28. The school's administrator will complete a section of the DBS check application form to confirm specific details about the position for which the DBS check is required.

### **Regulated activity at the school**

29. Regulated activity relating to children is defined as work that a barred person must not do. All posts at a school are considered as a regulated activity. Enhanced DBS checks are required for all posts within the school.
30. A DBS check is not required in respect of the activities in paragraph 29 if the person undertaking these activities is a supervised volunteer.

### **Headteacher 's role – checking the DBS check**

31. The Wiltshire Council recruitment team does not receive a copy of the DBS check from the DBS. The head teacher is responsible for asking candidates/employees to bring in their copy of the DBS certificate to be checked.
32. Further advice can be found in the school's "guidance for schools on checking a DBS disclosure".

### **Disclosure of past convictions – for all roles exempted from the Rehabilitation of Offenders Act 1974**

33. Where a role is exempted from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 the applicant / employee is required to be completely honest in disclosing all convictions throughout their entire life, from the age of criminal responsibility (10 years).
34. All posts at the school are exempted from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and no conviction will ever be considered spent and applicants / employees must declare it, unless it is a 'protected conviction/caution' (see below).
35. Applicants / employees need to be informed that if they have accepted a caution, warning or reprimand from the Police these must be declared as relevant offences.

### **Protected convictions/cautions**

36. All roles at a school are exempted from the Rehabilitation of Offender Act 1974 (Exceptions) Order 1975. Applicants are required to be completely honest in disclosing all convictions and cautions throughout their entire life, from the age of criminal responsibility (10 years) except for protected convictions or protected cautions.

37. Where an applicant or employee has accepted a caution, warning or reprimand from the police then these must be declared as relevant offences.
38. A conviction is a "protected conviction" if:
- It does not relate to a "listed offence", such as violent and sexual offences.
  - No custodial sentence was imposed.
  - The individual has no other convictions. (Where the individual has more than one conviction, all convictions will be included on the certificate.)
  - It was received by a person aged under 18 at the time of the conviction and **five and a half years or more** have elapsed.
  - It was received by a person aged 18 or over at the time of the conviction and **11 years or more** have elapsed.
39. A caution is a protected caution if:
- It does not relate to a listed offence.
  - It was given to a person aged under 18 at the time of the caution and **two years or more** have elapsed.
  - It was given to a person aged 18 or over at the time of the caution and **six years or more** have elapsed.

### **The employment of ex-offenders**

40. The school is committed to equality of opportunity and recognises its responsibilities under the rehabilitation of offenders at work act. Unlawful treatment of ex-offenders, i.e. failure to employ an ex-offender without lawful justification, where this cannot be justified by the nature of the work, will not be tolerated. Refer to the recruitment of ex-offenders policy.

### **Barred lists**

41. The children's barred list is held and administered by the disclosure and barring service. Wiltshire council's recruitment team on behalf of the school; or the school; or the school's alternative DBS umbrella provider will continue to work with the DBS to check applicants / employees against the names of individuals appearing on these lists.
42. All applicants / employees are required to declare if they are barred from working in any roles.
43. There are some offences which may result in a person having been made subject of a Disqualification Order (DO). It is an offence for this person to apply for a post that is restricted under the (DO). If a person is

subject to a DO and they apply for a restricted post, the school will report them to the police.

44. Any person who has been convicted of an offence under Schedule 1 of the Children and Young Persons Act 1933 (as amended by subsequent legislation) will not be eligible to apply for a restricted post.
45. A person will never be allowed to work or volunteer at the school if they have been barred from carrying out a restricted post.

### **Prohibition orders - teachers**

46. Every time a teacher commences employment at the school (for a supply teacher this will be for each time they undertake a period of supply work), the school must check whether a teacher is the subject of a prohibition order by checking the employer access online site which is maintained by the National College for Teaching and Learning (NCTL).
47. Prohibition orders are an additional check to that undertaken as part of the enhanced DBS check.

### **Transgender applications**

48. An applicant may contact the DBS sensitive applications team if they are a transgender applicant who does not want to reveal details of their previous identity to the school.

### **Handling of DBS data**

#### **Secure storage and handling of data**

49. Any information provided by the DBS as part of a DBS disclosure will be securely stored and handled and the content will be confidential to the head teacher of the school who is authorised to fulfil this role.
50. The school will observe the DBS code of practice including the opportunity for you to appeal to the DBS about the check information provided. Refer to the school's "storage of disclosure information policy".

### **Policy Issues**

#### **The disciplinary policy**

51. Any employee who does not comply with the terms of school's DBS checks policy and where the school feels they have behaved in a way which is felt to be dishonest in respect of this policy or which brings the school's reputation into question, may be subject to the school's

disciplinary policy. This could result in a dismissal from employment with the school.

### **New offences for existing employees**

52. All employees at the school are required as part of their contract of employment to inform the headteacher (in the case of a headteacher him/herself, the chair of governors) of any police investigation, charge, caution, reprimand, warning, fine or conviction against them immediately. All such disclosures will be handled in accordance with the relevant procedure, and consideration will be given as to whether suspension from duties is required while an investigation takes place.

### **Roles and responsibilities**

#### **Applicant and employee responsibilities**

53. To be completely honest in declaring all convictions before employment.
54. To be completely honest in declaring subsequent convictions after having been employed.
55. To provide such information as is requested in order for a DBS check to be carried out.
56. For those who choose to subscribe to the DBS online checking service, to notify the head teacher and to give permission to carry out an online check either when joining the school for the first time or when a subsequent recheck is to be carried out.
57. To bring in their DBS check to be checked by the head teacher.

#### **Head teacher or Line manager responsibilities**

58. To ensure that the need for a DBS check is recorded on the Job Evaluation Questionnaire (JEQ) and job description for the role when the JEQ for a new role is submitted for evaluation or re-evaluation.
59. When information is received regarding a candidate's offending background, to confirm with an Education HR Advisor whether the information is relevant to the role being applied for.
60. Not to make a decision not to employ a candidate on the basis of a DBS check outcome without first discussing this with the candidate and an HR case adviser.
61. Not to unfairly discriminate against an applicant with a criminal record.

62. To assess whether safeguarding training is required for employees or volunteers and ensure they attend such training and any refresher courses.
63. To undertake safeguarding training themselves and any refresher courses.
64. To check the information appearing on the DBS check in accordance with the guidance for head teacher to checking a DBS check.
65. To confirm on all recruitment materials relevant to a role whether it is exempt from the Rehabilitation of Offenders Act (under the Rehabilitation of Offenders Act (Exceptions) Order 1975), and that an enhanced DBS disclosure will be required for the successful candidate.
66. To undertake all safer recruitment reference checking including DBS checks.

### **Related Information**

- safeguarding vulnerable groups act 2006
- police act 1997
- rehabilitation of offenders act 1974
- rehabilitation of offenders (exceptions) order 1975
- Guidance on the rehabilitation of offenders act 2014
- section 142 of the education act 2002
- section 15 of the teaching and higher education act 1998
- section 6 of the protection of children act 1999
- sections 35 and 36 of the criminal justice and court services act 2000
- data protection act 1998
- education (school teachers qualifications) (England) regulations 2003
- education (specified work and registration)(England) regulations 2003
- education (prohibition from teaching or working with children) regulations 2003
- school staffing (England) regulations 2009
- protection of freedoms act 2012
- equality act 2010
- Keeping Children Safe in Education 2015
- Immigration (Employment of Adults Subject to Immigration Control)(Maximum Penalty)(Amendment) Order 2014
- Immigration (Restrictions on Employment)(Codes of Practice and Amendment) Order 2014.

Review: October 2019