

# WHITEHILLS PRIMARY SCHOOL

"...putting children first..."



## DBS POLICY DISCLOSURE AND BARRING SERVICE

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Reviewed by: Headteacher / School Business Manager

Ratified by Governors: March 2021

# **Disclosure and Barring Service (DBS) Policy for Schools Based Staff**

## **1. Introduction**

Education Personnel Management (EPM) as a registered body undertakes criminal record disclosure checks via the Disclosure and Barring Service (DBS) for potential school employees, volunteers and workers, and for some other partner organisations and voluntary groups including schools and academies.

The level of check undertaken by the school will be appropriate for the post/type of work (paid or unpaid) to be undertaken and Regulated Activity will be used as the main determining factor for undertaking a disclosure check.

## **2. Policy Statement**

The school will undertake Disclosure and Barring Service (DBS) checks to:

Provide protection for children and vulnerable adults against those who might wish to harm them; and

Protect the interests of the school from those who may not be considered suitable, in accordance with the law, to work in certain occupational areas.

The school is committed to preventing discrimination or any other unfair treatment against any employees, potential employees or voluntary workers on the grounds of offending behaviour that does not create risk to children or vulnerable adults.

## **3. Scope of policy**

The policy applies to all individuals whose role meets the criteria for a DBS check, regardless of the type of employment contract (e.g. temporary, casual, voluntary, fixed term, zero hours etc.).

Where the governing body wishes to deviate from this proposed policy or adopt any other policy, it is the responsibility of the governing body to arrange consultation with recognised trade unions.

## **4. Legal background**

Applications for DBS checks are made under the terms of Part V of the Police Act 1997 and the enabling provisions of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 for the purpose of asking exempted questions.

This enables spent convictions to be disclosed and taken into account when considering an applicant's suitability for work with children, vulnerable adults or in certain specified positions.

The Ministry of Justice advises that organisations should not insist that a Disclosure check forms part of a recruitment exercise or bid when tendering for contracts, unless the services provided meet the criteria for an eligible Disclosure check as defined by the exceptions.

In addition to the Police Act 1997, the following legislation is also relevant to the application of Disclosure information:

- Rehabilitation of Offenders Act 1974
- Education Reform Act 1998
- Teaching and Higher Education Act 1997
- Protection of Children Act 1999 (POCA)

- Criminal Justice and Court Services Act 2000
- Care Standards Act 2000 – Protection of Vulnerable Adults Scheme (POVA)
- The Education Act 2002

The Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, introduced criminal offences in relation to the engagement of barred persons and the provision of information relating to individuals. If an offence in relation to the Act is committed by a corporate body and is proved to be committed with the consent or connivance of, or to be attributable to neglect on the part of a director, manager or other similar officer of the body or a person acting in this capacity, this will result in fines and possible imprisonment.

## **5. DBS Disclosures**

The DBS provides access to Disclosure checks for employment-related and voluntary appointment purposes. Disclosure checks help the school to make informed decisions about the suitability of candidates for a particular position.

The school undertakes the following actions when carrying out a DBS Disclosure check in accordance with DBS guidelines:

Deciding whether a Disclosure check is required;

Issuing a Disclosure application form to the individual;

Requesting a Disclosure check;

Using the Disclosure check information to confirm whether the appointment can proceed; and

Recording the Disclosure check outcome.

### **Determining the Level of Disclosure Check**

Based upon guidance issued by the DBS and/or Home Office to specify whether the school has a legal right to ask the exempted questions, the Headteacher will determine whether or not a check should be undertaken and, if so, the appropriate level of disclosure check required for the post. The Headteacher may wish to contact their HR Advisor for advice.

The school should discuss with their nominated HR Advisor any changes to the role/responsibilities of posts within their individual sections (including the roles/responsibilities of volunteers), which may have a direct affect on the level of disclosure check required.

## **6. Responsibilities**

Responsibility for implementing this policy is shared between the governing body, Headteacher and Leadership Team, Payroll & Recruitment Services and nominated HR Advisors (where the Council provides this service to the school).

### **Headteacher**

The responsibilities of the Headteacher are:

To determine whether a post is subject to a Disclosure check, with or without Barred List Checks, with support from HR Advisor, so that candidates are informed appropriately;

To initiate the request for a Disclosure check by issuing the Disclosure application forms, including guidance, to the preferred candidate.

Where responsible for issuing the Disclosure application forms, to ensure that identification verification is carried out in accordance with the guidance on information required as issued by the Recruitment Team;

To send a DBS Form for the successful candidate to The Recruitment and Payroll Team for processing.

To liaise with candidates who have failed to return the Disclosure application form;

To meet candidates with support from an HR Advisor where serious criminal convictions are disclosed to verify the accuracy of the information and discuss the Disclosure check outcome with HR;

To ensure that any additional information provided by local police forces under the disclosure is not disclosed to the candidate or any other individual not involved in the recruitment process;

To ensure that individuals are not employed without the appropriate Disclosure check subject to provisions on starting without checks.

To determine whether, in exceptional circumstances, the risk exemption provisions can be implemented to allow a candidate to commence an appointment (with restricted activities) before Disclosure clearance has been obtained.

To ensure that recruiting managers comply with all the requirements detailed in this policy, including maintaining appropriate records.

### **Payroll and Recruitment Services**

Nominated individuals within the Recruitment Team undertake the DBS defined role of Counter-signatory. The responsibilities include:

To send Disclosure application forms including guidance for disclosure applicants to the school when requested;

Where responsible for issuing the Disclosure application forms, to ensure that identification verification is carried out by a competent person in accordance with the guidance provided by the Recruitment Team;

Where required, to ensure that External ID Validation has been undertaken;

To advise Headteachers on DBS Disclosure application processes;

To check and authorise Disclosure applications forms;

To submit Disclosure application forms to the DBS;

To monitor progress and liaise with DBS over delayed Disclosures;

To advise the recruiting officer without delay of the outcome of the disclosure;

## **HR Advisors:**

The HR Advisor is responsible for:

Advising the Headteacher in determining the disclosure decision based on DBS/Home Office guidance

## **7. Requirement for Disclosure checks**

### **Candidate provisionally selected for a new appointment**

Disclosure checks will be required for all candidates provisionally selected for appointment for jobs that involve working in regulated activity or eligible positions with children or adults. Candidates required to undergo a DBS check will be made a **conditional** offer of appointment subject to DBS clearance and other pre-employment checks.

An existing school employee may require a new DBS check, if s/he moves to another post within the school:

where a DBS check is required and he/she did not previously have one; or

where a higher level of DBS check is required, e.g. the employee previously held a standard check and the new post requires an enhanced check; or

with a new client group, e.g. previously worked with (and previously DBS checked for) vulnerable adults and moving to a post with children or young people.

It is the school's normal policy to undertake re-checks on employees after a 5 year period. In addition, Disclosure checks at the appropriate level may also be undertaken at the discretion of the school where serious allegations have been made against an employee in the course of their work. In these circumstances, where a Disclosure check outcome means that a current employee may present a risk to children or vulnerable adults the head teacher should initiate the appropriate policy to ensure that concerns are addressed. Normally, an appointee may not start work until a Disclosure check that is satisfactory to the school has been obtained. A Disclosure check provided to any organisation other than the school is not normally acceptable; however reference should be made to the Ofsted Guidance 'Inspecting Safeguarding' as updated from time to time for more in-depth guidance on portability between schools.

Candidates who have left the school and are applying to rejoin must complete a new DBS Disclosure application.

Records on suitability to work in regulated activity with children or adults provided by the DBS are based on the appointment for which they are submitted; therefore if the candidate changes sector or applies for a post needing Disclosure, a new Disclosure must be obtained.

Disclosure checks shall be undertaken as follows:

Where a post is covered by Protection of Vulnerable Adults legislation

Where a post is covered by Protection of Children Act legislation

Where a post is covered by the Safeguarding of Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012

In addition, disclosure checks at an appropriate level may also be requested by the school, at its discretion, for people entering eligible positions and regular reference will be made to the Disclosure Access Category Codes list on the DBS website which specifies the professions, employments, work and occupations that require a DBS check.

## 8. Levels of Disclosure

There are 3 levels of Disclosure:

### Standard Check

To be eligible for a Standard level Disclosure check the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975. A Standard Check discloses spent and unspent convictions, cautions, reprimands and final warnings.

### Enhanced Check

To be eligible for an Enhanced level Disclosure check, the position must be included in both the ROA Exceptions Order and in Police Act Regulations.

An Enhanced check discloses spent and unspent convictions, cautions, reprimands, final warnings plus 'approved' information from local police records, but there is no information provided from the Independent Safeguarding Authority (ISA) Barred Lists.

### Enhanced plus Children's and/or Adults' barred list checks

To be eligible to request a check of the Children's or Adults' Barred lists, the position must meet the post-September 2012 definition of Regulated Activity. There are a small number of other positions for which these checks can also be requested; therefore reference must be made to the most recent Eligible Positions guidance.

An Enhanced check with barred list checks discloses spent and unspent convictions, cautions, reprimands, final warnings plus 'approved' information from local police records, and the Independent Safeguarding Authority (ISA) Barred Lists.

If an individual will be working in regulated activity with both children and adults, a check of both barred lists will be required.

### Approved Information

Approved information is information held on local police records, which does not form part of a person's criminal record. It is often called 'non-conviction' information. Each Chief Constable decides what, if any, non-conviction information is released in response to an application for an Enhanced disclosure.

## 9a. Regulated Activity relating to Children

The school will require a Disclosure for all individuals who work in roles that are considered as Regulated Activities.

Regulated Activity is work that a barred person must not do. In relation to children, regulated activity comprises:

1. Unsupervised activities: teaching, training, instructing, caring for or supervising children or driving a vehicle only for children.
2. Work in a limited range of establishments i.e. 'specified places', with opportunity for contact, but not work by supervised volunteers.  
Work under (1) or (2) is Regulated Activity only if done regularly.  
**Regular** 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).
3. Relevant personal care, for example washing or dressing; or health care by or supervised by a professional, even if done once.

#### 4. Registered child-minders and fostering and adoption.

The following establishments are Specified Places in relation to children and those individuals working within these establishments will be engaging in regulated activity:

- ✓ schools (all or mainly full-time, for children);
- ✓ pupil referral units (also known as Short Stay Schools);
- ✓ nursery schools;
- ✓ institutions for the detention of children;
- ✓ children's homes;
- ✓ children's centres in England;
- ✓ childcare premises (including nurseries).

**Please refer to Guidance on Regulated Activity in relation to children**

#### **10. Appointments which may not require Disclosures checks**

Posts that involve no more than a minor degree of direct face-to-face contact with children or vulnerable adults or which will be subject to direct supervision are unlikely to qualify for a Disclosure.

Examples might include:

People who are on site before or after hours when children and/or vulnerable adults are not present;

Visitors who have business with school staff or contact with a child or vulnerable adult which does not fall within the scope of regulated activity and where a member of school staff will be present;

Visitors who go onto school sites only to carry out ad hoc repairs or service equipment;

Building contractors who will only have contact with children or vulnerable adults on an irregular basis for short periods of time or are working on a work site that is segregated from the main establishment;

Secondary school pupils on work experience;

This is not a definitive list and should be considered as a guide only. In all cases consideration should be given to the level of risk involved when determining if a Disclosure check is required. In making such assessments, the school reserves the right to make a judgement as to whether a Disclosure check, at an appropriate level, is required.

#### **11. Overseas Applicants**

Disclosure checks must be undertaken if the candidate will be engaged in regulated activity and has lived overseas for a substantial period of time.

The Disclosure check is unlikely to provide information relating to overseas criminal records. Head Teachers should take advice from the DBS on whether other checks should be undertaken or additional information obtained.

DBS Disclosures generally do not show offences committed by individuals whilst living abroad. Therefore, where individuals have lived abroad in previous years, it may be necessary to undertake additional checks. This may include obtaining 'Certificates of Good Conduct' from foreign embassies or police forces.

A Certificate of Good Conduct is a police check, provided by a foreign country. The level of information contained in these certificates varies from country to country. However, they

may provide critical information, enabling the school to ascertain a candidate's suitability to work.

Where a candidate has lived or worked abroad in the past 5 years, it is the school's policy to request a Certificate of Good Conduct from each country that he/she has lived in during this period. Candidates are responsible for obtaining these certificates and for meeting any associated costs in doing so.

Where a Certificate of Good Conduct cannot be obtained, extra care will be taken to explore any gaps in employment. This may include external ID Verification and following up written references by telephone and/or requesting additional references.

## **12. Agency Staff and Contractors**

It is the Headteacher's responsibility to inform the agency, contractor, or any other source of non-employed personnel, that a current DBS Disclosure is required.

The providers of agency staff have specific legal obligations relating to the provision of agency staff and contractors. The school is responsible for ensuring that any framework contracts for the provision of Agency staff require providers to have in place the same levels and standards for pre-employment checks as the School but the ultimate responsibility still rests with the school.

Headteachers must undertake all reasonable checks to ensure that individuals employed through agencies/via contracts for service who are undertaking a post in the School or delivering a service for the school where an individual should be checked, have undergone a Disclosure check at the appropriate level.

The agency/contract worker will be required to produce their original DBS Disclosure certificate before commencement of their employment with the regulated service along with proof of identity. The Headteacher will be required to note the DBS Disclosure number and date of issue and the serial number of the ID document provided. This information must be retained for inspection, but the school may not retain a copy of the disclosure form.

When employing Agency Staff, the school will stipulate when ordering that a current DBS disclosure is required to work in various posts connected with children and vulnerable groups.

The Disclosure must have been undertaken by the Agency/Contractor:

Upon commencement of their agency employment;

Within 3 years for employees with continuous employment with the agency or contractor.

## **13. Informing job applicants, employees or voluntary workers that their appointment is subject to a Disclosure check**

The school's application process (for paid or voluntary work) will inform candidates whether they must disclose 'spent' convictions as appropriate. The fact that a check is required for a post will be stated in the recruitment advertisement information. In addition, the level of check required for a particular post will be confirmed to applicants.

Applicants for posts requiring a disclosure check will be required to provide photographic proof of identity, e.g. passport or driving licence, on the day of interview.

Applicants will be informed that failing to disclose a 'spent' conviction for an 'exempt' post/profession under the Rehabilitation of Offenders Act (ROA) 1974 will be considered an act of Gross Misconduct under the School's disciplinary procedure if they are subsequently appointed to a post. In some cases failure to disclose a 'spent' conviction may be a criminal offence.

#### **14. Commencing employment prior to receiving Disclosure information**

Normally, candidates may not start working in the appointment until a Disclosure check that is satisfactory to the school has been obtained.

However, in exceptional circumstances this may be permitted, for instance when not allowing a person to commence employment prior to clearance would:

Cause severe disruption to service provision; or impact on statutory staffing requirements; or mean that Ofsted and Care Quality Commission requirements for regulated services would not be met.

In these instances, the Headteacher can authorise the employee to start work before a Disclosure check is received by completing the appropriate risk exemption. Decisions must be taken on an individual basis. The Headteacher is responsible for compliance with up to date safeguarding legislation and guidance.

For posts which are subject to the Protection of Children Act, a pre-employment Children's List (previously called List 99) check must be undertaken.

For posts that are subject to the Protection of Vulnerable Adults Scheme a pre-employment Adult-First (Previously called PoVA) check must be undertaken.

The Headteacher must ensure that arrangements to manage the candidate's access to children or vulnerable adults are appropriately supervised.

The employee will be required to sign a declaration, available from the Recruitment & Payroll Team, stating that they have no offences and **will not work unsupervised** with children or vulnerable adults until clearance has been received. This declaration will be counter-signed by the Headteacher confirming that they will take responsibility to ensure strict compliance with this practice.

Where the Payroll service is provided by the Council, the signed declaration must be emailed, faxed or posted to the nominated contact in the Recruitment & Payroll Team confirming that the level of risk involved to ensure the safety of children and vulnerable adults has been assessed and to give authorisation for this new employee to start, conditionally, prior to receiving DBS clearance.

The offer of employment to the individual and any subsequent employment arising from the offer will be conditional and subject to a Disclosure check that is satisfactory to the school. Normally, this should be completed during the employee's probationary period. Where clearance is not returned during this period, employment can continue only if the probationary period is extended in writing and there is written confirmation that the risk assessed vulnerable group protection arrangements are still in place.

#### **15. Arrangements for applicants with criminal records**

Applicants with criminal records should be treated according to their merits and subject to any special criteria for the appointment, for example, caring for children and vulnerable adults which debars some in this category.

A criminal record may not in itself prevent a person being appointed, but reference should be made to the appropriate legislation.

When the Headteacher receives a Disclosure check that indicates that the individual has a criminal record which would debar a person from appointment or indicate that they may pose a risk, the Headteacher will investigate the accuracy of the criminal record with the candidate in conjunction with the HR Advisor.

In such circumstances, an objective review will be carried out in accordance with the school's procedures.

## **16. Candidate provisionally selected for a new appointment**

Where the school has made a conditional offer of appointment subject to DBS clearance and other pre-employment checks and the Disclosure information received might mean that the candidate presents a risk to children or vulnerable adults the candidate will be rejected.

The job description and/or person specification should identify where the post holder is required to be suitable to work with children and/or vulnerable adults. The candidate will be rejected because he/she is unable to meet one or more areas of the job description/person specification. The applicant will be informed of this decision in writing by the Headteacher.

A decision to appoint the candidate where there is evidence of conviction for a serious offence must be approved in writing by the appropriate committee or governor with responsibility for safeguarding.

## **17. Voluntary workers in relation to their current appointment**

Where a voluntary worker appointment falls within the definition of Regulated Activity and is a position eligible for a DBS check, this must be undertaken prior to the individual commencing.

An individual must not start in a volunteer role unless a satisfactory DBS Disclosure has been obtained or the risk exemption process has been signed off. The manager should follow the risk exemption process only if there is a delay in receiving a disclosure and a clear business case for why this is necessary must be provided.

If a potential volunteer discloses a conviction or the DBS check reveals a record the objective assessment process must be followed to determine if the individual can or cannot undertake the volunteer placement.

Where the objective assessment process indicates that the candidate may present a risk to children or vulnerable adults, the voluntary worker should be informed of this decision and any offer of appointment withdrawn. There is no appeal mechanism for voluntary workers.

A decision to retain the voluntary worker where there is evidence of a conviction for a serious offence must be approved in writing by the Chair of Governors.

**Please refer to Statutory Guidance on Supervision relating to children**

## **18. Disclosure checks for other Groups**

### **School Age Volunteers**

The school recognises that young people are often invited to volunteer to take part in one off activities in the school. DBS Guidance confirms that access to disclosures for children under the age of 16 are not available. Instead, as a safeguarding measure, the school will require a letter from the young person's school/college concerning his/her suitability to volunteer in that particular activity. The Headteacher must ensure that this letter of assurance is obtained **before** the young person starts to volunteer.

### **Work Placements**

The disclosure level assessment process should be used to determine if a DBS check is required for Over-16s seeking to undertake a work placement. DBS checks for individuals wishing to undertake a work placement would be obtained from EPM.

Where a Disclosure is required, the individual should not start in the work placement role until a DBS check has been obtained or the risk exemption process has been followed. A Headteacher should follow the risk exemption process only if there is an extended delay in receiving a DBS and a clear business case for why this is necessary can be provided.

If an individual discloses a conviction or the DBS check reveals a trace the objective assessment process must be followed to determine if the individual can or cannot undertake the work placement.

### **Consultants**

A self-employed consultant/Interim engaged to work in a placement involving contact with children, young people and/or vulnerable adults or within an eligible position is required to have a disclosure check at the appropriate level **before** starting an engagement.

If the consultant/interim is engaged via an agency or consultancy organisation the agency/organisation is responsible for undertaking the required disclosure check. The agency must provide the school with proof of disclosure before a consultant/interim is used.

Where the School engages an individual directly in a self-employed capacity in a placement involving children, young people or vulnerable adults the school will require a disclosure check to be carried out at the appropriate level.

Where it is intended to allow a self-employed consultant/Interim to commence before a clear disclosure check is returned, the Headteacher must follow the risk exemption process.

Where the disclosure of a self-employed consultant/Interim reveals a trace an objective assessment must be undertaken. A decision to retain the consultant/interim must be approved in writing by the Chair of Governors.

### **Schools with Independent HR Provision**

The school expects HR/Personnel providers to schools to advise schools to follow the school's disclosure policy in relation to school based employees and volunteers.

### **Elected Members**

Under the 2012 DBS guidelines, elected members will not be eligible for DBS Disclosure checks unless they are in an eligible position or will undertake Regulated Activity in the course of their role.

### **Casual/Supply/Agency Workers/Contractors**

Where Agencies or Contractors are registered with the DBS, they must provide the School with proof of registration before any agency workers are used or any services are commissioned for which a disclosure check is required. In addition an Agency or Contractor will be required to supply details of its policies and processes, including objective assessment procedures, which must be agreed with the School before any services can be commissioned.

Headteachers should assess the risks of contractors on their site, including the possibility of their forming a relationship with children or vulnerable adults. In an emergency it may not be possible to guarantee that a contractor's employee who has been checked will attend. Headteachers should assess the risk to children in their care. In all cases appropriate measures should be taken, such as supervising the operative and keeping children and vulnerable adults away from the work area. Further guidance is available from the HR Advisory.

### **19. Disclosure Costs**

For potential/existing employees the employing team will pay the DBS fee for the Disclosure check PLUS an administration fee to the Recruitment Team. Teams responsible for recruiting volunteers will be charged the administration fee only for each check (i.e. the disclosure check itself is free).

Fees for agency workers and contractors are the responsibility of the supplier.

Partner organisations and organisations providing services under contract for the School will be charged for this service (cost of check PLUS an administration fee).

## **20. Handling and using disclosure information**

The school complies with the DBS Code of Practice, the Data Protection Act and minimum standards established by regulatory bodies relating to the safe handling, use, storage, retention and disposal of Disclosure information. For more detailed guidance on this, please refer to the document:

Secure, Handling, Use, Retention and Disposal of Disclosures and Disclosure information.

## **21. The Council as an umbrella body**

EPM will act as an umbrella body, processing applications for other organisations, where the organisation provides services but does not undertake a sufficient level of Disclosure checks to warrant DBS registration in their own right.

agree to comply with the relevant terms of this policy and the DBS Code of Practice and guidance;

pay the applicable DBS Disclosure fee and an administration fee at the level set by EPM. Fees are subject to review at the EPM's discretion.

## **22. Monitoring and Audit**

Internal school procedures the school will:

- undertake its own internal audit of the disclosure process on a regular basis;
- co-operate with compliance checks/audits from Council, Ofsted and/or the DBS;
- report any suspected malpractice to the DBS (employers are liable for misuse of disclosure information NOT the DBS);
- report any loss of disclosure information to the DBS as this may be seen as breach of the Code; and
- use disclosure information for employment (paid or unpaid) purposes only.

## **External Organisations**

EPM will take reasonable steps to satisfy itself that organisations for whom it signs disclosures as an 'umbrella body' comply with this Code.

## **23. Sources of Additional Information**

Additional information can be obtained from:

The Home Office at: <http://www.homeoffice.gov.uk/crime/vetting-barring-scheme/>

Eligible Positions guidance can be found at:

<http://www.homeoffice.gov.uk/publications/agencies-public-bodies/CRB/about-the-crb/eligible-positions-guide?view=Binary>

Ofsted Guidance can be found at:

<http://www.ofsted.gov.uk/schools/for-schools/safeguarding-children>

The Care Quality Commission guidance can be found at:

<http://www.cqc.org.uk/content/criminal-record-checks>

The Department for Health guidance can be found at:

<https://www.gov.uk/government/publications/new-disclosure-and-barring-services>

The Department for Education guidance can be found at:

<http://www.education.gov.uk/childrenandyoungpeople/safeguardingchildren/a00209802/disclosure-barring>