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DBS policy

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1. Introduction

This policy document sets out the procedures for Disclosure and Barring service (DBS) checks. These checks must be undertaken where required and form part of a sound and safe recruitment process in schools. Safer employment processes extend beyond recruitment and schools should ensure each worker understands their duty of care as well as which behaviours make up safer practice and which behaviours to avoid.

Regulatory / Independent Regulatory Bodies

The primary role of the DBS (formerly the Criminal Records Bureau and the Independent Safeguarding Authority) is to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups including children. The DBS was established under the Protection of Freedoms Act 2012 and merges the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

It enables organisations, including schools, to obtain criminal record information about prospective employees and volunteers by accessing information from the Police National Computer, and local police information. The DBS is responsible for deciding who should be barred from working with children or vulnerable adults, or both. In terms of barring the DBS has four main duties:

1. To maintain a list of individuals who are barred from engaging in regulated activity* with children – the DBS children's barred list
2. To maintain a list of individuals who are barred from engaging in regulated activity with adults who may be vulnerable – the DBS adults barred list
3. To reach decisions about whether an individual should be included in one or both barred lists
4. To reach decisions as to whether to remove a person from a barred list.

Inclusion on the DBS barred lists has the same effect as inclusion on the previous lists; List 99, PoCA, PoVA, POCVA or the Unsuitable Person's Lists.

*Regulated activities are the activities that the DBS can bar people from doing. For a definition of 'Regulated Activity for children' see Appendix A.

2. Legal position

2.1 Legal framework

The Rehabilitation of Offenders Act 1974 and The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2012

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

Under the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2012 some jobs and categories of employment are

exempt from the provisions of the Act and in such cases 'spent' convictions must be disclosed. If a person is employed in a school they must disclose their convictions.

Safeguarding Vulnerable Groups Act 2006

This provided the legislative framework for a Vetting and Barring scheme, it also brought in the requirement for two separate but aligned barred lists, the provision for ISA (now DBS) to make decisions around individuals that should be barred from working with vulnerable groups, outlined monitoring arrangements and proposed two types of activities where CRB (now DBS) checks would be required which were for controlled and regulated activity..

Protection of Freedoms Act 2012

This act includes the restriction of the scope of the 'vetting and barring' scheme for protecting vulnerable groups and makes changes to the system of criminal records checks. As a result the Safeguarding Vulnerable Groups Act 2006 will be amended by this act and the major changes were:

- A new definition of regulated activity
- The repeal of controlled activity
- The repeal of registration and continuous monitoring
- The introduction of a minimum age of 16 at which someone can apply for a DBS check
- Only posts which meet the definition of regulated activity can have an enhanced DBS check with barred list check
- Establishing the Disclosure and Barring Service (DBS) as a merger of the functions of the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA) as a non-department public body sponsored by the Home Office

2.2. Legal requirements of the DBS

- All staff on a school's payroll, whether supervised or not remain in regulated activity and checks on these individuals should continue in the same way. This includes cleaners and caretakers working in schools.
- Enhanced DBS checks can be obtained where a post or situation meets the criteria outlined in Schedule 4 of the Safeguarding vulnerable Groups Act 2006. Where reference is made to this check throughout this policy this criteria will need to be met.
- A volunteer in a school will not be in regulated activity if they are supervised to a reasonable level in which case an enhanced DBS check with barred list check would not be a requirement (for guidance on what is a reasonable level of supervision see Appendix B). A school does have the discretion, however, to request an enhanced DBS check for a volunteer. If the volunteer is unsupervised, they will be in regulated activity and will therefore be required to receive an enhanced DBS check with barred list check.
- It is still an offence for an employer to engage in regulated activity someone whom you know has been barred by the DBS

- A person who is barred by the DBS from working in regulated activity will be breaking the law if they work or volunteer, or try to work or volunteer in regulated activity
- If the school provides regulated activity and dismisses a member of staff or a volunteer because they have harmed, or posed a risk of harm to a child or vulnerable adult, or the school would have dismissed if they had not left, the school must refer this information to the DBS.
- Police may use common law powers to provide information directly to employers in cases where this is necessary, for example to prevent harm to others. Where information is disclosed from the police using their common powers this must not be fed back to the candidate(s). Discussions must take place and an agreement reached with the police in terms of the information that will be provided to the candidate to ensure current police investigations are not compromised

3 Local authority position

- 3.1 An enhanced DBS check with barred list check is compulsory for new appointments to your school workforce where they have transferred from a non-Norfolk school or different Local Authority, or an independent school in England, Wales, Scotland or Northern Ireland with or without a break of service. It also includes former members of your staff who have had a break in service of more than three months¹.
- 3.2 Standard DBS disclosures are not acceptable and this applies equally to all appointments whether permanent, temporary or casual. All DBS checks must be enhanced.
- 3.3 For any avoidance of doubt, it is not necessary to obtain an enhanced DBS check or an enhanced DBS check with barred list check for staff transferring from other Norfolk schools without a break of service or where there has been a break of service of less than three months.
- 3.4 There remains no requirement to obtain an enhanced DBS check or an enhanced DBS check with barred list check for existing members of staff, unless you have grounds for concern and the person consents.
- 3.5 In relation to checking after three years, this is only relevant in some settings and the previous Government Office for the East of England (Go East) clarified that “In Schools there has never been any requirement to conduct CRB [now DBS] checks on staff who were in post before 2002 and have not moved since. Ofsted guidance to Inspectors recognises that if schools are complying with the regulations and guidance they are doing all that can be required of them”.

4. The deployment of staff

- 4.1 Offers of employment to successful candidates must be conditional upon a satisfactory enhanced DBS check with barred list check were applicable.

¹ Maternity leave and long term sick leave are not classed as a break in service.

Please note that until a satisfactory enhanced DBS check with barred list check has been received the person must not be deployed to work directly with children or in a situation where they can have unsupervised access to children.

4.2 However, if an enhanced DBS check with barred list check has been applied for but not received by the time the person is due to start work, you do have the discretion to allow the person to start work provided that the Headteacher is confident that all other pre-employment checks have been carried out, i.e.:-

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

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

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

4.3 It is essential that detailed records relating to the recruitment and selection process for all staff are retained securely as evidence that sound and safe processes have been followed. This includes recording information on the school's single central record. Recruitment appointment information should be kept on the successful candidate's personal file for the time they are employed plus 7 years. For unsuccessful candidates information should be kept for 6 months.

5 Supply teachers

5.1 Supply teachers who have not been subject to an enhanced DBS check with barred list check must not be employed to work directly with children.

5.2 All supply teachers available to Norfolk schools and included in the latest Norfolk Supply Teaching Register have been through the appropriate DBS checking process and evidence produced. However, if the person is not known to the school, then they should see a photographic ID document and seek confirmation from the

Supply Teaching Register that the individual has been appropriately vetted for the role and that a break in service of no more than three months has occurred.

5.3 The service of supply teachers from the local authority's supply teaching register in Norfolk academies which buy the authority's full HR service will count in the same way as service in a Norfolk school for the purposes of assessing the three month break.

6. Agency Supply teachers

6.1 Where Agency Supply Teachers can produce evidence of a satisfactory enhanced DBS check with barred list check and can produce evidence that they have worked from 1 June 2002 onwards, then they are eligible to work in schools. Agency Supply Teachers who are unable to produce this evidence must not be used.

If the school is using a supply agency rather than the local authority's supply teaching register, the school must receive written confirmation and evidence that all relevant checks have been undertaken. Where there is disclosed information, the school must obtain a copy of the enhanced DBS check with barred list check from the agency before the individual starts work. The school must require the supply agency to provide the written notifications and copies of the enhanced DBS check with barred list check where appropriate through the contract or other arrangements which it makes with the supply agency. Where there are matters disclosed a risk assessment should be undertaken.

7. Invigilators

7.1 By the very nature of examinations, there will necessarily be a gap in excess of three months between them. Provided that an enhanced DBS check with barred list check was obtained when the Invigilator was first employed, together with all the other pre-employment checks listed above, we can reasonably advise that where an Invigilator is used regularly by the schools, it will not be necessary to seek further DBS disclosures each time the Invigilator is subsequently used.

7.2 However, a check of the DBS children's barred list must be undertaken on each occasion the Invigilator is used. The HR Shared Service Resourcing Team can quickly arrange this for you if you send the request through Norfolk Disclosures, the online DBS system.

8. Overseas teachers

8.1 As the DBS cannot access criminal records held overseas, an enhanced DBS check or an enhanced DBS check with barred list check may not provide complete picture of an individual's criminal records. The DBS will not normally be able to provide a disclosure if an applicant has never previously lived in the UK, no purpose will be served by seeking a disclosure through the DBS on their arrival in this country as the person concerned will not have a criminal record in this country nor will they appear on DBS barred lists.

8.2 In some countries, applicants can apply to their home Police Force for a "Certificate of Good Conduct". The level of information contained in these certificates varies from country to country: some are complete extracts from the criminal record;

others are partial. If you are recruiting people from overseas and wish to check their overseas criminal record, you should contact the embassy or High Commission of the country in question in order to obtain such a certificate as part of the recruitment process. Certificates should be originals, not copies and it is the individuals' responsibility to provide the certificate when requested. Further information regarding this process can be found by contacting the Foreign and Commonwealth Office (FCO) Response Centre Helpline 020 7008 1500.

8.3 You should also ensure that the normal pre-employment checks of identity, qualifications and references are carried out thoroughly before confirming an appointment, i.e. you are satisfied that all reasonable steps have been taken to ascertain the integrity and identity of the person concerned.

8.4 Overseas teachers must have the right to work in the UK. The Immigration, Asylum and Nationality Act 2006 places an onus on employers to ensure that employees start work on or after 26 February 2008 having the right to work in the UK. Schools will be subject to a fine of up to £10,000 for negligently employing a worker who is not a resident of a European Economic Area Country. For deliberately employing such workers there will be an unlimited fine or imprisonment. Before a potential employee starts work, schools must check and copy documents which confirm the person's identity and right to work in the UK. Where a photographic document is utilised, the photograph must be clearly identifiable from the copied image, therefore it is advisable that a colour copy or scanned image is retained. A list of acceptable documents can be found on the Immigration, asylum and nationality evidence check form (F108a) on Schools PeopleNet. Further information on the sponsorship of overseas workers and preventing illegal working can be found via www.ukba.homeoffice.gov.uk

8.5 Guidance on employment of migrant workers is available on Schools PeopleNet.

9 Volunteers

9.1 Children see volunteers as safe and trustworthy adults. Under the Protection of Freedoms Act 2012 volunteers who are supervised to the statutory level will not be considered to be undertaking a regulated activity so will not be eligible for an enhanced DBS check with barred list check. However, a school does have the discretion, to request an enhanced DBS check for any volunteer. When considering whether the volunteer will be in a regulated activity or not the following should be taken into consideration:

- the volunteer must be supervised by a person who is in regulated activity
- supervision must take place "on a regular basis". This means that supervision must not, for example, be concentrated during the first few weeks of an activity and then tail off thereafter, becoming the exception not the rule. It must take place on an ongoing basis, whether the volunteer has just started or has been doing the activity for some time.
- The supervision must be reasonable in the circumstances: within the statutory duty, the level of supervision may differ, depending on all the circumstances of a case. Schools should consider the following factors in deciding the specific level of supervision the organisation will require in an individual case:
 - ages of the children, including whether their ages differ widely;

- number of children that the individual is working with;
- whether or not other workers are helping to look after the children;
- the nature of the individual's opportunity for contact with children;
- how vulnerable the children are (the more they are, the more a school might opt for volunteers to be in regulated activity);
- how many workers would be supervised by each supervising worker.

For further guidance on supervision please see Appendix B). For all other recruitment checks it must adopt the same recruitment measures as it would paid staff

- 9.2 In other circumstances, for example where a school approaches a parent who is well known to the school to take on a particular role, a streamlined procedure can be adopted - seeking references, checking to ensure others in the school community know of no concerns and can make a positive recommendation, conducting an informal interview to gauge the person's aptitude and suitability, and undertaking an enhanced DBS check. Evidence of such processes should be kept securely by schools and recorded on the school's Single Central Record.
- 9.3 In other circumstances, e.g. where a volunteer's role will be "one-off", accompanying teachers and pupils on a day outing, helping at a concert or school fete, those kind of measures would, in the majority of cases, not be eligible for an enhanced DBS check with barred list check. Schools need to consider this to ensure that such people are not charged with taking children to the toilet, for example. In the few cases where the person is left alone and unsupervised in charge of children an enhanced DBS check with barred list check can be requested.
- 9.4 Parents who voluntarily transport pupils for school activities (e.g. sports activities and visits) would not expect to undergo an enhanced DBS check with barred list check. However, if the transport is organised by the school **and** is a regular occurrence (4 or more days in a 30 day period) there would be a requirement for the parent to undergo an enhanced DBS check with barred list check if they are not supervised by someone who is in a regulated activity.
- 9.5 Where volunteers recruited by another organisation to work in a school, e.g. sports coaches from a local club, the school should obtain written assurance from that organisation that the person has been properly vetted and this confirmation should be retained by the school and produced if required during an Ofsted inspection.
- 9.6 Where volunteers will be working unsupervised in a school they are in regulated activity so will be required to undergo full checks including an enhanced DBS check with barred list check.

10 Contractors

- 10.1 Where schools use contractors that are provided by a contractor, it is the responsibility of that contractor to have its staff checked. This must be a specific requirement contained in any contract for these services with the Authority or with schools. The school should seek written confirmation that these checks have been carried out by the contractor and we would encourage Headteachers to routinely check with workers the contractor sent to the school that they have had an

enhanced DBS check and bring to the attention of the contractor any concerns arising. Schools are not able to request an enhanced DBS check with barred list check on contractors unless they meet the definition of regulated activity under the Protection of Freedoms Act 2012.

11. NQT's

- 11.1 Students undertaking Initial Teacher Training are subject to an enhanced DBS check with barred list check via their teacher training institution. However, a further check must be made by the school before a Newly Qualified Teacher can be deployed to work directly with children in Norfolk's schools.

12. Governors

- 12.1 Schools will still be entitled to seek an enhanced DBS check for new Governors but will not be entitled to undertake an enhanced DBS check with barred list check. If a Governor is regularly having contact with children in school that is unsupervised, the school is entitled to undertake an enhanced DBS check with barred list check as they would for other volunteers who are regularly unsupervised.

In Norfolk it is strongly recommended that governors have an enhanced DBS check

13. Educational visits (including residential)

(See also sections 9.1, 9.3 and 9.4 which are also relevant to Educational Visits)

- 13.1 It will be necessary for employees and volunteers accompanying residential visits to have undergone enhanced DBS checks with barred list check before the visits take place. For day visits only, where volunteers will be supervised at **all** times, there is no requirement to undertake an enhanced DBS check. See also sections 9.1 to 9.4 where volunteers are being used. Where this is **not** the case the volunteer will be required to undergo an enhanced DBS check only.
- 13.2 When planning residential visits it is important to plan well in advance to give sufficient time for the DBS process to be completed.
- 13.3 Schools should satisfy themselves that the appropriate safeguarding procedures have been followed in terms of checks on employees and volunteers going on the trip. Schools are asked to confirm on Evolve (the online educational visits approval system) that the checks have been carried out.
- 13.4 When using external providers for activities, transport or accommodation where their staff could have significant unsupervised access to young people, you should seek assurances that the provider has sufficient safeguarding systems in place by either checking on Evolve that they hold the Learning Outside the Classroom Quality Badge or ensure they have supplied a suitably completed 'NCC Providers Contract'.

14. Work experience placements

Schools arranging work placements for pupils need to ensure that employers and training organisations are aware of safeguarding issues and asked to cooperate in putting appropriate safeguards in place. DfE guidance on safeguarding in relation to

work experience placements was revised in April 2012 in 'Work Experience Made Simple'.

Schools may be concerned about whether an enhanced DBS check of staff working with young people while on work experience should be carried out. In many instances it may not be necessary. It depends on circumstances but employers should consider an enhanced DBS check for someone who has a specific designated responsibility for supervising a student, particularly if the student is under 16, is a vulnerable student for any reason (e.g. a student with special educational needs) or where the supervisor will spend a substantial amount of time alone with the student. Schools should not ask an employer to conduct an enhanced DBS check on staff who are simply working alongside the student.

Enhanced DBS checks and enhanced DBS checks with barred list check cannot be requested for anyone who is under the age of 16.

In addition, DBS checks should be considered 'especially where the work experience is long-term'. For further information regarding DBS checks and work experience see P107 Placements policy or G650 Work experience guidance (Health and Safety) on Schools' PeopleNet.

15. Administrative arrangements

- 15.1 For this procedure to work effectively, it is important that DBS Disclosure online application forms are completed as early as possible in the selection process, i.e. at the time of the successful interview. Candidate's identities should be verified at interview stage from a range of selected ID documents and they should be asked to bring the necessary evidence of identification to the interview to facilitate this. See G112 on Schools' PeopleNet for acceptable documents. Please check this document each time you recruit as the acceptable document list is subject to change. The detail can then be recorded onto Norfolk Disclosures to initiate the online application. Once an appointment is made, the link to the application can be emailed to the candidate for them to complete their portion of the application. If the candidate is unsuccessful at interview their details will be deleted from the online CRB system. Please contact HR Direct on 01603 222212 for further information regarding online DBS checks.
- 15.2 You will need to notify the Services to Schools team in the HR Shared Service Centre of the appointment in the usual way, using F108c Appointment Notification form on Schools' PeopleNet. Formal confirmation of the offer of appointment will be sent to the successful candidate(s), making it clear that the offer is conditional upon a satisfactory DBS disclosure.
- 15.3 Schools will receive the results of the majority of clear disclosures through Norfolk Disclosures once the process is complete, as the majority of clear electronic disclosures come directly back into the system. Where a paper disclosure is received by the HR Shared Service Resourcing team this could be for a number of reasons:
 - Disclosures that have matters to disclose
 - If the ID verifier has been unable to verify the individuals identity from the range of documents/routes defined in the G112. In these circumstances, a

paper application is sent to the DBS for them to process, whereby they will consider whether the individual needs to have finger prints taken to verify their identity.

- Some clear disclosures are still returned in paper format (about 10%)

The Headteacher will be notified accordingly in each case. Where there are matters to be disclosed the paper notification will inform the Headteacher how to contact the HR Recruitment team to discuss the matters disclosed and then the Headteacher will need to take appropriate action.

- 15.4 The average time taken by the Norfolk Disclosures' the online DBS application system to complete a check is now in the region of 5-10 days. This does, however still vary from case to case and can be influenced by the amount of time it takes Police Authorities to check against previous addresses. In all cases the Local Police Force have up to 60 days to respond to the request for information from the DBS. Where applications reach these periods, no assumption should be made about the potential outcome, only 6% of applications now take beyond 21 days.
- 15.5 The turnaround time for DBS checks should be quick enough in most cases to enable a Disclosure to be obtained before the effective date of appointment, but you do need to bear this in mind when agreeing a start date with the person.
- 16. DfES Guidance Document Safeguarding Children: Safer Recruitment and Selection in Education Settings**
- 16.1 Finally, it is important to emphasise that the DBS process is just one part of a sound and safer recruitment process. It is important not to rely solely on criminal record, checks to screen out unsuitable applicants. Those checks are an essential safeguard, but they will only pick up the small percentage of abusers who have been convicted, or have come to the attention of the Police, or who have been listed. Many individuals who are unsuited to working with children will not have any previous convictions, and will not appear on the DBS Barred Lists.
- 16.2 If you have not already done so, you are strongly recommended to read the document produced by then DfES "Safeguarding Children and Safer Recruitment in Education". This Statutory Guidance came into force by 1 January 2007. You are strongly advised to share this information with your Governing Body. Since January 2010 there has been a statutory requirement that at least one member of the recruitment panel has undertaken the accredited safer recruitment training.
- 16.3 Use the Recruitment and Selection Checklist provided with the DfES Guidance document to review and, where appropriate, modify your recruitment and selection practice and procedure in ways that will strengthen safeguards for children. There is also a safer recruitment checklist at the beginning of G108f Recruitment and Selection guidance for schools on Schools' PeopleNet.
- 16.4 For example, the Guidance Document advocates that employers should use an application form to obtain a common set of core data from all applicants. It is not good practice to accept a curriculum vitae drawn up by applicants in place of an application form because these will only contain the information the applicant wishes to present and may omit relevant details.

- 16.5 The Safe recruitment and selection documentation on Schools PeopleNet outlines good practice including the requirements of the Safer Recruitment statutory guidance.
- 16.6 Making safeguarding and promoting the welfare of children and young people as an integral part of your recruitment and selection process is an essential part of creating a safe environment for children.

Appendix A Regulated Activity – Children

Regulated activity relating to children comprises of:-

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

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

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

Appendix B: Supervision guidance for schools (volunteers)

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

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

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

Full government guidance regarding supervision can be found by following the Supervision guidance link under ‘weblinks’ in the ‘Disclosure and Barring section of Schools’ PeopleNet (Manager) or by entering ‘supervision’ into the Schools’ PeopleNet search.