

# **Disclosure and Barring (DBS) Policy for Schools**

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## Consultees

Internal	External
Assistant Director Human Resources and Transformation	Trade Unions

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Document	Link
Recruitment and Selection	<a href="#">Recruitment and Selection Handbook for Schools v1.1.pdf</a> <a href="#">Appendices A to T for Recruitment and Selection Handbook v1.1.docx</a>

## Contents

1. Introduction.....	4
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2. Policy Statement.....	4
3. Scope.....	5
4. Legal background.....	5
5. Levels of disclosure checks.....	6
6. Regulated Activity Relating to Children (Enhanced plus Barred Check).....	7
7. Regulated Activity Relating to Adults (Enhanced plus Barred Check).....	8
8. Where a Disclosure Check is not required.....	9
9. DBS Workforce Categorisation.....	9
10. Disclosure checks during recruitment and selection.....	9
11. Online DBS application form (e-Bulk).....	11
12. DBS Update Service (portability).....	11
13. DBS checks for existing employees moving to new roles.....	12
14. Re-checks.....	12
15. Starting employment before receiving DBS clearance.....	13
16. Positive disclosure risk assessment (assessing criminal record information).....	14
17. Not confirming a conditional offer of employment.....	14
18. Overseas candidates.....	14
19. Disclosure checks for Volunteers.....	15
20. Agency workers.....	16
21. Disclosure check for other groups.....	17
22. Disclosure costs.....	18
23. Monitoring and audit.....	19
Appendix 1 - Statement on the recruitment of ex-offenders.....	20
Appendix 2 - Standards for secure handling of disclosure information.....	22
Appendix 3 - DBS Status Check Consent Form (DBS Update Service).....	24
Appendix 4 - Head Teacher approval - starting employment before DBS clearance.....	25
Appendix 5 - Positive disclosure risk assessment record where decision is taken to appoint.....	27
Appendix 6 - Criminal record checks for overseas candidates.....	29
Appendix 7 – Agency Worker Provision in Schools.....	31
Appendix 8 - Specific responsibilities for organisations that use the Umbrella Body service.....	33

## 1. Introduction

West Northamptonshire Council undertakes Disclosure and Barring Service (DBS) checks for its client organisations who participate in its online DBS checking service. This service is only available to maintained schools who currently participate in the checking service.

West Northamptonshire County Council:

- is the Registered Body that undertakes criminal record disclosure checks via the Disclosure and Barring Service (DBS) for potential employees, existing employees, volunteers and workers.
- carries out checks as an Umbrella Body for partner Councils and other organisations and voluntary groups.

The level of check undertaken must be appropriate for the post/type of work (paid or unpaid) that is undertaken. **The tasks undertaken determine whether a role is eligible for a DBS check and the level of check required.**

West Northamptonshire Council recognises that for its clients, and their customers, this policy is of critical importance, as part of a range of pre-employment checks that aim to ensure that all reasonable checks have been undertaken on individuals working with customers in a position of trust.

DBS certificates are issued directly to the individual. Therefore, Schools have to ask for sight of the DBS certificate.

The Assistant Director of HR is the Lead Counter-signatory for DBS and e-DBS registration purposes and has the responsibility for monitoring and reviewing the implementation of this policy.

## 2. Policy Statement

This policy contains the overarching guidance on DBS checks for all organisations and groups that use West Northamptonshire Council to undertake DBS checks. **As an Umbrella Body, West Northamptonshire Council expects these organisations and groups to give a declaration that they:**

- **comply with the DBS Code of Practice**
- **only request checks that are appropriate for the post/type of work that is undertaken, in accordance with legislation, and guidance issued by the DBS (sections 6-9).**

DBS checks will be undertaken to:

- provide protection for children and vulnerable adults from individuals who might wish to harm them; and
- minimise the risk of employing an individual who is considered unsuitable to work in certain occupations.

This policy should be read alongside the Recruitment of Ex-Offenders statement (Appendix T of Recruitment and Selection Handbook), which aims to prevent discrimination against any employees, potential employees, workers or volunteers on the grounds of offending behaviour that does not create risk to children, vulnerable adults or in key occupational areas.

***West Northamptonshire Council's strong advice is that where this policy has the Head Teacher as the authorisation, that if this process is being applied to a Head Teacher, that the Chair of Governors is the authorisation level. This would specifically apply to:***

- *the Positive Disclosure Risk Assessment in relation to a Head Teacher DBS disclosure.*
- *the process to be followed regarding criminal record checks for overseas candidates*
- *the process regarding starting a Head Teacher without receipt of a DBS that is satisfactory to the school.*

### **3. Scope**

The policy applies to any individual in a role that meets the criteria for a DBS check.

In schools where the Council is the employer, the Governing Body have delegated responsibility for the employer duties outlined.

### **4. Legal background**

The legislation underpinning DBS checks is as outlined below:

- the Rehabilitation of Offenders Act (1974),
- the Police Act (1997) and
- the Safeguarding of Vulnerable Groups Act (2006).

The **Rehabilitation of Offenders Act** enables some convictions to become 'spent' after a rehabilitation period; once this period of rehabilitation has passed the conviction is regarded as spent. An individual is not normally obliged to disclose any spent conviction when applying for a job and an employer is prevented from taking spent convictions into account in the recruitment process.

However, in order to protect vulnerable groups some roles are exempt from this approach under the **Rehabilitations of Offenders Act 1974 (Exemptions) Order 1975**. In the case of these roles, employers are entitled to know about all previous criminal record information, when assessing an individual's suitability for the role.

The **Police Act** sets out the legal framework for employers to request DBS checks. This legislation **prescribes which roles can be checked at an enhanced level**.

The **Safeguarding Vulnerable Groups Act 2006**, as amended by the Protections of Freedom Act 2012, sets out the **definitions of 'regulated activity'** for roles within the Childrens and Adults workforce. **This means the individual will require an enhanced check plus the relevant barred list(s) check**. Under this legislation it is a criminal offence to engage a barred person to undertake regulated activity.

**5. Levels of disclosure checks**

There are different levels of disclosure check:

Level of check	Eligibility	What is shown on the DBS Certificate
<b>Standard</b>	Position must be included in the <b>Rehabilitation of Offenders Act Exceptions Order</b> . This legislation is available at  <a href="http://legislation.gov.uk">The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (legislation.gov.uk)</a>  <i><b>Must not be used where regulated activity is undertaken.</b></i>	All spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC).
<b>Enhanced</b>	Position must be included in both the <b>Rehabilitation of Offenders Act Exceptions Order</b> and in the <b>Police Act 1997 (Criminal Records) Regulations</b> . The police act is accessible at  <a href="http://legislation.gov.uk">Police Act 1997 (legislation.gov.uk)</a>  <i><b>Must not be used where regulated activity is undertaken.</b></i>	Same PNC information as the standard checks plus a check of police records held locally.

<b>Enhanced plus Barred List(s) checks</b>	Position must be <b>eligible for an enhanced DBS</b> check as above <u>and</u> be undertaking <b>'regulated activity'</b> either relating to children, adults, or both. A barred list check will show if a person is barred (i.e. prevented from working in regulated activity, either with children, adults or both.) (See sections 7 and 8).  <b><i>Must be used for all positions undertaking regulated activity.</i></b>	Same PNC information and check of police records held locally as an enhanced check, but in addition will check against the children's and/or adults barring lists.
<b>Basic check</b>	For jobs where a Government Baseline Personnel Security Check is required. <b><u>This is not used in Schools.</u></b>	A check on unspent convictions

In all cases, employers will need to consider the roles and responsibilities and level of contact with children and adults before applying for a DBS check, to make sure that they apply for the correct level of check. It is not enough to only consider the job title. Eligibility is based on the activity undertaken by that employee, worker or volunteer.

## **6. Regulated Activity Relating to Children (Enhanced plus Barred Check)**

In relation to children, regulated activity comprises:

1. \* Unsupervised activities: teaching, training, instructing, caring for or supervising children or providing advice or guidance on well-being, or driving a vehicle only for children.
2. \* Work in a limited range of establishments i.e. 'specified places'\*\*, with opportunity for contact with children, but not work by supervised volunteers.
3. Relevant personal care (for example washing, feeding, or dressing) or health care by (or supervised by) a healthcare professional, even if done once.
4. Registered child-minders and fostering and adoption.

\* Work under (1) or (2) above 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).

\*\* Specified places

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)

<b>7. Regulated Activity Relating to Adults (Enhanced plus Barred Check)</b>
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There is no requirement to do activities a certain number of times before a person working with adults is considered to be engaging in regulated activity. In relation to adults, regulated activity is being undertaken by those who provide:

- **Healthcare:** if they are a regulated health care professional or are acting under the direction or supervision of one, for example doctors, nurses, health care assistants and physiotherapists
- **Personal care:** assistance with washing and dressing, eating, drinking and toileting or teaching someone to do one of these tasks
- **Social work:** provision by a social care worker of social work which is required in connection with any health services or social services
- **Assistance** with a person's cash, bills or shopping because of their age, illness or disability
- **Assistance** with the conduct of an adult's own affairs, for example, lasting or enduring powers of attorney, or deputies appointed under the Mental Health Act
- **Conveying** adults for reasons of age, illness or disability to, from or between places where they receive healthcare, personal care or social work. *This would*

*not include friends or family or taxi drivers not working on employment contracts.*

## **8. Where a Disclosure Check is not required**

Activities that involve a minor degree of direct face-to-face contact with children or vulnerable adults, or which are subject to direct supervision are unlikely to qualify for a DBS disclosure.

Examples might include people who are on site before or after hours when children and/or vulnerable adults are not present, or visitors who have contact with a child or vulnerable adult which is not regulated activity and where a member of staff will be present.

Consideration should always be given to the level of risk involved when determining if a DBS check is required. (See section 21 - Disclosure checks for other groups.)

## **9. DBS Workforce Categorisation**

The DBS application requires applicants to indicate the 'Workforce' setting for employment or volunteering. The correct description must be used to tell the DBS which 'Workforce' the individual will be working in. This is because **the police will use the 'Workforce' categorisation to determine whether to release any non-conviction information on an Enhanced DBS certificate.**

The following descriptions are used to define which sector the individual will be working within:

**Child Workforce** - position involves working/volunteering with children.

**Adult Workforce** - position involves working/volunteering with adults.

**Child and Adult Workforce** - position involves working/volunteering with children and adults.

**Other Workforce** - position does not involve working/volunteering with children or adults e.g. security guard.

## **10. Disclosure checks during recruitment and selection**

Recruitment adverts for employment, or information for volunteering, should state if a DBS check is required.

The level of check required for a post should be confirmed to applicants by the Recruiting Manager, or Volunteering Manager.

A DBS check will only be undertaken for the preferred candidate, who will be required to provide proof of identity, e.g. passport or driving licence.

A DBS check is required before a preferred candidate can start working in a role requiring a DBS check.

The preferred candidate will be made a conditional offer of appointment subject to obtaining a satisfactory DBS check and other pre-employment checks. **There are two routes for obtaining disclosure information**

Either:

1. The individual completes an **online DBS application form** via the e-Bulk system (section 11), or
2. **The individual confirms they subscribe to the DBS Update Service**, therefore an online status check can be processed by Payroll Services (section 12).

***It is the School's decision as to whether to accept a DBS check through the Update Service or not. The school may decide that they will only use the standard check process.***

An individual may not start work in the new role until a DBS check has been obtained unless, in exceptional circumstances, this has been authorised following the process in Section 15.

If an employee has left the school for any amount of time that constitutes a break in service with the school, and they are applying to re-join the school, **West Northamptonshire Council strongly recommends** that they complete a new DBS Disclosure application (See NOTE)

#### **PLEASE NOTE:**

DFE statutory guidance for schools (Keeping Children Safe Sept 2018) states that there is no ***requirement*** for a school to obtain an enhanced DBS certificate, or carry out checks for events that may have occurred outside the UK if (during a period which ended no more than 3 months before the person's appointment) the applicant has worked:

- In a school in England in a post:
  - which brought the person regularly into contact with children or young persons; or
  - to which the person was appointed on or after 12<sup>th</sup> May 2006 and which did not bring the person regularly into contact with children or young persons; or

- In an institution within the further education sector in England, or in a 16-19 Academy, in a post which involved the provision of education which brought the person regularly into contact with children or young persons.

***However, West Northamptonshire Council strongly recommends that any preferred candidate who is appointed should have a new DBS check undertaken by the recruiting school. For individuals who have lived overseas in the previous 5 years, the DBS online system will highlight that a Certificate of Good Conduct will be requested, as per any new appointment.***

***Where West Northamptonshire Council provides a service to a school, and these circumstances occur, the Head Teacher must confirm their decision not to obtain a DBS check in writing to Payroll Services.***

## **11. Online DBS application form (e-Bulk)**

The Recruiting Manager/Volunteer Manager will need to complete the e-form, which can be found on here: [DBS checks Online form](#)

The Recruiting Manager is required to meet with the preferred candidate for ID verification for the DBS check. They must record the ID they have seen in the online DBS system.

The Recruiting Manager must complete all sections and then submit the online form to Payroll Services, who will counter-sign the application, and send it to the DBS.

The Recruiting Manager will receive an e-mail alert to confirm either that the check is clear or there is a disclosure:

- **Check is clear** - the Recruiting Manager will record the date of the certificate and the certificate number for the employee's personal file. .
- **Where there is content on a disclosure** the Recruiting Manager will need to contact the preferred candidate to request sight of the certificate, and assess the relevance of the conviction information (section 16).

DBS verifiers administering Disclosure and Barring Service (DBS) or eBulk checks will need to refresh their training if they have not undertaken a check in the preceding 12 month period or verification errors occur.

## **12. DBS Update Service (portability)**

It is a School's decision as to whether to accept use of the Update Service.

The DBS Update Service is designed to allow individuals undertaking or moving between a number of similar roles within the same 'Workforce' to avoid the need for multiple DBS

checks. It is normally an individual's decision whether they choose to join the DBS Update Service and in these circumstances the annual fee must be paid by the individual.

For Schools who use the Update Service, the preferred candidate should complete the '**Applicant DBS Status Check Consent Form**' (Appendix 3) and present the original DBS certificate and their ID verification documents to the Recruiting Manager.

The Recruiting Manager must be entitled to undertake the **same level of check** as the certificate held by the applicant and the certificate must be for the right Workforce.

The School will then undertake the online DBS status check using the following link: [DBS Update Service](#)

If the original DBS Certificate, and/or the Status Check, indicates a positive disclosure, the Recruiting Manager should assess the relevance of the conviction information (Section 16).

### **13. DBS checks for existing employees moving to new roles**

An existing employee will require a new DBS check if they move to a new post within the school, and if any of the following apply:

- where a DBS check is required and they did not previously have one
- where a higher level of DBS check is required
- with a new Workforce, e.g. previously DBS checked for Adult Workforce, and moving to a post with Children Workforce.
- where the school's decision is to require a DBS for all new appointments within a school.

### **14. Re-checks**

Re-checks on employees will not normally be undertaken other than when an employee moves roles, as detailed above.

However, the school retains the discretion to undertake a re-check usually in two main circumstances:

- i) Where serious allegations have been made against an employee. In these circumstances, where a disclosure check reveals information that suggests that a current employee may present a risk to children or vulnerable adults, the manager should initiate the appropriate internal procedure to ensure that concerns are addressed. The matter may be dealt with under the Disciplinary Procedure and/or a new **Positive disclosure risk assessment process** (section 16) must be carried out.

- ii) Where a Headteacher decides that a re-check will operate in the School, such checks would normally be made via the Update Service and paid for by the School.

A preferred candidate who has left the organisation for any amount of time that constitutes a break in service with the organisation and is applying to re-join must complete a new DBS Disclosure application form.

## **15. Starting employment before receiving DBS clearance**

West Northamptonshire Council **strong advice** is that normally, candidates **must not** start working until a DBS check has been obtained which is satisfactory to the School. With the introduction of the quicker online DBS checking process, starting individuals before a satisfactory DBS check has been received should only occur in very exceptional circumstances.

**A manager who allows an individual to start work without DBS clearance and who has not followed the School's authorisation process will be subject to disciplinary action.**

The School's Headteacher must sign off the '**Head Teacher approval – starting employment before DBS clearance form**' (**Appendix 4**). It is only appropriate to do this 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 or Care Quality Commission requirements for regulated services would not be met.

For jobs which require an Enhanced plus Barred DBS check, before the individual can start work:

- the School will still need to complete a Children's Barred List check (previously called List 99)

The preferred candidate will be required to sign a declaration stating that they have no offences that would prevent them from working with vulnerable groups and confirming that they **will not work unsupervised** with children or vulnerable adults until clearance has been received. The line manager and Head Teacher must ensure that arrangements are in place to ensure that the candidate's access to children or vulnerable adults is **appropriately supervised until a DBS check that is satisfactory is received.**

The organisation reserves the right to terminate an individual's employment where a DBS check at the correct level has either not been obtained within a reasonable timeframe, or subsequently the organisation decides that criminal record information disclosed is relevant to the post.

## **16. Positive disclosure risk assessment (assessing criminal record information)**

A criminal record may not in itself prevent a person being appointed. Preferred candidates with criminal records should be treated according to their merits, however there may be legislation that prevents their employment, for example some convictions debar people from working with children and vulnerable adults (under the Safeguarding Vulnerable Groups Act).

**West Northamptonshire Council strong advice** is that where a DBS check indicates that an individual has a criminal record a risk assessment is undertaken. The Recruiting Manager completes a **Positive Disclosure Risk Assessment Form** which is available in **Appendix 5**.

This form advises the manager on issues to consider, and is a means of recording that an assessment took place, and that the decision was made to appoint the candidate. The form should be held securely on the individual's file, and does not hold detail of the offence.

## **17. Not confirming a conditional offer of employment**

Where it is considered by the employer that the DBS check indicates that a candidate is unsuitable, the conditional offer of employment **will not be confirmed**. The applicant will be informed of this decision in writing by the Recruiting Manager.

## **18. Overseas candidates**

Where an individual is applying for a role that requires a DBS check and they have lived abroad in previous years, it may be necessary to undertake additional checks. This is because the DBS check is unlikely to provide information relating to overseas criminal records. This may include obtaining '**Certificates of Good Conduct**' from foreign embassies or police forces. The level of information contained in these certificates varies from country to country. However, they may provide critical information, enabling the employer to ascertain a candidate's suitability to work.

Where a candidate has **lived or worked abroad in the past 5 years**, a Certificate of Good Conduct must be requested from **each** country that they have lived in during this period. The application process varies from country to country. Individuals may have to apply in the country, or apply to the relevant embassy in the UK. Candidates are responsible for obtaining these certificates and for meeting any associated costs in doing so, such as the cost of

translating the document into English, from a reputable translation agency that will be chosen by the School.

Applicants who have lived abroad have to notify this on the online DBS system. They will receive an e-mail which gives them information about what they need to do, and that they must present the Certificate of Good Conduct to the Recruiting Manager.

If there is content, then the **Positive Disclosure Risk Assessment process** will need to be followed (section 16).

### **What to do if a Certificate of Good Conduct cannot be obtained:**

Sometimes a Certificate of Good Conduct cannot be obtained. In these circumstances the Recruiting Manager must be vigilant and ensure extra care is taken to explore any gaps in employment. For example following up written references with telephone verification, and/or requesting additional references if necessary.

West Northamptonshire Council **strong advise** is that the Recruiting Manager should complete the '**Criminal record checks for overseas candidates**' form (**Appendix 6**) as this guides a manager as to what to do in these circumstances .

The purpose of this form is to demonstrate:

- that the manager has seen the relevant Certificate(s) and assessed it as satisfactory
- that if a Certificate is missing, the action taken, and the Head Teacher approval to appoint in those circumstances.

***The DBS will still need to proceed through the system (to ensure that there are no criminal records held in the UK for the individual).***

Further guidance on obtaining information from other countries can be obtained at: [Criminal Records Checks for Overseas Applicants](#)

## **19. Disclosure checks for Volunteers**

The manager overseeing the volunteer role is responsible for determining whether a DBS check is required. **An individual must not start in a volunteer role requiring a DBS check until a DBS check at the correct level, that meets the requirements of the role has been obtained.**

There is statutory guidance on supervision of activity by workers with children that must be applied. This states that when a worker is supervised, activity that would normally be classed as regulated activity is classed as unregulated. This guidance should be consulted by the manager to determine if a volunteer will be supervised to such a level that the volunteer is not in regulated activity.

This guidance is available at

### [Supervision of activity with children](#)

The manager is responsible for obtaining the DBS check using the online DBS system, using the eform which can be found at:

#### [DBS checks Online form](#)

There is no charge from DBS to process a check for a voluntary role provided that the role meets the DBS criteria for a free check.

Where the outcome of a DBS check requires further consideration, West Northamptonshire Council **strong advice** is to use the **Positive Disclosure Risk Assessment process** to determine if the individual can or cannot undertake the volunteer placement. Where the risk assessment process indicates that the individual may present a risk to children or vulnerable adults, the potential volunteer should be informed of this decision and the offer of a volunteer position will not be confirmed.

It is strongly recommended that 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 Head Teacher.

Where a DBS check is required for a volunteering role, the Volunteer Manager must ensure that a record is kept of the fact that a DBS check was undertaken, the certificate number and date, and if a **Positive Disclosure Risk Assessment Decision process** was undertaken, this should be held confidentially within the file.

A DBS certificate for a volunteer cannot be used for an employment setting. The Disclosure and Barring Service specify that the certificate cannot be transferred.

## **20. Agency workers**

The School will ensure that any framework contracts for the provision of agency workers require providers to:

- be registered with DBS to undertake DBS checks
- have pre-employment checking procedures, and a Positive Disclosure Risk Assessment process, that are to the same standard as this organisation. This means that an agency must give written confirmation that they have satisfactory processes in place, regarding the following. This may be periodically reviewed for compliance.
  - checking of identity
  - checking the right to work in the UK
  - evidence of satisfactory career history information and references
  - evidence of medical fitness
  - confirmation of qualifications where appropriate

- evidence that agency workers have the correct DBS certificate - at the correct level; if Enhanced Barred level, that they have the correct barred list(s) check, and that the certificate covers the correct Workforce criteria and
- evidence that the agency has received satisfactory Certificates of Good Conduct for agency workers who have lived overseas, plus carried out a DBS check in the UK.

When procuring an agency worker, if a DBS check is required the manager must specify to the Agency what level of check is required, if Enhanced Barred is indicated, which barred list(s), and which Workforce.

The Agency will be required to give **written confirmation** to the School that the check has been satisfactory. This written confirmation needs to set out the Certificate number and the date of issue. If the Agency uses the Update Service the written confirmation must indicate the latest date of check conducted. **A template is suggested at Appendix 7 for the school to specify its requirements, and for the Agency to confirm that the agency worker meets these requirements.**

This written confirmation must be kept by the Recruiting Manager while the agency worker is engaged with the organisation, but it is the responsibility of the agency to hold DBS check information in accordance with statutory guidance appropriate to the provision of services for Children and Vulnerable Adults.

The agency worker must show photographic proof of identity to the Recruiting Manager before starting the role. There is no need for them to provide the DBS Certificate to the Recruiting Manager.

The DBS check must have been undertaken by the Agency at the start of the agency workers placement with the client, or a re-check must have been conducted within the past 12 months for agency workers with continuous employment with the agency.

## **21. Disclosure check for other groups**

### **Consultants/Interims**

If the Consultant/Interim is engaged **via an agency** or organisation, the agency or organisation is responsible for undertaking the DBS check and providing proof that a check has been done.

Self-employed Consultants/Interims engaged to undertake positions that are eligible for DBS checks must be checked **before** starting an engagement. A DBS check must be undertaken by the School, using the online DBS system, using the e-form.

Where the outcome of a DBS check requires further consideration, a **Positive Disclosure Risk Assessment process** must be undertaken. A decision to retain the consultant/interim must be approved in writing by the Head Teacher.

## **School age volunteers/work experience**

DBS does not undertake checks for children under the age of 16. Instead the organisation is advised to obtain a letter from the young person's school/college concerning his/her suitability to undertake the volunteer activity. Managers must obtain this letter before the young person starts to volunteer. Secondary school pupils on supervised work experience would not require a DBS check.

## **Work placements**

The manager should determine if a DBS check is required, and where it is, the individual should not start until a check has been obtained. Where the outcome of a DBS check requires further consideration, the **Positive Disclosure Risk Assessment process** must be followed to determine if the individual can undertake the work placement.

## **Contractors**

As a general principle, 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, will not require a DBS check. The responsible person should assess the risk to the children/vulnerable adults in their care, and in all cases appropriate control measures should be taken with such visitors to premises e.g. supervising the contractor, and keeping children/vulnerable adults away from the work area.

However, some contractors may require DBS checks. An example might be a provider of a Theatre Workshop at a school. In these circumstances the organisation expects such contractors to either:

- i) register with the DBS on their own account or
- ii) use West Northamptonshire Council as an umbrella body

Contractors that are registered with the DBS on their own account must provide proof of registration before any services are commissioned for which a disclosure check is required. The contractor must also supply details of its policies including their risk assessment process, which must be agreed with the organisation before any services can be commissioned. All associated expenses will be met by the Contractor.

Managers tendering contracts or commissioning work must ensure that proof of DBS registration is obtained from such contractors. Failure to do so would be a disciplinary offence.

## **22. Disclosure costs**

For potential/existing employees the fee for an online DBS check plus an administration fee will be charged to the School.

Schools recruiting volunteers will be charged the administration fee - the disclosure check itself is free.

The administration fee is subject to review. Further information is available from Payroll Services.

### **23. Monitoring and audit**

As a registered body and an umbrella body, West Northamptonshire Council will:

- undertake regular internal audits of the disclosure process;
- co-operate with compliance checks/audits from the DBS;
- report any suspected malpractice to the DBS (employers are liable for misuse of disclosure information);
- report any loss of disclosure information to the DBS; and
- use disclosure information for appointment purposes only.

Any data collected as part of the DBS checking process is held and destroyed securely. It is accessed by, and disclosed to, individuals in accordance with section 124 of the Police Act 1997, those who are authorised to receive it in the course of their duties.

Records are retained and destroyed in accordance with the organisations Retention Schedule and the DBS code of Practice.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisations Data Protection Policy immediately. It may also constitute a disciplinary offence, which may be dealt with under the Disciplinary Procedure.

## **Appendix 1 - Statement on the recruitment of ex-offenders**

### **1. Overview**

Subject to the over-riding consideration of protecting children and vulnerable people, and/or minimising the risk of employing an individual who is considered unsuitable to work in certain occupations, the School undertakes to treat all applicants for positions fairly, and not discriminate unfairly on the grounds of disclosure information regarding an individual's criminal record. The School's approach towards employing ex-offenders is appropriately amended dependent upon whether the job is or is not exempt from the provisions of the Rehabilitation of Offenders Act 1974.

The organisation will not automatically refuse to employ a particular individual just because he/she has a previous criminal conviction, unless legislation bars employment for specific jobs.

### **2. Roles that are exempt from the Rehabilitation of Offenders Act 1974**

The majority of the roles in a school are included in the excluded jobs listed in the Rehabilitation of Offenders Act 1974, and therefore the school will require the candidate to disclose **all convictions, whether spent or unspent**, and the school will request a Disclosure and Barring Service (DBS) disclosure at the appropriate level.

Where the individual is member of the DBS Update Service, (and where the school accepts use of the Update Service) the school will, with their permission, carry out a status check on any current certificate.

### **3. Principles**

Criminal record disclosure checks will be requested for preferred candidates conditionally selected for appointment to jobs that involve working with children or vulnerable adults, or in roles as set out in the DBS Policy. Applicants will be informed of this during the recruitment process, whether in the advert or job description, or recruitment information.

Should detail on a criminal record emerge from a DBS check, or be raised by the preferred candidate, the school expects that an open and measured discussion should take place with the individual regarding any offences or other matters that might be relevant to the position. Managers may require support from the School's HR Provider in these discussions.

Failure to reveal information that is directly relevant to the position could mean that the conditional offer of employment is not confirmed (or could result in termination of employment if, in exceptional circumstances, the individual has been authorised to start employment before satisfactory DBS clearance has been received).

**Having a criminal record will not necessarily prevent a person being appointed, unless the offence debars the person, or the school considers that the**

**information gathered about the criminal record makes the person inappropriate for the role.**

Managers are supported in their consideration about criminal information traces by a **Positive Disclosure Risk Assessment** process, which structures the discussion with the individual concerned, and presents the information for consideration to the Head Teacher. The School may seek support from their own HR Provider if required.

#### **4. Asking about unspent convictions in roles that do not require a DBS check**

A Recruiting Manager could ask a preferred candidate to disclose any unspent convictions, but will not ask questions about spent convictions, nor expect them to disclose any spent convictions. If a preferred candidate has a conviction that is not spent and if the nature of the offence is relevant to the job for which he/she has applied, the School will review the individual circumstances of the case and may, at its discretion, decline to select the individual for employment.

#### **5. Data protection**

The school ensures that information provided about an individual's criminal convictions, including any information released in disclosures, is used fairly and stored and handled appropriately and in accordance with the provisions of data protection legislation and the DBS Code of Practice.

## **Appendix 2 - Standards for secure handling of disclosure information**

### **1. Introduction and principles**

As a Registered Body, West Northamptonshire Council is required to have a written statement on the correct handling and safekeeping of Disclosure (DBS) information, in accordance with the Disclosure and Barring Service Code of Practice.

Any individual found to be in breach of these standards may be subject to disciplinary action.

This document is made available to all organisations for whom the Council acts as an Umbrella Body.

West Northamptonshire Council reserves the right to withdraw access to the DBS checking service where an organisation using the Council as an umbrella body fails to comply with secure handling standards, or where the volume of checks would warrant the organisation seeking DBS registration in their own right.

### **2. Scope of policy**

These standards apply to all positions/roles for which a DBS disclosure is required, including, preferred candidates, whether for employment, casual work, volunteering, or for existing employees.

### **3. Storage and access**

Disclosures and disclosure information must be kept securely. Access will be strictly controlled and limited to those who are entitled to see it as part of their duties.

### **4. Handling**

In accordance with section 124 of the Police Act 1997, disclosures and disclosure information will only be passed to those who are authorised to receive it in the course of their duties.

'Additional Information' received by the Council directly from the Police as part of the enhanced disclosure **will not be disclosed to the applicant.**

### **5. Usage**

Disclosures and disclosure information is only used for the specific purpose for which it was requested and for which the applicant's consent has been given.

This includes disciplinary proceedings which are considered to be part of the employment process.

### **6. Record keeping**

*While processing* DBS information as an Umbrella Organisation, West Northamptonshire Council will keep a record on a secure system, of the date of issue of a disclosure, the name of the subject, the type of disclosure requested, the position for which the disclosure was requested, and the unique reference number of the disclosure.

## 7. Retention

Once a recruitment process (or other relevant decision) has been undertaken, **West Northamptonshire's strong advice** is that the School should **not keep disclosures or disclosure information** for any longer than is necessary to allow for the consideration and resolution of any disputes complaints or disciplinary proceedings.

The School can reserve the right, in exceptional circumstances, to keep information for longer, and will consider the Data Protection issues associated with this, safe storage and strictly controlled access will continue to apply to such records.

***Should a School want to retain DBS disclosure information, in exceptional circumstances, for longer, WNC strong advice is that the School consider the Data Protection issues associated with this. The School may wish to seek their own legal advice. Safe storage and strictly controlled access will continue to apply to such records.***

## 8. Disposal

The e-bulk online DBS system removes any personal information that is over 6 months old from all archived checks. Papers relating to disclosure information will be suitably destroyed by secure means.

The organisation will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate.

## 9. Complaints

Any employee who feels that the above standards have not been adhered to may use the Complaints process, as set out in the Recruitment and Selection Handbook for Schools.

**Appendix 3 - DBS Status Check Consent Form (DBS Update Service)**

**This section is to be completed by the applicant.**

This job is subject to a satisfactory criminal records disclosure check. You have advised us that you subscribe to the DBS Update Service. We are required to obtain your permission to check the status of your DBS disclosure to find out whether it is current and whether there have been changes since the original check was made. We need the following information for processing for this check and possible re-checks in the future. Please complete the following in block capitals and sign to give your consent.

Applicant’s name (as stated on certificate): .....

Certificate number: .....

Date of birth on certificate: .....

I confirm that I have provided my original DBS certificate and consented to allow the status check. I confirm that the information above has been provided by me and is correct.

Signature of applicant: .....

Date of Completion: .....

**This section is to be completed by the Recruiting Manager**

Please tick the appropriate box below to advise which Workforce the applicant’s current disclosure relates to. **If the disclosure is not for the appropriate Workforce a new DBS check will be needed.**

<b>Child Workforce</b> - positions that involve working/volunteering with children.	
<b>Adult Workforce</b> - positions that involve working/volunteering with adults.	
<b>Child and Adult Workforce</b> - positions involving working/volunteering with children or adults.	
<b>Other Workforce</b> - position that does not involve working/volunteering with children or adults.	

I confirm that:

- the requested status check is for the preferred candidate/volunteer
- I have seen the original DBS certificate, and confirm the name, number and DOB is the same
- the applicant has personally completed the above information
- if a Barred List check is require, the DBS Certificate indicates the correct one

Name of Manager: \_\_\_\_\_ Signature: \_\_\_\_\_

Position: \_\_\_\_\_ Date: \_\_\_\_\_

**Appendix 4 - Head Teacher approval - starting employment before DBS clearance**

In exceptional circumstances a Head Teacher can authorise an employee to start in post before DBS clearance is received. The online DBS check has significantly reduced the time involved in receiving a check, so this should be exceptional cases only.

**Section 1 – Declaration to be completed by preferred candidate**

I confirm that I have no convictions, cautions, reprimands or warnings, or pending court hearings that would affect me working with children or vulnerable adults. I can confirm I will **not** work unsupervised with children or vulnerable adults until DBS clearance has been received and I have been notified that I am **not** able to work unsupervised.

I understand that if I am applying for a job with an Enhanced Barred check requirement, the School will run a barred list check for the relevant Children’s/Adults/Children’s & Adults grouping before I am able to commence employment.

Print Full name: .....

Print any previous names: .....

Date of birth: .....

Post name applied for: .....

Signed: ..... Date: .....

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**Section 2 - Manager approval:**

Is this post eligible for a DBS Enhanced Barred check?

	No / Yes	
Childrens		(List 99)
Adults		(DBS Adult First)
Children & Adults		(List 99 and DBS Adults First)

**If post is eligible for an Enhanced Barred check, I understand that I cannot start this employee until the School has confirmed to me in writing (*this may be via email*) that the relevant barred list(s) have been checked, and the employee is not barred.**

I approve the above named employee to work in the post specified above prior to satisfactory DBS clearance being received. I will ensure there will be no unsupervised access to children or vulnerable adults until satisfactory DBS clearance has been received.

Signed: ..... Print name: .....

Job title: ..... Date of signing: .....

**Section 3 – Head Teacher approval**

Signed: ..... Print name: .....

Date : .....

**Appendix 5 - Positive disclosure risk assessment record where decision is taken to appoint**

Line managers may want to discuss the information on a DBS Certificate with their School's HR Provider prior to discussing it with the applicant.

Please note it is your responsibility as Line Manager to ensure an assessment has been made and you obtain the relevant Senior Manager Authorisation. A record of the risk assessment decision being made should be kept on the personal file.

Please note that information on convictions and cautions is strictly confidential and access should be restricted on a "need to know" basis. Any breach of this information will be treated as a serious disciplinary matter.

Name of preferred candidate (In full): .....

Date of birth: .....

Position applied for: .....

DBS Certificate Number: .....

Date trace received: .....

Date discussed with individual: .....

**Line manager declaration:**

I have

- read and understood the School's statement on the recruitment of ex-offenders.
- discussed the trace on the DBS Certificate with the individual.
- do not consider the information presents a risk in the position applied for.

I have considered the following factors:

- nature, and seriousness of the offence
- nature of appointment
- when the offence happened, and the age of the individual at the time
- whether there was repeat offending
- the information the individual offered about the circumstances of the offence(s), their attitude to the offence(s) and their efforts to avoid re-offending.

Line Manager name: .....

HR Provider consulted: .....

Date: .....

*Please keep a record of this form on the personal file*

**Factors to consider in the risk assessment:**

- Is the conviction relevant to the position?
- Consider the context/circumstances in which the offence(s) occurred: Were any offences committed in work, or in a voluntary capacity? Are you satisfied with the candidate's explanation of the circumstances of the offence?
- How serious do you consider the offence(S) to be?
- Did the offence(s) occur recently? A minor offence that occurred a long time ago may be less relevant than ones that are very recent.
- At what age were the offences committed? As a child, an adolescent, or as an adult?
- Was the offence a one-off, or is there a pattern of offending? Repeat offences may indicate the individual has not been able to change their offending behaviour and may be more likely to reoffend.
- Have the circumstances that lead the individual to commit the offence changed for the better? Look at the circumstances, including the employment pattern and the individual's own explanation.
- Does the individual demonstrate a determination not to re-offend? What responses did the individual give about their offence(s) and what was their general attitude towards their offending.

**Appendix 6 - Criminal record checks for overseas candidates**

**Section 1 - Recruiting Manager to complete:**

Name of preferred candidate: .....

Position applied for: .....

I can confirm that I have received a Certificate of Good Conduct for this candidate, as follows:

Country of Issue: .....

Date of issue of Certificate of Good Conduct: .....

If more than one country, please indicate the relevant countries and dates below:

.....

I confirm that the information contained is satisfactory. (Please note that any criminal conviction information should be assessed via the separate 'Positive Disclosure Risk Assessment Form'.)

**Section 2 - Only complete this section where the candidate reports they have been unable to provide a Certificate of Good Conduct from any relevant country they have lived in during the last 5 years (non-UK).**

Please indicate the reason the candidate has given for the country not providing a Certificate of Good Conduct:

.....  
.....

Has the candidate provided any evidence to corroborate this reason  
i.e. An e-mail from an Embassy or written evidence from the Government of that country. Yes/No

How long was the individual resident in that country? .....

How long has the candidate been resident in the UK in the past 5 years? .....

**Recruiting Manager declaration:**

I can confirm I have taken the following steps in relation to this candidate:

- I have double checked the application form to assess any gaps in employment are accounted for
- I have requested, and received, confirmation from other employers on the application form that confirms the individual's employment with them in the capacity indicated on the application form.
- Any concerns raised as part of the above additional checks? If YES, please indicate:   
.....  
.....  
.....

**Head Teacher approval to appoint if Section 2 has been completed:**

Having considered the above, I can confirm authorisation to appoint to this post.

Head Teacher's name: .....

Signature: .....

Date: .....

*Please keep a record of this form on the personal file.*  
*Note: If the certificate is not in English, then both the original and the translated copy must be uploaded.*

## Appendix 7 – Agency Worker Provision in Schools

**Please note that this School requires safeguarding checks to be undertaken for this role, as follows:**

- Verification of identity
- Verification of the right to work in the UK
- Verification of satisfactory career history information and references
- Verification of medical fitness
- Verification of qualifications where appropriate
- Verification that an agency worker has the correct DBS certificate - at the correct level; if Enhanced Barred level, that they have the correct barred list(s) check, and that the certificate covers the correct Workforce criteria
- Verification that the agency has received satisfactory Certificates of Good Conduct for agency workers who have lived overseas, plus carried out a DBS check in the UK.

<b>TO BE COMPLETED BY SCHOOL</b>	
<b>Role:</b>	
<b>Please indicate level of DBS check required for this role:</b>	
Enhanced	
Enhanced Barred – Childrens Barred List Check	
Enhanced Barred – Adults Barred List Check	
Enhanced Barred – Adult and Childrens Barred List Check	
<b>Please indicate DBS 'Workforce' category for this role:</b>	
Childrens	
Adults	
Childrens and Adults	
Other	

**TO BE COMPLETED BY AGENCY:**

Full name of agency worker:.....

I can confirm that all of the above checks have been carried out by this Agency, and that the Agency confirms that all checks were satisfactory for the above agency worker to work in this role.

I can confirm that the DBS was undertaken at the correct level, and for the same Workforce as indicated as necessary above, and was deemed satisfactory by the Agency, and that if there was content on the DBS, that the Agency undertook an assessment of that content, and considered it not to be relevant in this role.

The DBS Certificate Number is.....

Date of issue of the certificate.....

Please confirm if this Agency Worker’s DBS was checked using the Update Service? Y/N

If Yes, please indicate the latest date when this DBS was checked using the Update Service.....

**Please note:**

The agency worker must show photographic proof of identity to the Recruiting Manager before starting the role. There is no need for them to provide the DBS Certificate to the Recruiting Manager.

It is strongly advised that this written confirmation is kept by the School while the agency worker is engaged with the organisation.

**The DBS check must have been undertaken by the Agency at the start of the agency workers placement with the client, or a re-check must have been conducted within the past 12 months for agency workers with continuous employment with the agency.**

## **Appendix 8 - Specific responsibilities for organisations that use the Umbrella Body service**

West Northamptonshire Council will process applications for other organisations that are not registered with DBS in their own right.

Organisations using or seeking to use this service must give written confirmation that they:

- comply with the DBS Code of Practice
- **only request DBS checks that are appropriate for the post/type of work that is undertaken**, in accordance with legislation, and guidance issued by the DBS (sections 6-9).
- have read and understood the Recruitment of Ex-Offenders Statement (Appendix-1)
- have read and understood the standards regarding 'Secure handling of disclosure information' (Appendix – 2)
- will pay the applicable DBS disclosure fee and administration fee as set out by West Northamptonshire Council.

An organisations application will need to be approved by the West Northamptonshire Council Lead Counter-signatory.

West Northamptonshire Council reserves the right to withdraw access to this service where it becomes apparent that an organisation is failing to comply with these conditions or where an organisation becomes eligible to register with the DBS in its own right. Periodically, West Northamptonshire Council may request organisations using its DBS service to confirm their commitment to comply with the DBS Code of Practice.