



DBS Policy & Procedure

Approved by: Pay & HR Committee

Date: 5th July 2022

Last reviewed on: 5th July 2022

Next review due by: July 2024

1. Introduction

This policy document sets out the procedures for Disclosure and Barring Service (DBS) checks within the Greensand Multi-Academy Trust (the "Trust"). The Trust is committed to safeguarding and promoting the welfare of children and young people and DBS checks form an integral part of our safer employment practices. The Trust will comply with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosure information.

2. Scope of Policy

This policy statement sets out the procedure for DBS checks undertaken across the Trust, including:

- Dovers Green School;
- Holmesdale Community Infant School;
- Milton Mount Primary School;
- Reigate School;
- St John's Primary School;
- Wray Common Primary School;
- Central Team.

The provisions set out in this policy apply to all staff, paid and unpaid, regardless of their grade, position, working pattern or length of contract. This includes all new and existing employees, school Governors, Trustees and Members, volunteers, agency staff, peripatetic staff and anyone else involved in regular school activities if there is contact with children.

This policy is designed to supplement the Trust's Recruitment Policy and Procedure and complies with the Keeping Children Safe in Education (updated September 2021) statutory guidance.

3. Background

The DBS Code of Practice requires schools to have a written policy and procedure on the recruitment of people with a criminal record and to ensure anyone applying for a job at the school receives a copy. The Trust and all of our schools are committed to the principle of equal opportunities and, subject to the overriding consideration of protecting children, will endeavour to prevent the unfair discrimination of those with a criminal record.

The DBS is responsible for deciding who should be barred from working with children and/or vulnerable adults. This includes:

- maintaining a list of individuals who are barred from engaging in regulated activity with children;
- maintaining a list of individuals who are barred from engaging in regulated activity with adults;
- making decisions about whether an individual should be barred from engaging in regulated activity; and

- deciding if and/or when someone should be removed from the barred list.

4. Levels of Disclosure

There are four types of Disclosure:

- Basic;
- Standard;
- Enhanced (excluding barred list checks);
- Enhanced (including barred list checks).

The enhanced check, including barred list check, is the highest level of criminal record check and is available for those working in regulated activity with children or vulnerable groups. This checks for spent and unspent convictions, cautions, reprimands, final warnings, 'approved' information from local police records and a check of the DBS children's and or adults' barred lists where requested.

Approved information is non-conviction information provided by the police from their local records. The Chief Police Officer in each force will decide what, if any, information to provide.

Regulated Activity

The criteria for determining whether an individual should have an enhanced DBS check undertaken on them is set out in the Safeguarding and Vulnerable Groups Act (SVGA) 2006, as amended by the Protection of Freedoms Act 2012. The SVGA created the definition of regulated activity (i.e. work that a barred person must not do) in relation to children.

The current definition of regulated activity, as amended by the Protection of Freedoms Act (PoFA) 2012, covers the following:

- (i) unsupervised activities: teaching, training, instructing, caring for or supervising children, or providing advice/ guidance on well-being, or driving a vehicle only for children;
- (ii) work for a limited range of establishments ('specified places') e.g. schools, children's homes, childcare premises, with the opportunity for contact with children, but not including work by supervised volunteers;
- (iii) relevant personal care, e.g. washing or dressing; or health care by or supervised by a professional.

Work under (i) or (ii) above is regulated activity only if done regularly, whereas work under (iii) (i.e. relevant personal care) is regulated activity even if only done once.

Definition of 'Regular'

Under the HM Government note on the scope of regulated activity, 'regularly' is defined as:

- once or more a week; or
- on more than 3 occasions in a 30-day period; or

- between 2am and 6am and it gives the person the opportunity to have face-to-face contact with children.

Please refer to Appendix 1 for guidance on ‘Who needs a barred list check?’

5. Procedure

All staff working within the Trust in regulated activity will require an enhanced DBS, including barred list check. This involves an extra level of check with local police force records in addition to checks with the Police National Computer and the government department lists held by the Department for Children, Schools and Families and Department of Health, where appropriate. The government’s safer recruitment initiative stipulates that all staff in an educational establishment must have an enhanced certificate.

Recruitment Process

Offers of employment must be conditional upon a satisfactory enhanced DBS. If an enhanced DBS check, including those with barred list check, has been applied for but has not been received by the time the individual is due to start work, individual schools have the discretion to allow the person to start work provided that the headteacher has completed a full and thorough risk assessment. This should include:

- obtaining and scrutinising comprehensive information from the person, and taking up and satisfactorily resolving any discrepancies;
- verifying the person’s identity;
- verifying the person’s academic and/vocational qualifications;
- checking their previous employment history and experience;
- checking their eligibility to work in the UK;
- completing a prohibition from teaching check (known as a section 128 check); and
- agreement that this individual will have appropriate supervision when working with children, to include screening incoming and outgoing work carried out by the individual to ensure that no sensitive or confidential information about children or their families is accessed unsupervised until the DBS disclosure is received.

In all cases, where an applicant is to undertake a teaching role of any kind, a Prohibition Order check will be made using the Employer Access Online Service. A person who is prohibited from teaching must not be appointed to work as a teacher in such settings.

Prohibition orders are made by the Secretary of State following consideration by a professional conduct panel convened by the Teaching Regulation Agency. Pending such consideration, the Secretary of State may issue an interim prohibition order if it is considered to be in the public interest to do so.

The Trust does not accept portability of DBS Disclosures obtained from another registered body unless the applicant is subscribed to the Update Service. Where an existing Greensand employee moves to a new role within the Trust, the existing DBS check will be considered portable unless the employee has a significant change in job role requiring a new Enhanced check.

Recruitment of Ex-Offenders

The Trust is committed to the fair treatment of all employees, potential employees or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background. The Trust actively promotes equality of opportunity for all with the right mix of talent, skills, potential and welcomes applications from a wide range of candidates, including those with criminal records. Applicants are shortlisted based on their skills, qualifications and experience.

A DBS check is only requested after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a DBS check is required, all application forms, job adverts and recruitment briefs will contain a statement that a DBS check will be requested in the event of the individual being offered the position. Any post exempt from the Rehabilitation of Offenders Act 1974 will require applicants to declare any convictions, cautions, reprimands and final warnings that are not protected (i.e. that are not filtered out) as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended).

For further information on filtering please refer to:

Nacro guidance (<https://www.nacro.org.uk/resettlement-advice-service>)

DBS website (<https://www.gov.uk/government/publications/dbs-filtering-guidance>)

Where a DBS check is to form part of the recruitment process, all applicants called for interview are asked to provide details of any criminal record. Any disclosure should be sent confidentially to the Trust's HR Manager - this information will only be shared with those who need to see it as part of the recruitment process. We recognise the contribution that ex-offenders can make as employees and volunteers and welcome applications from them. A person's criminal record will not, in itself, debar that person from being appointed to this post. Any information given will be treated in the strictest confidence. Suitable applicants will not be refused posts because of offences which are not relevant to, and do not place them at or make them a risk in, the role for which they are applying.

Positive Disclosures

Having a criminal record will not necessarily bar an individual from working in the role they have applied for. This will depend on the nature of the position and the circumstances and background of their offences. Where convictions or other relevant information is revealed, a full risk assessment will be undertaken which will take into account a range of factors including the following:

- whether they are barred from appointment under the DBS lists (and therefore it is unlawful to employ them in specific roles involving regulated activity);
- whether the conviction is relevant to the position;
- the circumstances surrounding the offence, and any explanations given by the applicant;
- the seriousness of the offence;
- the length of time since the offence occurred;
- whether there is a pattern of behaviour, or whether it was a one-off;
- whether the applicant's circumstances have changed;
- whether the applicant disclosed the information at the application/interview stage; and
- the age of the applicant at the time of the offence(s).

For teaching posts, the incident(s) will also be considered in the context of the Teachers' Standards and teacher misconduct guidance.

If the disclosure certificate shows cautions, warnings and/or convictions, spent and/or unspent, this should be referred to the school's headteacher, or to the Trust's CEO for headteacher/Central Team appointments, who will be responsible for deciding whether or not to proceed with the appointment, or if an individual has already commenced work, if the contract of employment should be terminated. A record of all discussions, rationale for reaching a decision and the final decision should be retained.

Before a decision is reached on whether to withdraw a conditional offer, the individual will be offered the opportunity to discuss the content of the disclosure. Notes of any discussions with the individual will be made and retained confidentially on file.

Overseas checks

Individuals who have lived or worked outside the UK must undergo the same checks as all other staff including obtaining an enhanced DBS certificate with barred list information for individuals working in regulated activity (even if the individual has never been to the UK). In addition, schools must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered.

Teachers are requested to provide proof of their past conduct as a teacher. This should be a letter of professional standing issued by the professional regulating authority in the country in which they worked. Such evidence can be considered alongside other information obtained through other pre-appointment checks to help assess their suitability.

As part of the pre appointment process, applicants who have lived or travelled abroad for more than three continuous months in the last 10 years will need to obtain a criminal record check from the relevant country. Where an applicant is from a country where criminal record checks cannot be made, extra care must be taken in taking up references and conducting other background checks including completing a pre placement risk assessment.

The procedure to obtain an overseas criminal record check varies from country to country. Managers should refer to the published Home Office guidance (updated in February 2022) for full guidance.

Agency Staff

Headteachers must be satisfied agency workers have a satisfactory enhanced DBS check with a barred list check (if applicable) and that they obtain evidence to confirm this. Once written confirmation of the check is obtained, it will not be necessary to repeat this check every time the agency person returns to the school unless a period of 3 months or more has passed.

Renewal of DBS Certificates

The DBS does not recommend a specific renewal interval for DBS checks, however it is the Trust's policy to renew all DBS Certificates after 10 years. In addition, all staff and volunteers are required to complete an annual safeguarding declaration. See Appendix 2.

Volunteers who do not work with children for a period of three months or more must be rechecked if they subsequently start working with children again. To help manage this, anyone engaged as a volunteer is asked to register with the DBS Update Service. Once registered, an individual may give consent to a current or future employer/organisation to undertake online 'status checks' which will allow the employer to establish if the individual's DBS check is still current or whether there have been changes to the information held on the DBS check since it was issued.

Where an individual is registered, the employer (with consent) can undertake limitless online checks at no cost, meaning that a new DBS application does not need to be made every time a check is required.

6. Data Protection

The Trust and individual schools process any personal data collected during the DBS checking process in accordance with the Trust's Data Protection Policy. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the DBS checking process. Inappropriate access or disclosure of employee data constitutes a data breach and would be addressed in accordance with the Trust's Misconduct Procedure. Any breach should be reported in accordance with the Trust's Data Protection Policy.

7. Links to other policies

Keeping Children Safe in Education
Greensand Multi-Academy Trust Recruitment and Selection Policy

Appendix 1

Annual DBS Declaration

I understand I am required to declare any convictions, cautions or bind-overs, regardless of how long ago they occurred and including those regarded as 'spent', as well as pending criminal proceedings or current police investigations, and that this applies not just at the point of recruitment but also during my employment. I confirm:

- i. that since my appointment, I have not received any cautions, convictions or final warnings, which are not protected, as defined by Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended).
- ii. I am not, and have not been, the subject of a police investigation or had criminal proceedings against me, which I have not already declared.
- iii. that since my appointment, I have not been added to the Children's Barred List, disqualified from working with children or been subject to any sanctions imposed by a regulatory body.

Name: _____

School: _____

Signed: _____

Date: _____

Appendix 2

Who Needs a DBS Check?

Governors, Trustees, Members

Academies are required to ensure that enhanced-level DBS checks and identity checks are undertaken on all members of the academy trust, individual charity trustees and the chair of the board of trustees. The chair of an academy trust will need to have the check undertaken by the Secretary of State. Where a maintained school converts to an academy, the chair of the trust will not need to have a DBS check undertaken if this has already been carried out by the local authority.

Section 128 checks must also be undertaken on governors, trustees and members, including local governors where any management responsibilities have been retained or delegated.

Trustees/governors will not be eligible to have a children's barred list check undertaken on them as they will not be regarded as undertaking 'regulated activity'.

Unsupervised Volunteers

Volunteers who have regular, unsupervised access to children must have an enhanced DBS check undertaken with barred list check. This would include a volunteer on a residential school trip or one that involved an overnight stay. Volunteers who do not work with children for a period of 3 months or more must be rechecked if they subsequently start working with children again.

Supervised Volunteers

Volunteers who are supervised by someone who has a DBS check are not required to have an enhanced DBS check undertaken, although a check may be undertaken should a school wish to do so. They do not require a barred list check.

Contractors

Schools should ensure that any contractor, or employee of the contractor, has been subject to the appropriate level of DBS check. Contractors engaging in regulated activity will require an enhanced DBS certificate including a barred list check.

For all other contractors, who are not engaging in regulated activity but whose work provides them with an opportunity for regular contact with children, an enhanced DBS certificate not including a barred list check will be required. In considering whether the contact is 'regular', it is irrelevant whether the contractor works on a single site or across a number of sites.