



**DBS CHECK POLICY  
& PROCEDURE**

## DBS CHECK POLICY AND PROCEDURE

### Contents

1. Introduction
  2. Legal position
  3. Local authority position
  4. The deployment of staff
  5. Supply teachers
  6. Agency Supply teachers
  7. Invigilators
  8. Overseas teachers
  9. Volunteers
  10. Contractors
  11. NQT's
  12. Governors
  13. Educational visits (including residential)
  14. Work experience placements
  15. Apprentices
  16. Storage and Access
  17. Administrative arrangements
  18. DBS checks and the wider recruitment process
  19. Data Protection
- Appendix A: Regulated Activity Children
- Appendix B: Types of exempt employment and work within the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2012
- Appendix C: Table of changes

## **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 our academies. Safer employment processes extend beyond recruitment and academies should ensure each worker understands their duty of care as well as which behaviours make up safer practice and which behaviours to avoid.

The academies must be committed to complying with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information.

The academies must also fully comply with its obligations under the Data Protection Act and other relevant legislation regarding the safe handling, use, storage, retention and disposal of Disclosure information.

## **2. Regulatory/Independent Regulatory Bodies**

The primary role of the DBS 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 academies, 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.

## **3. Legal position**

### **3.1 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 an academy they must disclose their convictions.

The amendments to the Exceptions Order 1975 (2013) provide that certain spent convictions and cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account. Please refer to the [guidance and criteria on the filtering of these cautions and 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.

### **3.2 Legal requirements of the DBS**

All staff on the academies' 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 the academies.

- 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 academies 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 F of Keeping Children Safe in Education Statutory guidance). Academies do 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 they 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 academies provide 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 academies would have dismissed if they had not left, the academies 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

### 3.3 Introduction of the DBS Update Service

The DBS introduced its Update Service in 2013. The Update Service changed the way individuals used their criminal record check and how employers checked their suitability. For a small sum (£13 per annum), individuals can take their DBS check with them from role to role, within the same type of workforce (i.e. working with children and/or working with adults), where the same type and level of check is required. Academies can go online to see if the information presented is still current and valid, i.e. carry out a "status check". This will provide an instant result. Academies must have the permission of the individual they are checking and the type of check required must be the same as the original check e.g. if an enhanced DBS check is required but the original certificate is for an enhanced DBS check with children's barred list check then a new enhanced DBS check must be requested. Please note the 'status check' cannot be done through Norfolk Disclosures, the check can be undertaken via the Disclosure Barring Website.

Where possible, academies can give the applicant their DBS application form reference number so they can subscribe to the DBS Update Service when they apply for their DBS check. If they wait to subscribe with their DBS certificate number they will only have 14 calendar days, from the date the certificate is issued, to subscribe.

If the individual is not subscribed to the DBS update service (this is not mandatory) or they do not give their permission then a DBS check must be requested via Norfolk Disclosures in the usual way.

DBS certificates are issued to individuals rather than to organisations.

#### **4. Local authority position**

- 4.1 An enhanced DBS check with barred list check is compulsory for new appointments to your workforce where they have transferred from a non-Norfolk school or different Local Authority, or an independent school inside or outside the county (including academies and free school). It also includes former members of your staff who have had a break in service of more than three months<sup>1</sup>. A DBS update service check can be undertaken in place of a full DBS check, if the individual is subscribed to the service and gives their permission for the check to go ahead. If this is the case the academies must see the individual's original DBS certificate to check the name on the certificate matches the identity of the individual and ensure that it is for the same level of check and for the right workforce.
- 4.2 Standard DBS disclosures are not acceptable and this applies equally to all appointments whether permanent, temporary or casual. All DBS checks must be enhanced.
- 4.3 For any avoidance of doubt, it is not necessary to have sight of 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.
- 4.4 There remains no requirement to have sight of 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.
- 4.5 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". The Academies do however, have a responsibility to hold evidence that staff appointed before 1 March 2002 have been checked against List 99. In addition, any staff and volunteers appointed on or after 1 March 2002, who come into regular contact or have unsupervised access to children and who have not had continuity of employment in a schools in England (i.e. a break of service longer than three months), have been subject to enhanced DBS checks with barred list check and other designated recruitment checks.

#### **5. The deployment of staff**

- 5.1 Offers of employment to successful candidates must be conditional upon a satisfactory enhanced DBS check with barred list check where applicable (this can be a DBS update service check where the individual is subscribed to the service, give their permission for the check to be undertaken and the type of check required is the same as the original check - the original DBS certificate must also be viewed).

Please note that until a satisfactory enhanced DBS check with barred list check has been viewed by the Executive Headteacher, the person must not be deployed to

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

work directly with children or in a situation where they can have unsupervised access to children.

- 5.2 However, if an enhanced DBS check with barred list check has been applied for but has not received by the individual before they are due to start work, you do have the discretion to allow the person to start work provided that the Executive 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;
  - prohibition from teaching check.

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. *'Commencing employment before DBS received – Risk assessment' template F112b* - can be found on HR InfoSpace.

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.

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 academies' 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. There is no requirement to keep copies of DBS certificates. If academies choose to keep a copy they must have the individual's consent and it should not be retained for any longer than six months.

## 6. Supply teachers

- 6.1 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.

- 6.2 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 academies, then they should see a photographic ID document and seek written 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. As DBS certificates are now issued directly to applicants academies are able to request sight of the DBS Disclosure certificate for any Supply Teacher who has undergone a DBS check. If academies wish to they can use the DBS Update Service to check the supply teacher's certificate is still current. The supply teacher must be subscribed to the DBS Update Service, have given the academies permission to undertake the check and the level of check required must be the same as the original check - the original DBS certificate must also be viewed).
- 6.3 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.

## **7. Agency Supply teachers**

- 7.1 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 academies are using a supply agency rather than the Norfolk's Supply Teacher Register, the academies must receive written confirmation and evidence that all relevant checks have been undertaken. Where there is disclosed information, the academies must require a fresh DBS check with barred list check from the agency before the individual starts work and must view the fresh enhanced DBS check. The academies 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. If academies wish to they can use the DBS Update Service to check the supply teacher's certificate is still current. The supply teacher must be subscribed to the DBS Update Service, have given the academies permission to undertake the check and the level of check required must be the same as the original check - the original DBS certificate must also be viewed).

## **8. Invigilators**

- 8.1 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 academies, it will not be necessary to seek further DBS disclosures each time the Invigilator is subsequently used.

- 8.2 However, a check of the DBS children's barred list must be undertaken on each occasion the Invigilator is used. This check can be quickly undertaken by sending the request through Norfolk Disclosures, the online DBS system. If academies wish to they can use the DBS Update Service to check the invigilator's certificate is still current. The invigilator must be subscribed to the DBS Update Service, have given the academies permission to undertake the check and the level of check required must be the same as the original check - the original DBS certificate must also be viewed).

## 9. Overseas teachers

- 9.1 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.
- 9.2 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 or by visiting [gov.uk](#) where an [A-Z list for the process for each country](#) can be found.
- 9.3 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.
- 9.4 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. The Academies will be subject to a significant fine 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 employees starts work, academies 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 *Evidence of entitlement to work in the UK (F108a)* on HR InfoSpace. Further information on the sponsorship of overseas workers and preventing illegal working can be found can be obtained via [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk)

## 10. Volunteers

10.1 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, academies do have the discretion, to require an enhanced DBS check for any volunteer.

10.2 Where academies choose not to undertake a discretionary check on a volunteer that they deem to be supervised to a reasonable level, the academies should have clear risk assessment outlining how the decision has been made about the level of supervision in place. The risk assessment should be recorded. It is up to the academies to decide where this information is stored. *Model risk assessment: volunteers and supervision F112d* can be found on HR InfoSpace.

10.3 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. Academies 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 academies might opt for volunteers to be in regulated activity);
  - how many workers would be supervised by each supervising worker.

For further guidance on whether a volunteer is considered to be supervised and what the appropriate level of supervision is please see Appendix F of Keeping Children Safe in Education statutory guidance. For all other recruitment checks the academies must adopt the same recruitment measures as it would for paid staff

- 10.4 In other circumstances, for example where academies approach a parent who is well known to the academies to take on a particular role, a streamlined procedure can be adopted - seeking references, checking to ensure others in the academy 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 the academies and recorded on the academies' Single Central Record.
- 10.5 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 academy fete, those kind of measures would, in the majority of cases, not be eligible for an enhanced DBS check with barred list check. Academies 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.
- 10.6 Parents who voluntarily transport pupils for academy 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 academies 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.
- 10.7 Where volunteers recruited by another organisation to work in an academy, e.g. sports coaches from a local club, the academy should obtain written assurance from that organisation that the person has been properly vetted and this confirmation should be retained by the academy and produced if required during an Ofsted inspection.
- 10.8 Where volunteers will be working unsupervised in an academy they are in regulated activity so will be required to undergo full checks including an enhanced DBS check with barred list check.
- 10.9 If academies wish to they can use the DBS Update Service to check the volunteer's certificate is still current. The volunteer must be subscribed to the DBS Update Service, have given the academies permission to undertake the check and the level of check required must be the same as the original check - the original DBS certificate must also be viewed).

## **11. Contractors**

- 11.1 Where academies 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 academies. The academies should seek written confirmation that these checks have been carried out by the contractor and we would encourage Executive Headteachers to routinely check with workers the contractor sent to the academies that they have

had an enhanced DBS check and bring to the attention of the contractor any concerns arising. Academies 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.

- 11.2 If academies wish to they can use the DBS Update Service to check the contractor's certificate is still current. The contractor must be subscribed to the DBS Update Service, have given the academies permission to undertake the check and the level of check required must be the same as the original check - the original DBS certificate must also be viewed).

## 12. NQT's

- 12.1 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 academies before a Newly Qualified Teacher can be deployed to work directly with children in Norfolk's schools. This can be a check of the DBS Update Service as long as the NQT is subscribed to the service, has given the academies permission to undertake the check and the level of check required is the same as the original check - the original DBS certificate must also be viewed).

## 13. Governors

- 13.1 Legislation - The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016 - deems that enhanced DBS checks are mandatory for all governors in maintained schools. It is the responsibility of the governing body to apply for the check for any of their governors who do not already have one. For new governors an enhanced DBS check must be carried out within 21 days of appointment. Governance is not a regulated activity so governors do not need a barred list check unless, in addition to their governance duties, they also engage in regulated activity e.g. working as an unsupervised volunteer or is already an employee of the academies.

The DfE Governance handbook and funding agreements for academies require that all academy Members, Trustees and local governing bodies in a MAT have an enhanced DBS check.

- 13.2 As long as a Governor is subscribed to the service the check can be made using the DBS Update Service. The governor must give the academies permission to undertake the check and the level of check required must be the same as the original check - the original DBS certificate must also be viewed).

If a governor has already undergone an enhanced DBS check, either because a check was undertaken when they were appointed, or the governor is already an employee of the academies or working as an unsupervised volunteer (they will already have had an enhanced DBS check with barred list) then a new check is not required.

13.3 The *Keeping Children Safe in Education statutory guidance* recommends that a section 128 direction check<sup>2</sup> is undertaken for individuals who the academies proposes will be recruited as a governor. This will show if the prospective governor has been subject to a section 128 direction. This can be done by checking the 'children's workforce independent schools' part of the DBS application form or via the [Teacher Regulation Agency \(TRA\) Teacher Services](#) System.

#### **14. Educational visits (including residential)**

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

14.1 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.

14.2 When planning residential visits it is important to plan well in advance to give sufficient time for the DBS process to be completed.

14.3 Academies should satisfy themselves that the appropriate safeguarding procedures have been followed in terms of checks on employees and volunteers going on the trip. Academies are asked to confirm on Evolve (the online educational visits approval system) that the checks have been carried out.

14.4 When using external providers for activities, transport or accommodation where their staff could have significant unsupervised access to young people, the academies 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'.

14.5 If academies wish to they can use the DBS Update Service to check the eligible employees and volunteers certificates are still current. The individuals must be subscribed to the DBS Update Service, have given the academies permission to undertake the check and the level of check required must be the same as the original check - the original DBS certificate must also be viewed).

#### **15. Work experience placements**

Academies 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.

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<sup>2</sup> A section 128 direction check checks the names of individuals who have been barred from taking part in the management of any independent academy (including academies and free academies). For a clear definition of what management roles this effects see para 121 of KCSE.

If an individual under the age of 18 undertakes a placement in the academies then employees involved in managing a placement are only required to undergo DBS checks if they are the **nominated supervisor** of the individual, who is under the age of 18 (or 16 if employed) **and** the placement is for at least once a week, on more than three days in a 30 day period, or overnight.

If the person working with the child is unsupervised and the same person is in frequent contact with the child, the work is likely to be in a regulated activity. If this is the case academies could ask the employer providing the work experience to ensure the person providing the supervision is not a barred person. Academies should not ask an employer to conduct a check on staff who are simply working alongside the student.

Enhanced DBS checks with or without a barred list check cannot be requested for anyone who is under the age of 16.

## **16. Apprentices**

The Criminal Justice Court Service Act (CJCSA) defines a child as someone who is under 18 (under 16 if the child is employed). No apprentice should be younger than 16 so staff are not required to undergo DBS checks to supervise an apprentice.

If the post, being filled by the apprentice legally requires an enhanced DBS Check or enhanced DBS check with barred list check(s), the individual should undergo these checks. If you are unsure which check is required, please contact Educator Solutions HR Services on 01603 307760.

## **17. Storage and Access**

Disclosure information should not be kept on the personal file and must be stored separately and securely, in lockable, non-portable storage containers e.g. lockable filing cabinet.

Access to Disclosures (storage containers) must be strictly controlled and limited to those who are entitled to see it as part of their duties.

### **17.1 Handling**

In accordance with section 124 of the Police Act 1997, Disclosure information may only be passed to those who are authorised to receive it in the course of their duties. It should be recognised that unauthorised revealing of information contained in the Disclosure to anyone not entitled to receive it is a criminal offence.

### **17.2 Usage**

Disclosure information must be used only for the specific purpose for which it is requested and for which the applicant's full consent has been given i.e. to assist with determining the suitability of an individual for employment in a particular position. It should not be used at any other time for other purposes.

### 17.3 Retention

Having made a recruitment decision Disclosure information should not be kept for any longer than is absolutely necessary. This will generally be for a period not exceeding six months and will be to allow for the consideration and resolution of any disputes or complaints.

If there are circumstances requiring a Disclosure to be kept for longer than six months the DBS must be consulted and full consideration given to Data Protection and Human Rights aspects.

Throughout any extended period of retention the same conditions of storage and access will apply.

### 17.4 Disposal

Disclosures should be destroyed by suitably secure means to ensure they cannot be accessed by anyone who is not authorised to do so. No copy (electronic or otherwise) of the Disclosure will be retained.

The following record of a Disclosure may be retained:

- The date of issue
- The name of the subject
- Level of Disclosure
- Position to which subject was recruited
- Unique reference number of the Disclosure

## 18. Administrative arrangements

18.1 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. Where possible, give the applicant their application form reference number so they can subscribe to the DBS Update Service when they apply for their DBS check. 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. Norfolk Disclosures provides a link to what documents are deemed acceptable. Alternatively you can view the list on the DBS website '[Documents the applicant must provide](#)'. Please check the list 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 Norfolk Disclosures's. Please contact Educator Solutions HR Services on 01603 307760 for further information regarding online DBS checks.

18.2 You will need to notify the Educator Solutions HR Services of the appointment in the usual way, using HR WorkSpace or for academies not yet on HR WorkSpace please

use *Academy appointment notification form (teaching staff) F108c* or *support staff (F108b)* on HR InfoSpace. 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.

- 18.3 As of the 17 June 2013, the DBS no longer automatically issue a copy of the individual's DBS certificate to the Registered Body who countersigned the DBS application form. Employers will need to ask the individual for sight of their DBS certificate. Registered Bodies will only be entitled to ask the DBS for a copy of the individual's DBS Certificate if all of the following conditions apply:
- the individual is subscribed to the Update Service; and
  - the employer has carried out a status check which revealed a change to the DBS Certificate; and as a result
  - the individual has applied for a new DBS check as the result of a change to an existing DBS Certificate; and
  - the DBS issued the new DBS Certificate to the applicant more than 28 days ago; and
  - the applicant has not shown the employer their new DBS Certificate.

Until such time as Norfolk's policy position on status updates changes (see 3.2 above), the criteria listed will not all be met. This means that in all cases where an enhanced DBS check is required, the academies will need to view the DBS certificate which has been issued to the individual.

Having viewed the DBS certificate, the Headteacher will need to take appropriate action in each case. Where there are no matters disclosed, appropriate note of the viewing of the DBS certificate (number etc.) can be recorded in the academies' single central record. Where matters are disclosed on the DBS certificate, the Executive Headteacher will need to contact Educator Solutions HR Services on 01603 307760 to discuss the matters disclosed, agree what action should be taken and then take that appropriate action.

- 18.4 The average time taken by the Norfolk Disclosures' online DBS application system to complete a check is 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.
- 18.5 The turnaround time for DBS checks should be quick enough in most cases to enable the individual to obtain their DBS certificate and provide it to the academies before the effective date of appointment, but you do need to bear this in mind when agreeing a start date with the person. If the individual is registered with the DBS Update Service and the criterion for checking is met, the checking process will be instant.

18.6 Copies of DBS certificates can only be retained with the permission of the individual. If a copy is kept, it must be stored in line with the storage and retention of disclosure information, in this policy, and the Data Protection Act. See the DBS Code of Practice. Details can be found on the [DBS website](#).

## **19 DBS checks and the wider recruitment process**

19.1 It is important to emphasise that the DBS process is just one part of a sound and safe 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, 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.

19.2 If you have not already done so, you are strongly advised to read the document produced by the Department for Education 'Keeping Children Safe in Education 2014' and you should 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.

19.3 Use the Recruitment and Selection Checklist provided within *Recruitment and Selection Guidance G108f*, on HR InfoSpace to review and, where appropriate, modify your recruitment and selection practice and procedure in ways that will strengthen safeguards for children. For example, Norfolk County Council uses an application form to obtain a common set of core data from all applicants and academies should adopt the same approach. 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.

19.4 The recruitment and selection documentation on HR InfoSpace outlines good practice including the requirements of the 'Keeping Children Safe in Education' statutory guidance.

19.5 Making safeguarding an integral part of your recruitment and selection process is an essential part of creating a safe environment for children.

## **20. Data Protection**

The academies process any personal data collected during the DBS checking process in accordance with its 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 should be reported in accordance with the academies' data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the academies' disciplinary procedure.

## 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, academies, 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 academies) can be found in Appendix F of the Keeping Children Safe in Education statutory guidance.

- (iii) relevant personal care, for example washing or dressing; or health care by or supervised by a professional. This includes helping a child with eating and drinking for reasons of illness or disability or in connection with toileting, bathing, washing or dressing for reasons of age, illness or disability but is not intended to include activities such as helping with costumes for academies plays or lacing up football boots;
- (iv) registered childminding; and foster-carers.

## Appendix B: Types of exempt employment and work within the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2012

### Excepted Professions

- Medical practitioner
- Barrister (in England and Wales), advocate (in Scotland), solicitor
- Chartered accountant, certified accountant
- Nurse, midwife

### Excepted Offices and Employments

- Constables, persons appointed as police cadets to undergo training with a view to becoming constables
- Probation officers appointed under Schedule 3 to the Powers of Criminal Courts Act 1973
- Any employment as a teacher in academies or establishment for further education and any other employment which is carried out wholly or partly within the precincts of academies or establishment for further education (employment being of such a kind as to enable the holder to have access to persons under the age of 18 in attendance at the academies or establishment for further education in the course of normal duties)
- Proprietors of independent academies
- Any employment by a local authority in connection with the provision of social services or by any other body in connection with the provision by it of similar services, being employment which is of such a kind as to enable the holder to have access to any of the following classes of person in the course of his normal duties, namely:
  - (a) persons under the age of 18 or over the age of 65;
  - (b) persons suffering from serious illness or mental disorder of any description;
  - (c) persons addicted to alcohol or drugs;
  - (d) persons who are blind, deaf or dumb;
  - (e) other persons who are substantially and permanently handicapped by illness, injury or congenital deformity.
- Any employment which is concerned with the provision of health services and which is of such a kind as to enable the holder to have access to persons in receipt of such services in the course of his normal duties.
- Any employment by a youth club, local authority or other body which is concerned with the promotion of leisure or recreational activities for persons under the age of 18, being employment which is of such a kind as to enable the holder to have access to such persons in the course of his normal duties.

### Excepted Regulated occupations

- Any occupation which is concerned in England and Wales, with carrying on a nursing home in respect of which registration is required by section 187 of the Public Health Act 1936 or section 14 of the Mental Health Act 1959; or

**The above list is not exhaustive and is provided for guidance purposes only.** Please see the 'Other Resources' section for a full list of exempt employment and work as outlined in the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2012.

## Appendix C: Table of changes

Date of change	Paragraphs affected	Summary of update
04/09/2018	Footnote 2, 9, 12.3, 16, Appendix A, Appendix B	Removed track changes which showed what had changed due to the updating of the Keeping Children Safe in Education statutory guidance document.
13/07/2018	Footnote 2  Appendix B	Added signpost to what constitutes a management position in an academy for a section 128 direction check.  Clarification of what is included in the definition of personal care.
06/07/2018	9, 12.3, 16, Appendix A, Appendix B	Updated in line with KCSE changes: Risk assessments for determining if supervised volunteers should have an enhanced DBS check, should be recorded; requirement to section 128 direction check governors added and Appendix B removed as policy now signposts to gov.uk guidance on supervision. Clarification on the definition of personal care in Appendix A.
25/05/2018	19	New para added to take account of the General data protection regulations in force from 25 May 2018
01/03/2017	All	New formatting due to launch of new HR website, HR InfoSpace – no change to content.