

Keeping Children Safe in Education: Disclosure & Barring Service (DBS) Guidance for Schools

This Policy and Guidelines have been **shared with** following professional associations and Trade Unions representing Teachers, Headteachers and Support Staff:

- National Union of Teachers
- National Association of Schoolmasters Union of Women Teachers
- Association of Teachers and Lecturers
- National Association of Headteachers
- Association of School and College Leaders
- Unison
- GMB

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DBS GUIDANCE FOR SCHOOLS

1. Introduction

Safer recruitment is an important part of safeguarding children and is the first step to safeguarding and promoting the welfare of children in education.

Broseley Primary School / Academy is committed to safeguarding and promoting the welfare of all pupils in its care and expects all staff and volunteers to share this commitment.

The School / Academy see it is vital that there is a culture of safe recruitment. School Governing Bodies can adopt HR Keeping Children Safe in Education (KCSiE) Framework of policies and guidance that help deter, reject and identify people who might be unsuitable to work with children and young people.

This guidance describes DBS checks that are required for any individual working in any capacity at, or visiting, the school or college. Governing bodies and proprietors must act reasonably in making decisions about the suitability of the prospective employee based on checks. This includes criminal records checks (DBS checks) and barred list checks in addition to other checks covered in policies and guidance under the HR KCSiE Safer Recruitment framework.

The HR KCSiE framework includes the following policies and guidance:

- Safer Recruitment Policy
- DBS Guidance for Schools
- Suitability Disqualification Guidance for Schools
- Single Central Record Guidance for Schools
- Whistle Blowing Procedure/ Speaking up about wrong doing
- Child Reporting Concerns
- Code of Conduct for school Based Staff
- Dealing with Allegations of Abuse

All those involved in the recruitment and selection of staff, engagement of contractors and school visitors will ensure all processes are conducted in a professional, timely and responsive manner and in compliance with current employment legislation:

- to prevent unsuitable people working within our school / academy
- to create and maintain a safe workforce

2. Roles and Responsibilities

It is the responsibility of the Governing Body to monitor and review the effectiveness of the KCSiE policies and guidance and to be familiar with the DfE guidance 'Keeping Children Safe in Education' and its specific requirements related to Safer Recruitment.

It is the responsibility of the Headteacher to ensure that structures are in place to support the effective implementation of this guidance and that all appropriate DBS checks are carried out on all staff who work at the school and/ or that visitors to the school have been appropriately checked.

3. Scope

This guidance applies to the recruitment of all posts in this school, including governors and all volunteers. It also applies to visitors and contractors.

4. Legislation

The following legislation is relevant to this guidance:

Education:

- School Staffing (England) (Amendment) (No 2) Regulations 2006
- Education (Independent School Standards) Regulations 2014

Police:

- The Police Act 1997
- The Police Act 1997 (Criminal Records) Regulations 2002, as amended
- The Police Act 1997, (Criminal Records) (no 2) Regulations 2009, as amended
- The Sexual Offences Act 2003

Other

- Safeguarding Vulnerable Groups Act 2006
- Children's Act 1989
- Protection of Freedoms Act 2012
- Equalities Act 2010
- The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, as amended

5. DBS information & definitions

5.1 What is the Disclosure and Barring Service (DBS)?

The Protection of Freedoms Act 2012 introduced a number of changes which included the merger of the independent Safeguarding Authority and the Criminal Records Bureau onto one organisation called the Disclosure and Barring Service (DBS). Further background information to the DBS can be found in Appendix A. The DBS decides who should be barred from working with vulnerable groups. They maintain two constantly updated lists; one for those barred from working with children, the other for those barred from working with adults. Individuals cannot carry out 'regulated activity' if they are barred by the DBS.

5.2 What is a DBS check (CRB/ Barred List Check and List 99)?

A DBS check is carried out on employees to ensure they are legally allowed to carry out their job role. A DBS check will search the applicant's criminal record history in order for the employer to make a sound recruitment decision based on the information found on the DBS check.

The DBS Code of Practice and the Rehabilitation of Offenders Act states that employers are not allowed to discriminate against employees with a criminal background and must treat applicants fairly. Recruitment decisions should therefore consider whether the criminal information presented is relevant to the job the applicant will be carrying out.

5.3 Types of DBS check

The DBS is responsible for administering three types of checks to those working with children:

Type of check	What the check involves	Positions eligible for this level of check
Standard check	Check of the Police National Computer (PNC) records of convictions, cautions, reprimands and warnings:	The position being applied for must be covered by an exempted question in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
Enhanced check	Check of police National records plus additional information held by the police such as interviews and allegations. Additional information will only be disclosed where a chief officer reasonably believes it to be relevant and considers that it ought to be disclosed.	The position being applied for must be covered by an exempted question in both the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and by provisions in the Police Act 1997 (Criminal Records) Regulations 2002.
Enhanced criminal record with children's and/or adults' barred list check	Check of the Police National Computer records plus additional information held by police plus check of the DBS Children's Barred List plus check of the DBS Adults' Barred List	The position must be eligible for an enhanced level criminal record check as above and be for a purpose listed in Regulation 5 of the Police Act 1997 (criminal Records) Regulations as able to check the barred lists (s)

The **basic criminal record check** can be undertaken on any applicant for work which does not involve working with children. Currently this service is available to any employer and self-employed people anywhere in the UK but it must be requested through Disclosure Scotland. The DBS plans to offer basic criminal record checks in the future.

For schools, the level will always be 'enhanced' as this is for people working or seeking to work in regulated activity* (*see section 5.6) with children and allows for additional checks to be made as to whether the person appears on the children's barred list check. The enhanced check searches the applicant's criminal history for any cautions, warnings, reprimands or convictions (both spent and unspent). 'Child workforce' category should be selected when applying for a check, together with selection of an accurate job role in order to determine whether the enhanced check will require the children's barred list check and to help the check of the Police National Computer (PNC) records to determine if any cautions should be filtered (see section 5.8) .

Some volunteer roles will be unsupervised and will not require a barred list check as part of the enhanced check. (See section 5.6 on regulated activity and section 6.50 on eligibility for DBS for volunteer roles for further information).

The job role is therefore an essential part of the DBS check whereby unless the police have specific duties they cannot accurately do this check. It is essential that ID checkers do not select a 'best fit' role from their school profile list as the exact role will determine what information is filtered as part of the check of PNC records (see section 5.8). **If School ID checkers using Atlanta find that the role does not exist a new job role should be added. This would include an enhanced check without barred list check for a supervised volunteer/ governor role.** ID checkers should contact Maria Maddocks in Employment Services on 01743 252780 who will add the job role to the school's profile.

When the DBS has completed its check of an applicant's PNC and other police records and, if appropriate, whether or not they are on the barred list, the relevant information will be recorded on a certificate; (the DBS certificate) that is sent to the applicant. The applicant must show the original DBS certificate to their employer before they take up post or as soon as possible.

Where a school allows an individual to start work in regulated activity before the DBS certificate is available, then they should ensure that the individual is appropriately supervised and that all other checks, including a separate barred list check have been completed . (See Risk Assessment form at Appendix 3).

If a school knows or has reason to believe that an individual is barred it commits an offence if it allows the individual to carry out any form of regulated activity, There are penalties of up to five years in prison if a barred individual is convicted of attempting to engage in such work.

A DBS check is the same as the former **CRB** check. A CRB check remains valid for those who have been in continuous employment since the check was done (as long as there have been no breaks in service of more than 3 months and as long as there is no change in role which may affect which information is filtered by the police (see 5.8). Individuals holding an enhanced DBS (or **CRB**) with barred list check are able to supervise volunteers and *can attend residential school visits that includes including between 2am and 6am.*

The enhanced **CRB** check with barred list check was introduced in March 2002 as a statutory requirement to be undertaken in respect of school staff appointed to work with or have unsupervised access to children. Furthermore the School Staffing (England) (Amendment) (No 2) Regulations 2006) provided that all staff, whatever their role, appointed since May 2006 require an Enhanced **CRB** check with barred list check. There was no change to this requirement under the new September 2012 DBS definition of 'regulated activity*.' (*see section 5.6)

A '**List 99**', which is sometimes also known as a '**Police check**' was in place prior to the introduction of the **CRB** in 2002. A **List 99** check remains valid for those who have been in continuous employment since the check was done (as long as there have been no breaks in service of more than 3 months). However, employees who only hold a 'List 99' check cannot supervise volunteers or attend residential visits. If these duties are required by the post holder then a DBS with barred list check should be carried out.

5.4 Who needs a DBS check?

For most appointments an enhanced DBS certificate, which includes barred list information will be required as the majority of staff will be engaged in regulated activity. In summary, a person will be considered to be engaged in regulated activity if as a result of work they:

- Will be responsible, on a regular basis in a school or college, for teaching, training, instructing, caring for or supervising children; or

- Will carry out paid, or unsupervised unpaid, work regularly in a school or college where that work provides an opportunity to contact with children; or
- Engage in intimate or personal care or overnight activity, even if this happened only once.

For most other staff who have an opportunity for regular contact with children who are not engaged in regulated activity, an enhanced DBS certificate, which does not include a barred list check, will be appropriate. This would include contractors (see 6.7) that would have the opportunity for contact with children and who work under a temporary or occasional contract.

In a school, a supervised volunteer who regularly teaches or looks after children is not in regulated activity and therefore would need an Enhanced DBS check without barred list check . See section 6 for further details on eligibility.

5.5 What shows up on a DBS check?

An enhanced DBS check will show any unspent convictions, cautions, warnings or reprimands along with spent convictions and cautions that are not eligible for filtering (see 5.8 below). Intelligence held by the police may also be included if the Police reasonably believe it is pertinent to a recruitment decision.

In addition, an enhanced DBS with a children's barred list check will also show any information held on the children's barred list. If a DBS certificate contains any unspent cautions, warning or reprimands, including spent convictions and cautions that are not eligible for filtering, or additional intelligence that the Police reasonably believe it is pertinent to a recruitment decision, it will be deemed 'positive'. Schools should refer to section 8 'Positive Disclosures.

5.6 Regulated Activity

Regulated activity includes:

- a) Teaching, training, instructing, caring for (see (C) below) or supervising children if the person is unsupervised, or providing advice or guidance on well-being or driving a vehicle only for children,
- b) Work for a limited range of establishments (known as 'specified places' which include schools and colleges), with the opportunity for contact with children, but not including work done by supervised volunteers;

Work under (a) or (b) is regulated activity only if done regularly *. Some activities are always regulated activities, regardless of their frequency or whether they are supervised or not. This includes:

- c) relevant personal care, or health provided by or provides under the supervision of a health care professional;
 - personal care includes helping a child for reason of age, illness or disability, with eating or drinking, or in connection with toileting, washing, bathing and dressing.**
 - health care mans for children provided by, or under the direction or supervision of, a regulated health care professional.

**The safeguarding Vulnerable Groups Act 2006, provides that the type of wok referred to at (a) or (b) will be regulated activity 'if it is carried out frequently by the same person' or if the 'period condition is satisfied.' Para graph 10 of Schedule 4 to this Act says that the period condition is satisfied if the person carrying out the activity does so at any time on more than 3 days in a period of 30 days and, for the purpose of the work referred to at*

(a) apart from driving a vehicle only for children, it is also satisfied if it is done at any time between 2am and 6am and it gives the person the opportunity to have face to face contact with children. 'Frequency' is not defined in the act but the guidance 'Regulated Activity in relation to Children; scope describes 'frequency' as doing something once a week or more

***It is not intended that personal care included such activities as, for example, parent volunteers helping with costumes for school plays or helping a child lace up football boots.*

5.7 Repeal of controlled activity

The 'controlled activity' category no longer exists. This category covered people who had less contact with vulnerable groups (including children) than people in regulated activity – for example, some people who dealt with records only. However, some people in these roles may still be eligible for a DBS check, depending on their role.

5.8 Filtering

Filtering is the process used to determine whether information should be removed from a person's DBS certificate before it is printed.

Filtering of convictions

If an applicant was an adult (18+) at the time of the offence, the conviction will be eligible for filtering (removal from the DBS certificate) if it meets the following requirements:

- It has been 11 years or more since the date of conviction, and
- the applicant has not committed any other offence, and
- the conviction did not result in a custodial sentence, and
- the offence does not appear on the list of offences relevant to safeguarding (www.gov.uk/government/uploads/system/uploads/attachment_data/file/249429/dbs-factsheet-relevant-offences.pdf)

If the applicant was under the age of 18 at the time of the offence, the conviction will be eligible for filtering (removal from the DBS certificate) if it meets the following requirements:

- It has been 5½ or more years since the date of conviction, and
- the applicant only has one conviction offence, and
- the conviction did not result in a custodial sentence, and
- the offence does not appear on the list of offences relevant to safeguarding (www.gov.uk/government/uploads/system/uploads/attachment_data/file/249429/dbs-factsheet-relevant-offences.pdf)

Filtering of cautions

If an applicant was an adult (18+) at the time of the offence, the caution will be eligible for filtering (removal from the DBS certificate) if it meets the following requirements:

- It has been 6 years or more since the date of caution, and
- the offence does not appear on the list of offences relevant to safeguarding (www.gov.uk/government/uploads/system/uploads/attachment_data/file/249429/dbs-factsheet-relevant-offences.pdf)

If the applicant was under the age of 18 at the time of the offence, the caution will be eligible for filtering (removal from the DBS certificate) if it meets the following requirements:

- It has been 2 or more years since the date of caution, and
- the offence does not appear on the list of offences relevant to safeguarding

(www.gov.uk/government/uploads/system/uploads/attachment_data/file/249429/dbs-factsheet-relevant-offences.pdf)

5.9 How long does a DBS check last?

There is no period of validity for a DBS check. Shropshire Council's policy is not to carry out re-checks for schools based employees. If a volunteer or employee is not working regularly i.e. there has been a break of more than 3 months of working in Shropshire schools, a new DBS will need to be undertaken. If there is a change in role or employee status, a new DBS check may also be required. See 'Who needs a DBS check?' at 5.4 above)

5.10 Who processes the DBS check?

Shropshire Council is a Registered Body for DBS checks. This means that Shropshire Council can process DBS checks for its own staff, as well as providing a DBS Umbrella Body for other organisations. Enquiries for this service should be made to Julie Arrowsmith in Employment Services on 01743 252780.

5.11 Who gets a copy of the DBS Certificate?

Since 17 June 2013, only the applicant receives a copy of the certificate. The Local Authority as the umbrella body no longer receives a copy as they did before this date. It is important that the applicant is asked to bring in their certificate for inspection by the school before any work commences. Where the certificate is positive (i.e. it contains cautions or convictions) please refer to section 8 'Positive Disclosures.'

5.12 Who pays for the DBS check?

There is no additional costs for a DBS certificate or administration for subscribing schools; For maintained schools the cost of a DBS certificate is charged to the Shropshire Council Central Schools budget and the administration processing costs are covered by subscription to the HR Administration Schedule. For academy schools the cost of a DBS certificate and associated administration is covered by subscription to the HR Administration Schedule. Non-subscribing schools to the HR Administration schedule are charged for a DBS certificate cost and associated administration fee by invoice on a 'Pay As You Go' basis. For further information on DBS costings please contact Julie Arrowsmith on 01743 252780.

6. Eligibility

6.1 Minimum age for a DBS

The minimum age for DBS check is 16. Therefore students under the age of 16 in full time education undertaking work experience in the same or different school will not require a DBS check.

6.2 Shropshire Council's portability policy

A DBS certificate is considered to be portable between all Shropshire schools providing that:

- The member of staff has been employed on regular basis in a Shropshire school since the DBS (or CRB) certificate was first issued, or if they have not worked on a regular basis, there has not been a break of more than 3 months in their employment with the Authority.
- There is no change of role and employment status (see 'Who needs a DBS check?' at 5.4 above)

This portability also applies between Shropshire schools and Shropshire academy schools providing that the DBS (or CRB) check was carried out by Shropshire Council.

A DBS certificate is not considered portable between other academy schools or local authorities unless Shropshire Council were the appointed DBS Umbrella body. A new DBS will be required if the applicant does not have a valid Shropshire Council DBS check even if the check, with another umbrella body has been carried out within the last 3 months. School will need to consider the risk assessment at appendix 3 if it is necessary for the applicant to start work before the Shropshire DBS check is complete.

Schools should also refer to section 7 for information on the Update service whereby portability can be viewed for subscribing individuals.

6.3 Existing Staff

It is Shropshire Council's policy not to process DBS checks for staff members who were appointed prior to March 2002 and who, from this date have remained continuously employed in the same post or at the same school. There is no legal requirement to undertake a check on such staff and the statutory employment checks applicable at the time of their appointment (Police Check and List 99 Check) will have already been carried out. However, if such staff are required to supervise volunteers or be required to attend overnight residential trips that includes the hours between 2-6am then a new enhanced DBS checks with barred list check should be carried out.

In the event that schools do not hold copies of the employee's application forms and references as required by Ofsted then a new DBS and/or barred list check may be an appropriate risk assessment response. Please refer to KCSiE Single Central Record Guidance, Appendix D for further information

If a school has concerns about an existing staff member's (i.e. someone who has remained in the same role and school) suitability to work with children, the school should carry out all relevant checks as if the person were a new member of staff. Similarly, if a person working at the school moves from a post that was not in regulated activity, into work which is regulated activity, or to a different post, the relevant checks for the regulated activity must be carried out. Apart from these circumstances, the school is not required to request a new DBS check or barred list check. Schools can seek advice from HR if they are unsure as to whether a new DBS check is required.

Please note that where school choose to re-check staff that falls outside of this advice in this guidance there may be a charge. Please contact Employment Services on 01743 252780 for further information and current prices.

Schools have a legal duty to refer to the DBS anyone who has harmed or poses a risk of harm to a child or vulnerable adult; where the harm test is satisfied in respect of that individual; where the individual has received a caution or conviction for a relevant offence; and that the individual has been removed from working (paid or unpaid) in regulated activity, or would

have removed had they not left. The DBS consider whether to bar the person. Referrals should be made as soon as possible after the investigation or removal. Please contact your HR Business Partner/ HR Officer for further guidance.

6.4 Supply Teachers

All supply teachers (including those in Academy schools) are considered to be covered by the definition of regulated activity from September 2012. Supply teachers, who are appointed and paid directly by the school, need an enhanced DBS check (with barred list check) from Shropshire Council. If the supply teacher has recently finished contracted employment with a Shropshire school within the last 3 months, their DBS (or **CRB** certificate) will be portable. If the Supply teacher only has a List 99 check then a new DBS check should be carried out.

Supply teachers working with the Shropshire Supply Teaching Service will be checked via Protocol Education Recruitment Agency who carry out their own DBS checks.

However, if the client school chose to directly employ the teacher on a contract and pay Protocol the 'Finder's Fee', a new DBS check will not be required.

There is a fee to set up a supply teacher including a DBS application charge, plus associated administration charge. Employment Services require payment **prior** to the DBS application process, from the school (by internal recharge) or individual (personal cheque). Please contact Employment Services on 01743 252780 for further information and current prices.

If a potential supply teacher already has a valid current Shropshire Council DBS certificate, only the admin fee is required to set up the record as an additional DBS check is not required.

If the supply teacher is a re-joiner and has not worked for 3 months or more, even if they have had a previous Shropshire Council CRB/DBS, they will need to be set up again and a new DBS check undertaken. In these circumstances the total DBS and administration fee applies.

6.5 Volunteers including parents

Volunteers in regulated activity who teach or look after children on an **unsupervised** basis or provide personal care on a one-off basis must obtain an enhanced DBS certificate with barred list check. Care must be taken to ensure that any unsupervised volunteer will meet the 'regulated activity' before they request a DBS check with barred list. This is important because employers are not legally allowed to request a barred list check on a volunteer who, because they are supervised, is not in regulated activity.

Volunteers who **are supervised** and do not meet the definition for regulated activity schools will not be required to obtain an enhanced DBS check. Regulated activity includes a time period condition that the activity occurs at least once a week and takes place 4 or more times in 30 day period. For volunteers, the supervision element is more important in determining regulated activity than the time period condition. Our advice therefore is that where schools can be 100% confident of the supervision in place for volunteers even when the activity may exceed 4 or more times in a 30 day period, then a DBS check is not necessary. For longer term volunteer roles, where supervision although intended cannot be 100% guaranteed as the duration means that the volunteer will become familiar to pupils then an enhanced check with barred list check should be carried out.

The Shropshire Regulations and Guidelines for Educational Visits and Journeys states that adults accompanying pupils on a visit or journey must have undertaken an enhanced DBS

check. This takes precedence over national DBS guidance (because, as employers, the Council has responsibility for health and safety). However, this document has been reviewed to ensure that this advice is proportionate.

When schools take responsibility for organising transport by private cars they must ensure all procedures are complied with in accordance with Shropshire Councils Guidelines for Educational Visits and Journeys.

Parent volunteers can help their own child, and as long as they are only doing this and can be supervised at all other times they do not need a DBS check. The parent should not assist other children as this may be deemed as 'care' (see section 5.6 definition of regulated activity) and then a DBS check without barred list check would then be necessary.

Under no circumstances should a volunteer in respect of whom no checks have been obtained be left unsupervised or be allowed to work in regulated activity. Such volunteers must be supervised by a member of staff who is in regulated activity and has had an enhanced DBS check with barred list check.

The situation should always be monitored carefully and schools should undertake a risk assessment and use their professional judgment and experience when deciding whether to seek an enhanced DBS check. They should consider;

- The nature of the work with children;
- What the school knows about the volunteer, including formal and informal information offered by staff, parents and other volunteers;
- Whether the volunteer has other employment or undertakes voluntary activities where referees can advise on suitability; and
- Whether the role is eligible for an enhanced DBS check

Since September 2014 it is an offence to carry out a DBS check for volunteers who are not eligible i.e. supervised by someone with enhanced CRB/DBS. If the circumstances of the volunteer change and their work later meets the regulated activity definition then an enhanced DBS check with barred list check can then be carried out. The ICO is responsible for checking breaches.

6.6 Governors

Changes to the DBS requirements for Governors came into force on 18 March 2016 to the effect that :

- a) By 1 September 2016, all maintained school governing bodies are to apply for an enhanced criminal records certificate for any serving governor who does not have one; and
- b) From 1 April 2016, all maintained school governing bodies are to apply for an enhanced criminal records certificate for any newly appointed governor within 21 days of appointment.
- c) Governors in other schools and sixth form colleges who are volunteers should be treated on the same basis as other volunteers, that is, an enhanced DBS check (with barred list check) will only be requested if the governor is engaged in regulated activity. Governing bodies can

request an enhanced check without barred list check on an individual as part of the appointment process for governors.

Where an **Interim Executive Board (IEB)** has been appointed the Chair of the IEB should undertake a DBS check (but not a barred list check). It is the Chair's responsibility to ensure that all other IEB members also have a DBS check (but not a barred list check).

In **Academy,Free** the Chair of the Governing Body should undertake a DBS check and it is the Chair's responsibility to ensure that all other Governors also have a DBS check (but not a barred list check) unless they have additional unsupervised roles that meet the definition of regulated activity as defined in 5.6.

6.7 Contractors

Schools should ensure that any contractor, or any employee of the contractor, who is to work at the school has been subject to the appropriate level of DBS check. Contractors engaging in regulated activity will require an enhanced DBS certificate (including barred list information). For all other contractors who are not engaging in regulated activity, but those whose work provides them with an opportunity for regular contact with children an enhanced DBS check (not including barred list) will be required. In considering whether the contract is regular, it is irrelevant whether the contractor works on a single site or across a number of sites.

Under no circumstances should a contractor in respect of whom no checks have been obtained be allowed to work unsupervised, or engage in regulated activity. Schools are responsible for determining the appropriate level of supervision depending on circumstances,

If a contractor is self-employed, the school should consider obtaining a DBS check as self-employed people are not able to make an application to the DBS on their own account.

Shropshire Council's Premises Services hold a central list of all their Contractors who have undertaken DBS checks. Premises Services will now only recommend contractors to schools who have signed up to their DBS agreement which includes that the contractor:

- Holds their own DBS Record as laid out by and for inspection by Premises Services.
- Confirms the suitability of any cleared 'positive' DBS checks with Shropshire's Schools HR team as necessary.
- Confirms that any employee who is investigated for any criminal activity whilst in their employment, declares this to Premises Services.
- Confirms that no contractor will arrive at school without wearing identification badges which includes their DBS number. (Schools can refuse to allow any contractor on site who is not displaying their identification badge. Schools can insist on supervision of that contractor at all times).

The contractor's individual DBS details do not need to be held on the school's central record but Shropshire Premises Services are now able to provide the school with written confirmation of the check undertaken by approved contractors. If schools engage contractors not approved by Premises Services then they need to seek written confirmation of the DBS check undertaken by the contractor.

Schools should always check the identity of contractors and their staff on arrival at the school. Schools may choose to forward appendix E of KCSiE Single Central record Guidance for schools as a means of seeking confirmation of DBS checks from a contractor

For health and safety reasons children should not be allowed in areas where builders are working, so these workers should have no contact with children.

6.8 Sports Coaches

Sports coaches are almost certainly likely to meet the definition of 'regulated activity' and be unsupervised. If they are not employed by the school, then they should have their own DBS certificate issued from their parent organisation and the school are not required to undertake a further DBS check. The individual's DBS details do not need to be held on the school's central record but their parent organisation should on request provide the school with written confirmation of the check undertaken on those specific individuals who visit the school. The school should retain this evidence with their Single Central Record. Sports coaches should show proof of their identity upon arrival at the school. Headteachers are responsible for ensuring that sports coaches are familiar with the School's Visitors Code of Conduct.

6.9 Shropshire Council & Other Public Sector Staff

Shropshire Council staff who are required to visit schools as part of their role in order to work with, or provide a service in respect of, children and have unsupervised access to children e.g. Peripatetic Teachers, will have been DBS checked and, if appointed after 2002, hold a current DBS (or CRB) certificate. The individual's DBS details do not need to be held on the school's central record but Shropshire LA will on request provide the school with written confirmation of the check undertaken on those specific individuals who visit the school. Schools may choose to forward appendix E of KCSIE Single Central record Guidance for schools as a means of seeking confirmation of DBS checks from Shropshire LA. The school should retain this evidence with their Single Central Record. Other education and non-education professionals such as Education Advisers or HR Advisers who do not have any unsupervised access to pupils no longer need a DBS check as long as they are supervised. If the situation changes and the supervision of Shropshire staff cannot be guaranteed then a DBS check (without barred list) will be required by the Local Authority. In all cases, the school should carry out an identity check whenever visiting LA staff enter the school premises, to confirm that the person is who they claim to be.

Individuals such as psychologists, Ofsted inspectors, nurses, dentists and other public sector staff should have been checked by their employing organisation, whether Local Authority, Primary Care Trust or Strategic Health Authority. Those who will not have any unsupervised access to pupils will no longer need a DBS check to visit the school. From February 2015, these staff were excluded from the time period condition of the definition for regulated activity exceeding i.e. the activity occurring 4 or more times in a 30 day period. If the situation changes and the supervision of these staff cannot be guaranteed then details of a DBS check (without barred list) will be required by the employing public sector organisation. Schools should continue to check the individual's identity when they arrive at the premises to confirm that the person is who they claim to be.

6.10 Agency & Third Party Staff

Schools must obtain written notification from an agency they use that the organisation has carried out a DBS check on the individual who will be working at the school that the school would otherwise perform. Where the position requires a barred list check (and any other vetting checks) this must be obtained, by the agency or third party prior to appointing that individual. The agency must also inform the school when there is any information revealed on the DBS disclosure. Schools may choose to forward appendix E of KCSIE Single Central record Guidance for schools as a means of seeking confirmation of DBS checks from an agency

The school must also check that the person presenting themselves for work is the same person whom the checks have been made.

6.11 Visitors

Schools do not have the power to request DBS and barred list checks, or ask to see DBS certificates for visitors (such as children's relatives or other visitors attending sports day), Headteacher's should use their professional judgement about the need to escort and supervise visitors.

6.12 Work Experience Students

Students under the age of 16 in full time education undertaking work experience in the same or different school will not require a DBS check.

Students over the age of 16 in full time education undertaking unpaid work experience in the same school will not require a DBS check.

Students volunteers who **are supervised** and do not meet the definition for regulated activity schools will not be required to obtain an enhanced DBS check. Regulated activity includes a time period condition that the activity occurs "at least once a week and takes place 4 or more times in 30 day period." For volunteers, the supervision element is more important in determining regulated activity than the time period condition. Our advice therefore is that where schools can be 100% confident of the supervision in place for student volunteers, even when the activity may exceed 4 or more times in a 30 day period, then a DBS check is not necessary. For longer term student placements, where supervision, although intended cannot be 100% guaranteed as the duration means that the student will become familiar to pupils then an enhanced check without barred list check should be carried out.

It will be the responsibility of the employing college to carry out the relevant checks and inform the placement provider accordingly.

6.13 Adults who Supervise Work Experience Students

Schools organising work experience placements should ensure that policies and procedures are in place to protect children from harm.

Barred list checks by the DBS might be required on some people who supervise a child under the age of 16 on a work experience placement. Schools should consider carrying out the enhanced DBS check with barred list check if the provider is a self-employed person and not able to make an application to the DBS on their own account. The school should consider the specific circumstances of the work experience, in particular the nature of the supervision and the frequency of the activity being supervised to determine what, if any, checks are necessary. These considerations would include whether the person providing the teaching/ training/instruction/ supervision to the child will be:

- Unsupervised; and
- Providing the teaching/training/instruction frequently.

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 regulated activity. If so, the school could ask the employer providing the work experience to ensure that the person providing the instruction or training is not a barred person. Schools should consider carrying out the barred list check if the provider is self-employed people and not able to make an application to the DBS on their own account.

Schools are not able to request an enhanced check with barred list information for staff supervising children aged 16 -17 on work experience,

If the activity undertaken by the child on work experience takes place in a 'specified place' such as school and provides the opportunity for contact with children, this may itself be considered to be regulated activity, in this case and where the child is 16 years of age or over, the work experience provider should consider whether an enhanced DBS check should be requested for the child/ young person in question. DBS checks cannot be requested for children under the age of 16.

6.14 Work Placement/ Student Teachers

Where applicants for initial teacher training are salaried by the school the school must ensure that all necessary checks are carried out. As trainee teachers are likely to be engaging in regulated activity, an enhanced DBS certificate (including barred list information) must be obtained.

Where trainee teachers are fee-funded it is the responsibility of the initial teacher training provider to carry out the necessary checks. Schools should obtain written confirmation from the training provider that these checks have been carried out and that the trainee has been judged by the provider to be suitable to work with children. There is no requirement for the school to record details of fee-funded trainees on the Single Central Record.

6.15 Individuals who have lived or worked outside the UK

If the person has lived or worked outside the UK, the school should consider further checks to usual enhanced DBS check with barred list check.

There is **no requirement** to obtain an enhanced DBS certificate or carry out checks for events that may have occurred outside the UK if, in the three months prior to their appointment, the applicant has worked:

- in a school in England in a post which brought them into regular contact with children or young persons in any post in a school since 12 May 2006;
- 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.

The Home Office has published guidance on criminal record checks for overseas applicants <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>.

The DFE has also issued guidance on the employment of overseas trained teachers https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/387894/OTTs_web_guidance_10_Dec_14.pdf. The guidance gives information on the requirements for overseas trained teachers from the European Economic Area to teach in England and information on the qualified teacher status for teachers qualified in Australia, Canada, New Zealand and the USA

6.16 Proprietor of Academy / Free Schools

Before an individual becomes either the proprietor of an academy or the chair of a body of people which is the proprietor of an academy, the Secretary of state will:

- Carry out an enhanced DBS check; where relevant, and where such a check is made, obtain an enhanced DBS check certificate (either including or not including barred list information as appropriate);

- Confirm the individual's identity; and
- If the individual lives or has lived outside of the UK, making an enhanced check insufficient, such other checks as the secretary of state considers appropriate.

The secretary of state also undertakes these checks in respect of the chair of the governing bodies of a non-maintained special school.

The requirements for an enhanced DBS check and certificate is disapplied for the chair of an academy trust if the academy is converting from a maintained school and the person has already been subject to a check carried out by the local authority.

Where the proprietor is a body of people, the chair must ensure that enhanced DBS checks are undertaken, where relevant, for the other members of the body and that where such a check has been undertaken, an enhanced DBS certificate is obtained.) mad that identity checks are completed before, or as soon as practicable after, any individual takes up their position. Further rechecks as the chair considers appropriate should be undertaken where by reason of the individuals leaving or having lived overseas, containing an enhanced DBS certificate not sufficient to establish his suitability to work in the school.

In the case of an academy trust newly established to operate a free school, the DfE will ask the DBS to conduct checks on all its members and directors of the new trust. Aden trusts, including those established to run a free school, have the same responsibilities as all independent school in relation to requesting enhanced DBS certificates for permanent and supply staff.

6.17 Children Staying with Host Families

Schools quite often make arrangements for their children to have learning experiences where, for short periods, the children may be provided with care and accommodation by a host family to which they are not related. This may be a foreign exchange or sports tour. Such arrangements could amount to "private fostering" under the Children's Act 1989 or the Safeguarding Vulnerable Groups Act 2006 or both.

Where the child is under 18 and the person who provides the care and accommodation is paid to provide that arrangement, or the arrangement is not made by the child's family, the private fostering arrangement could amount to regulated activity for the purposes of the Safeguarding Vulnerable Group Act 2006, regardless of the duration of the arrangement. If the school is responsible for making the arrangement, and has the power to terminate the arrangement then it could be the regulated activity provider. If the arrangement is made by a third party, such as a language school, and the third party has the power to terminate the arrangement, then the third party is the regulated activity provider. A regulated activity provider will be committing an offence if they knowingly allow a person to carry out regulated activity whilst barred. Where the school is the regulated activity provider, it should request a DBS certificate with barred list check. However, where the parents make the arrangements or take the responsibility for the selection of the host parents themselves in this will be a private matter between the child's parents and the host parents and in these circumstances the school will not be the regulated activity provider.

Where schools have not been involved in making the arrangement but a member of staff or volunteer at a school becomes aware that a pupil may be in a private fostering arrangement, where child under the age of 16 (or 18 if disabled) is provided with care and accommodation by someone to whom they are not related in that person's home, they should raise this in the first instance with the designated senior person for child protection. The school should notify the local authority (LA) of the circumstances, and the LA will check that the arrangement is suitable and safe for the child.

A person who is barred from regulated activity will themselves be committing an offence under the Children's Act 1989 and under Safeguarding Vulnerable Groups Cat 2006, if they privately foster a child. If the school has any reason to believe that a third party is failing to undertake a statutory duty they should notify the police.

Schools arranging for their children to stay with families overseas should be aware that the DBS cannot access criminal records held overseas. Host families in other countries, therefore cannot be checked in the same way by local authorities as school in this country when children stay abroad. Schools should work with partner school abroad to ensure that similar assurances are undertaken prior to a visit. If they wish, LA's and schools can contact the relevant foreign embassy or High Commission of the country in question and find out if similar checks can be done in that country.

7. Update Service

The DBS Update Service was introduced in June 2013 and is a yearly subscription service provided directly by the DBS for applicants. As at January 2016 the service costs £13 per applicant per year (or free for volunteers).

If the DBS applicant subscribes to the service, information about their DBS certificate will be securely stored on-line, allowing the employer to undertake a status check at any time.

The service is fully portable allowing applicants to carry their certificate between employers (providing the new employment requires the same level of check)

Employers (schools) can carry out a free, online, instant check (called a 'Status check') to see if any information has come to light since the certificate's issue.

Before using the Update service schools must

- a) Obtain consent from the applicant to do so
- b) Confirm the certificate matches the individual's identity; and
- c) Examine the original certificate to ensure that it is for the appropriate workforce and level of check .e.g. enhanced DBS certificate/enhanced DBS including barred list information.

Only if a Status Check indicates that the new information has come to light since the previous DBS check will a new DBS check be required.

In practice, we only have a handful of supply teachers registered with this service. This number may increase so it is important that schools know how to check an individual's DBS certificate using the Update Service.

For those individuals who choose not to subscribe to this service, schools can carry out DBS checks in the normal way.

It is not mandatory for individuals or employees to use the Update Device and Shropshire Council do not intend to enforce this with schools or services because it would potentially discriminate individuals who do not have access to the internet or on-line banking, both of which are required in order to subscribe. Furthermore, it could alienate job applicants who cannot comply and would not wish to pay the subscription fee.

An applicant can subscribe to the Update Service via the DBS website. It should be noted that an applicant has 19 days to register with the service following their DBS certificate being issued.

Employers (schools) cannot register an applicant with the Update Service, only applicants themselves can decide whether they would like to use the Update Service and only applicants can register.

8.Positive Disclosures

An enhanced DBS check is considered to be 'positive' if it shows any unspent convictions, cautions, warnings or reprimands along with spent convictions and cautions that are not eligible for filtering. Intelligence held by the police may also be included if the Police reasonably believe it is pertinent to a recruitment decision.

The applicant must be asked to show their certificate to the Headteacher who will explore the concerns with the applicant, with advice from HR as appropriate in order to determine whether a decision is made to employ or reject the applicant as appropriate to work in their school. The decision is communicated to HR who will record the outcome.

8.1 Procedure for the ID checker/Administrator

- The ID checker should, upon receipt of an e-mail from Atlantic/E-bulk check whether the disclosure certificate is clear or not. This can be performed by logging on to the system and viewing the results.
- Where there is an indication of information the ID checker should contact the Headteacher immediately, who will arrange an interview with the applicant.
- Following the Headteacher's meeting with the applicant the ID checker should update E-bulk to confirm that the certificate has been seen.
- Where applications have been made outside of E-bulk the ID checker should ask the individual to bring in their certificate and ask if it is clear. Maintained schools should inform Employment Services of the certificate issue number and date, for it to be recorded centrally.
- **The ID checker should not view the disclosure.** If the applicant says that there is information on the certificate the ID checker should contact the Headteacher immediately.

8.2 Procedure for the Employment Services HR Administrator

- The HR Administrator should monitor the disclosure certificate on Atlantic/E-Bulk, and if there is information, contact the relevant HR Business Partner/HR Officer.

8.3 Procedure for the Schools HR Business Partner/HR Officer

- On notification from the HR Administrator that the disclosure certificate contains information, the Schools HR Business Partner/HR Officer will liaise with the Headteacher and will advise them to invite the applicant in to view the certificate and discuss the information (usually cautions or convictions) if not already advised to do so by the ID checker.
- The Schools HR Business Partner/HR Officer will advise the Headteacher about making a decision based on the information and meeting held as appropriate. This will involve referring the Headteacher to Appendix 3 for advice with their meeting.

- The Schools HR Business Partner/HR Officer will record the decision on a Local Authority DBS database which will be checked against monthly DBS reports of positive disclosures to ensure that all positive disclosures have been appropriately considered.

8.4 Procedure for the Headteacher

- Once the Headteacher becomes aware there is information on the DBS check (usually identified from the ID checker, the Headteacher should arrange to meet with the applicant.
- The Headteacher should refer to Appendix 3 ahead of the meeting to ensure that all factors in the Headteacher's Checklist for Positive Disclosures are considered, to help enable an informed decision. The Headteacher should inform the applicant that they will be notified of a decision as soon as possible.
- The Headteacher may seek advice from their Schools HR Business Partner/HR Officer to help inform their decision.
- The Headteacher should inform the ID checker of the decision made so they can update E-bulk appropriately.
- The Headteacher should inform the School HR Business Partner/HR Officer of the decision so that Local Authority systems can be updated.
- Where applications have been made outside of E-bulk, and the Headteacher has been notified by the ID checker to contact the applicant, the Local Authority will be unaware of the potential positive disclosure. Headteachers must therefore report this to their Schools HR Business Partner/HR Officer as soon as possible and follow the procedure as stated above.

9. Further Information

Further information about other pre-employment checks can be found in the KCSiE Single Central Record Guidance.

Other contacts relating this this guidance include:

Further information - Barring:

- Helpline: 01325 953795
- Email: dbspartnerships@dbs.gsi.gov.uk

Further information - Disclosure:

- Customer Services: 0870 90 90 811
- Email: customerservices@dbs.gsi.gov.uk

Further Information - DBS Update Service Employers Guide:

www.gov.uk/dbs
www.homeoffice.gov.uk/dbs

Further Information - Keeping Children Safe in Education 2016:

<https://www.gov.uk/government/publications/keeping-children-safe-in-education>

For further advice about DBS contact please contact your named Schools HR Business Partner or Schools HR Officer.

For advice about E-bulk or the Update Service contact Maria Maddocks, Employment Services, on 01743 254405 or email maria.maddocks@shropshire.gov.uk

10. Monitoring & Review

The Governing Body will monitor the outcomes and impact of this guidance on an annual/bi-annual basis in conjunction with school representatives.

This procedure will be reviewed no later than 2 years by Human Resources in consultation with Trade Unions.

Appendices

- A. DfE Guidance on Supervision and Regulated activity**
- B Risk Assessment Form for staff awaiting a DBS check**
- C. Asylum & Immigration Act 1996 – Evidence Requirement**
- D. Positive Disclosure Guidance**
- E. Background to DBS**

DfE Guidance on Supervision and Regulated Activity

This statutory guidance on the supervision of activity with children which is regulated activity when unsupervised is Annex D of the KCSiE Statutory guidance and can also be found on [GOV.UK](https://www.gov.uk).

1. This document fulfils the duty in legislation (i, ii) that the Secretary of State must publish statutory guidance on supervision of activity by workers with children, which, when unsupervised is regulated activity. The guidance applied in England, Wales and Northern Ireland and covers settings not limited to schools, childcare settings, colleges, youth groups and sports clubs
2. For too long child protection has been developed in haste and in response to individual tragedies, with the well-intentioned though misguided belief that every risk could be mitigated and every loophole closed. The pressure has been to prescribe and legislate more. This has led to public confusion, a fearful workforce and a dysfunctional culture of mistrust between children and adults. This government is taking a different approach.
3. We start with a presumption of trust and confidence in those who work with children, and in the good sense of judgment of their managers. This guidance applies when an organisation decides to supervise with aim that the supervised work will not be regulated activity (when it would be, if not so supervised) in such case, the law makes 3 main points:
 - There must be supervision by a person who is in regulated activity (iii)
 - The supervision must be regular day to day; and
 - The supervision must be “reasonable in all circumstances to ensure the protection of children.”

The organisation must have regard to this guidance. This gives local managers the flexibility to determine what is reasonable for their circumstances. While the precise nature and level of supervision will vary from case to case, guidance on the main legal points above is as follows.

- 4 Supervision by a person in regulated activity/regular and day to day; supervisors must be in regulated activity themselves.(iv) The duty that supervision must take place “on a regular basis” 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 on-going basis, whether the worker has just started or has been doing the activity for some time.
- 5 Reasonable in the circumstances; within the statutory duty, the level of supervision may differ, depending on all the circumstances of a case. Organisations 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 others are helping to look after the children;
 - The nature of the individual’s work (or, in a specified place such as school, the individual’s opportunity for contact with children);

- how vulnerable the children are (the more they are, the more an organisation might opt for workers to be in regulated activity);
 - how many workers would be supervised by each supervising worker.⁶
- 6 In law, an organisation will have no entitlement to do a barred list check on a worker who, because they are supervised, is not in regulated activity.

EXAMPLES

Volunteer, in a specified place

Mr Jones, a new volunteer, helps children with reading at a local school for two mornings a week. Mr Jones is generally based in the classroom, in sight of the teacher. Sometimes Mr Jones takes some of the children to a separate room to listen to them reading, where Mr Jones is supervised by paid classroom assistant, who is in that room most of the time. The teacher and classroom assistant are in regulated activity. The headteacher decides whether their supervision is such that Mr Jones is not in regulated activity.

Volunteer, not in a specified place

Mr Wood, a new entrant volunteer, assists with the coaching of children at his local cricket club. The children are divided into small groups, with assistant coaches such as Mr Wood assigned to each group. The head coach oversees the coaching, spends time with each group, and has sight of all the group (and the assistant coaches) for most of the time. The head coach is in regulated activity. The club manager decides whether the coach's supervision is such that Mr Wood is not in regulated activity.

Employee, not in a specified place

Mr Shah starts as a paid activity assistant at a youth club. She helps to instruct a group of children and is supervised by the youth club leader who is in regulated activity. The youth club manager decides whether the leader's supervision is such that Mr Shah is not in regulated activity.

In each example the organisation uses the following steps when deciding whether a new worker will be supervised to such a level that the new worker is not in regulated activity:

- Consider whether the worker is doing work that, if unsupervised, would be regulated activity
 - Consider whether the worker will be supervised by a person in regulated activity, and whether the supervision will be regular and day to day, bearing in mind paragraph 4 of this guidance;
 - Consider whether the supervision will be reasonable in all the circumstances to ensure the protection of children, bearing in mind the factors set outlined paragraph 5 of this guidance above; and if it is a specified place such a school;
 - Consider whether the supervised worker is a volunteer.
- i) Safeguarding Vulnerable Groups Act 2006, amended by Protection of Freedom Act 2012; Schedule 4, para 5S; guidance must be "for the purpose of assisting" organisations "in

deciding whether supervision is of such a kind that he supervised is not in regulated activity.

- ii) Safeguarding Vulnerable Groups (Northern Ireland) order 2007, Schedule 21, para 5A, is as above on guidance on “supervision “ for Northern Island
- iii) If work is in a specified place such as a school, paid workers remain in regulated activity even if supervised.
- iv) In future, the government plans to commence a statutory duty on an organisation arranging regulated activity (under the 2006 Act or 2007 Order, both as amended) to check that a person entering regulated activity is not barred from regulated activity; and plans to commence a stand-alone barring check service by the new Disclosure and Barring Service
- v) A volunteer is; on England and Wales, a person who performs an activity which involves spending time, unpaid (except for travel and other approval out of pocket expenses) doing something which amounts to a benefit to some third party other than, or in addition to a close relative

RISK ASSESSMENT FORM FOR STAFF AWAITING A DBS CHECK

This form is to be completed to make an assessment about a candidates' suitability to commence employment prior to completion of a DBS check. The risk assessment must be carried out and signed by the Headteacher **before** the individual commences employment.

Individuals should only be allowed to commence employment without a Disclosure if, in exceptional circumstances, and following completion of a satisfactory risk assessment by the Headteacher, any delay is likely to severely affect service delivery.

Candidate's Name.....

Post Applied For.....

Provisional start date.....Date Disclosure check requested.....

1. Did the applicant submit a fully completed application form, including all previous employment and gaps in employment?	Yes		No	
2. Did the applicant fully complete and sign section 14 of the Shropshire Council application form?	Yes		No	
3. Did the applicant declare any criminal convictions, bindovers, cautions, reprimands or police investigations which might lead to a conviction, orders binding them over or cautions in the UK or any other country?	Yes		No	
If yes, are these convictions relevant to the work that they are being employed to undertake?	Yes		No	
If yes, are these convictions of a serious nature i.e. offences against children / vulnerable adults / violent or sexual offences etc?	Yes		No	
If yes, please state details				
.....				
4. Did the applicant declare that they had been subject to any disciplinary investigation or action, including suspension?	Yes		No	
If yes, please state details				
.....				
5. Have you obtained references?	Yes		No	
6. Do the individual's references give any cause for concern?	Yes		No	
If yes, please state details.....				
.....				
7. At interview, did the individual say or do anything which gave cause for concern, in relation to allowing them to commence work before a Disclosure is received?	Yes		No	

If yes, please state details.....			
8. Has the individual ever had a DBS check previously?	Yes		No
If yes, when was this done and with whom (employer)?			
9. Does the job involve regularly caring for, training, supervising or being in sole charge of children?	Yes		No
10. Will the individual be required to work alone during their induction period?	Yes		No
11. Will the individual have access to, or opportunity to commit an offence against, a pupil?	Yes		No
If yes, what precautions or measures will you put in place to prevent this from happening?.....			
12. Are you satisfied the risk of possible offending can be minimised by ensuring that satisfactory supervisory measures listed above can be implemented to prevent the individual from being alone with pupils?	Yes		No
13. Please outline the implications of delaying the individual in commencing employment:.....			

DECLARATION BY HEADTEACHER

Please tick one of the following statements

<input type="checkbox"/>	I have considered the questions outlined above, and I am not satisfied that it is safe to allow the above named individual to commence to work before the Disclosure clearance is received.
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OR

<input type="checkbox"/>	I have considered the questions outlined above and confirm that I am satisfied that it is safe to allow the above named individual to commence work before the Disclosure clearance is received, subject to the safety measures detailed above being in place
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I confirm that I have notified relevant and appropriate school staff that the individual is still subject to clearance and of the need to ensure the above measures are implemented.

I confirm that I have explained to the individual concerned the implications of commencing work prior to clearance being received and the possibility that disciplinary action including summary dismissal may result if it is subsequently discovered that the individual did not disclose any material facts relating to their employment.

Signed.....

Print Name.....

Date.....

This form should be retained on the candidate’s personal file at school and a copy sent to your HR Business Partner/HR Officer, until a suitable DBS check is received allowing a decision to be made about their continuing employment.

ASYLUM & IMMIGRATION ACT 1996 – EVIDENCE REQUIREMENTS

All interview candidates must bring the following **ORIGINAL** documents when they attend for interview. This includes those candidates already employed by the Council.

Candidates must bring either:

ONE original document from **LIST ONE**

or

TWO original documents from **LIST TWO** (First or Second Combination)

LIST ONE	
A current valid passport showing that you are a British citizen, or have a right of abode in the United Kingdom.	
A document showing that you are a national of a European Economic Area country or Switzerland. This must be a national passport or national identity card.	
A residence permit issued by the Home Office to a national from a European Economic Area country or Switzerland.	
A current valid passport or other document issued by the Home Office which has an endorsement stating that you have a current right of residence in the UK as the family member of a national from a European Economic Area country or Switzerland who is resident in the UK.	
A current valid passport or other travel document endorsed to show that you can stay in the UK; and that this endorsement allows you to do the type of work you are being interviewed for if you do not have a work permit.	
An Application Registration Card issued by the Home Office to you as an asylum seeker stating that you are permitted to take employment.	

LIST TWO	
First Combination	
EITHER	
This ▶	A) An original document giving your permanent National Insurance Number and name. This could be a P45, P60, National Insurance card, or a letter from a Government agency.
and	Along with checking and copying the above document giving your National Insurance Number, the Appointing Officer must also check and copy only one of the following documents listed B – H below:
	B) A full birth certificate issued in the UK, which includes the names of your parents.

Any one of these 7 choices (B to H)	C) A birth certificate issued in the Channel Islands, the Isle of Man or Ireland.
	D) A certificate of registration or naturalisation stating that you are a British Citizen.
	E) A letter issued by the Home Office to you which indicates that you, as the person named in it, can stay indefinitely in the UK, or have no time limit on your stay.
	F) An immigration Status Document issued by the Home Office to you with an endorsement indicating that you, as the person named in it, can stay indefinitely in the UK, or have no time limit on your stay;
	G) A letter issued by the Home Office to you which indicates that you, as the person named in it, can stay in the UK, and this allows you to do the type of work for which you are being interviewed.
	H) An Immigration Status Document issued by the Home Office to you with an endorsement indicating that you, as the person named in it, can stay in the UK, and this allows you to do the type of work for which you are being interviewed.
or	

LIST TWO	
Second Combination	
This ► and Either one of these 2 choices (B or C)	A) A work permit or other approval to take employment that has been issued by Work Permits UK.
	Along with a document issued by Work Permits UK, the Appointing Officer will also check and copy one of the following documents listed at B – C:
	B) A current valid passport or other travel document endorsed to show that you are able to stay in the UK and can take the Work Permit employment in question.
	C) A letter issued by the Home Office to you confirming that you, as the person named in it, are able to stay in the UK and can take the Work Permit employment in question.

The Appointing Officer will check and photocopy all documents provided.

Please note that if you are not appointed, all photocopies will be confidentially destroyed.

Positive Disclosures – Guidance Notes for Interview

The following questions should be used as a guide when interviewing an applicant for a vacancy where conviction information is disclosed, or at a re-interview following positive information from a disclosure.

- Did the conviction(s) happen when the person was a juvenile or an adult?
- Is there a pattern; is it a one-off or one of several?
- What is the nature of the conviction(s)?
- Length of time since last conviction/caution?
- What is the person's attitude towards the offence(s)?
- What was happening in the applicant's life at the time of the offence(s)?
- Have these circumstances changed? (e.g. dysfunctional family, acute financial difficulties)
- Is the behaviour which constituted the offence a cause for concern (e.g. drug offences – was it possession of a small amount of cannabis for personal use, or possession of a 'Class A' drug with intent to supply)?
- Is there evidence of change? (e.g. job, family)
- Describe the seriousness of the offence (schedule 1 offences, violence, theft)?
- To what extent will the individual be working unsupervised with children and/or vulnerable service users?
- Are the criminal convictions related to the type of work which will be undertaken? (consider job description)
- Will it pose a potential risk to service users and/or colleagues? (if yes, specify the risks)
- Has the conviction(s) taken place whilst being employed in SC?
- Did the offence happen whilst in employment? (If yes, did disciplinary action result following the conviction)?

- At the review date had the satisfactory improvement/change occurred?

Background to the Disclosure and Barring Service

What changes have taken place since September 2012 onwards?

The Protection of Freedoms Act 2012 introduced a number of changes from September 2012 onwards, including:

- The merger of the Independent Safeguarding Authority and the Criminal Records Bureau into one organisation called the Disclosure and Barring Service (DBS);
- That a criminal record check still exists but is now called a DBS check;
- A new definition of 'regulated activity' – (see section 5.6)
- Repeal of controlled activity (see section 5.7);
- Repeal of registration and continuous monitoring (the original plan in the Vetting and Barring Scheme was that anyone who wanted to work with vulnerable groups including children would need to register with the scheme and be continuously monitored for any new criminal record information. This never came into force and the Protection of Freedoms Act repeals this. It is confirmed that registration and monitoring will not be introduced ;)
- Repeal of additional information (under the Police Act 1997) Police forces can provide certain sensitive 'additional information' about applicants only to organisations, not to the applicants themselves. This was sometimes also known as 'brown envelope' material and is issued separately to an enhanced CRB check. Whilst this provision no longer exists in the Police Act, the police may choose to use common law powers to provide information directly to employers in cases where this is necessary, for example to prevent crime or harm to others);
- Minimum age (16) at which someone can apply for a DBS check (see section 2.1);
- A more rigorous relevancy test for when the police release information held locally (previously, the police provided information held locally on enhanced CRB/DBS certificates when they considered it to be relevant to the purpose for which the certificate was requested. This continues, but the police now apply a more rigorous test before deciding whether to disclose information. Previously, they included information if it 'might be relevant' and ought to be disclosed. Since September 2012 they now include it if they 'reasonably believe [it] to be relevant' and consider that it ought to be disclosed. In addition, if any of that information is included on an enhanced CRB/DBS certificate and the applicant does not think that it should be, they will now be able to ask the Independent Monitor to review it, and the Independent Monitor can ask the DBS to issue a new certificate, either without that information or with amendments to it. Applicants should be encouraged to inform you when they request such a review and to update you about what happens with their certificate);
- Challenges to information on DBS certificates (if a DBS applicant believes that information disclosed on their certificate is inaccurate) they can apply to the DBS for a decision about whether it is accurate. The Protection of Freedoms Act will allow people other than the applicant to do that too. In practice, this has often happened anyway).

What did not change in 2012?

The following did not change:

- The requirement to make appropriate referrals (to the DBS);
- The requirement not to engage in regulated activity someone whom you know has been barred;
- Everybody within the pre-September 2012 definition of regulated activity remain eligible for enhanced DBS checks, whether or not they fall within the post-September 2012 definition of regulated activity.

What changes have taken place from 17 June 2013 onwards?

With effect from 17 June 2013 DBS certificates were no longer issued to employers and the DBS no longer automatically issue a copy of the applicant's DBS certificate to the Registered Body (Local Authority) who countersigned the DBS application form. This means that employers (schools) now have to ask the applicant for sight of their DBS Certificate. This is in line with the Government's desire to allow individuals greater control over their own information. The Registered Body (Local Authority) is only entitled to ask the DBS for a copy of the applicant's DBS certificate when the following specific conditions are met, which are:-

- A change to the DBS certificate has been revealed;
- The DBS issued the certificate to the individual more than 28 days ago, and;
- The individual has not shown the employer their new certificate.

If the individual has disputed their new DBS certificate, the DBS will not issue a copy to the Registered Body until 28 days after the dispute is resolved.

From June 2013, the DBS began using a new relevancy test when considering releasing non-conviction information about an individual, and this test will apply to the workforce which the DBS check is related to, rather than a single position or role i.e. the child workforce, adult workforce, both child and adult workforce, or other workforce (which applies if the person is not working with children or adults). This change means that individuals can now take their DBS Certificates from role to role within the same workforce.

Individuals may still require more than one DBS certificate, if their DBS certificate is not the same type and level of check required by an employer. For schools, this is not likely to be an issue as the Level will always be 'Enhanced', the Type will be 'Enhanced with a Children's Barred List check' and Workforce will be 'Child Workforce.'