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HR POLICY HANDBOOK

DBS POLICY



**Southwark Diocesan
Board of Education
Multi-Academy Trust**
Developing Church of England Education

1. SCOPE OF THIS POLICY

- 1.1 The Southwark Diocesan Board of Education Multi-academy Trust (SDBE MAT) Board of Trustees has agreed this Policy and as such, it applies to all Academies within the SDBE MAT.
- 1.2 SDBE MAT uses DBS checks as part of a range of safeguarding measures to assess the suitability of preferred candidates, volunteers, contractors, agency staff, those transferring jobs within the Trust, and the continued employment of those in specific roles which require reassessment.
- 1.3 SDBE MAT obtains and makes decisions based on information provided on DBS disclosure certificates in accordance with the Data Protection Act, the DBS Code of Practice, the Rehabilitation of Offenders Act, The Police Act and the regulations of the Department for Education (DFE) and the Department of Health (as regulated by OFSTED and the Care Quality Commission).
- 1.4 **It is a criminal offence to request a DBS check for posts which are not eligible.**

2 DBA CHECKS AND WHEN TO USE THEM

- 2.1 Business Managers/Headteachers should determine the type of disclosure (or not) that is required by way of a DBS assessment which should be undertaken by the manager responsible for the post. This should be done before the appropriate activity (e.g. recruitment) commences.
- 2.2 Appendix A: DBS assessment, will assist managers in assessing whether or not a post is eligible for a DBS check:
- 2.3 The Trust reserves the right to require an individual whose work requires them to have a DBS check to undergo a recheck at any point where it has good reason to do so.
- 2.4 Advertisements, application forms and invitations to interview should make it clear that a DBS check will be carried out. Applicants for positions requiring a DBS check will be asked to provide details of any criminal convictions, cautions, reprimands or police warning in accordance with the filtering rules during the recruitment process. Any offer of employment will be conditional on the receipt of satisfactory checks.
- 2.5 There are five types of DBS check:

a) **Standard DBS Check** - used primarily for people entering certain specific professions, such as members of the legal and accountancy professions. To be eligible for a standard level DBS check the position must be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975. Standard checks involve a check of the police national computer for any criminal convictions, cautions, reprimands and warnings but not a check of local police information or the children's or adults barred list checks.

b) **Enhanced DBS Check** – to be eligible for an enhanced level DBS check, the position must be included in both the ROA Exceptions Order and in Police Act Regulations. This level of check involves a check of the police national computer (as a Standard DBS Check) and information held by local police that relates to relevant non-conviction information.

c) **Enhanced DBS Check + Children's Barred List check** – to be eligible for an enhanced level DBS check with a check of the children's barred list, the position must meet the definition of regulated activity relating to children. This check involves an Enhanced DBS Check (as above) and a check against the children's barred list.

d) **Enhanced DBS Check + Adults Barred List check** – to be eligible for an enhanced level DBS check with a check of the adults' barred list, the position must meet the definition of regulated activity relating to adults. This check involves an Enhanced DBS Check (as above) and a check against the adults barred list.

e) **Enhanced DBS Check + Children and Adults Barred List check** – to be eligible for an enhanced level DBS check with a check of both the children's and adults' barred list, the position must meet the new definition of regulated activity relating to both children and adults. This check involves an Enhanced DBS check (as above) and a check against the children and adults barred list

2.6 A disclosure can not be requested for someone who is under 16 years old; or on the grounds of having access to personal data such as names or addresses of children or vulnerable adults

2.7 The Trust has a duty to inform the DBS about people (whether employed or voluntary) it has dismissed or removed from 'Regulated Activity', or would have done if they had not left, for reasons of improper conduct toward vulnerable people. All employers are expected to report inappropriate behaviour to help other employers make recruitment decisions.

3 VALIDITY OF DBS DISCLOSURE CERTIFICATES



3.1 There is no period of validity for a Disclosure, which is technically out of date on the day it is issued because a new or further criminal conviction, caution, etc may be recorded against the individual at any time after the issue date.

3.2 The Trust's Code of Conduct, issued to all employees, states that if, following an individual's appointment, they are subsequently arrested, cautioned or convicted of a criminal offence, they must inform their line manager immediately. Failure to do so may lead to disciplinary action. The Business Manager/Headteacher should seek advice from the SDBE MAT HR Business Partner if an employee or volunteer declares any new criminal record information during their employment/work.

4 PORTABILITY OF DBS DISCLOSURE CERTIFICATES

4.1 Portability refers to the re-use of a Disclosure certificate obtained for a position in one organisation and later used for a position in a new organisation. The SDBE MAT only accepts portable Disclosures for an individual moving jobs within the Trust or where the individual has subscribed to the DBS Update Service. In relation to the Update Service, the type of disclosure required must be the same and the status check must be satisfactory to the Trust.

4.2 In relation to Agency, Contractor or Partnership Staff, the worker's employer is responsible for obtaining a disclosure. This can then be used within any organisation that they provide staff to, including the Trust.

5 DBS CHECKS FOR THOSE MOVING JOBS WITHIN THE TRUST

5.1 Where an individual has undertaken a Disclosure for a position with the Trust and they move to another position within the organisation, the Disclosure will normally be acceptable in the following instances:

- a) the type of Disclosure (i.e. Standard / Enhanced / Enhanced + relevant barred list check) is the same for the old and new post; and
- b) the new work does not represent any significant change in duties and/or contact with, children and/or vulnerable adults; and
- c) the individual has not had a break in service

5.2 The above only applies in cases where the Trust/Academy has seen and verified the original Disclosure certificate.

6 FREQUENCY OF DBS CHECKING

6.1 SDBE MAT requires the following renewal of Disclosures:

- staff working with children to undertake a new Disclosure upon appointment with renewal to be carried out every 3 years;
- Governors to undertake a new Disclosure upon appointment and reappointment;
- Trustees to undertake a new Disclosure upon appointment and reappointment;
- Members to undertake a new Disclosure upon appointment

7 CRIMINAL RECORD INFORMATION: SELF-DISCLOSURES

7.1 Where a person is required to undergo a DBS check they must provide a written declaration of any criminal convictions, cautions, reprimands or warnings they may have in accordance with the 'filtering rules' It is important that this information is given at an early stage (preferably prior to the DBS check being carried out), so the information can be discussed with the applicant.

8 COMMENCEMENT OF WORK PRIOR TO RECEIPT OF DBS DISCLOSURE CERTIFICATE

8.1 It is our policy that an employee cannot commence work until a satisfactory DBS disclosure has been received.

9 RECEIPT OF DBS DISCLOSURE CERTIFICATE

9.1 The Disclosure and Barring Service issue a single disclosure certificate to the applicant (e.g. applicant, employee, volunteer etc).

9.2 the individual will be required to present the original Disclosure Certificate to the Headteacher or designated person who will verify and record the Disclosure reference number, the type of Disclosure, the issue date, and whether the disclosure is negative (ie the disclosure contains no criminal records) or positive (ie the disclosure contains criminal records). An Individual must present their original Disclosure certificate within 7 working days of receiving it from the DBS.

9.3 Failure to present the original certificate as required above may result in the offer of employment being withdrawn or employment being terminated without notice.

10 POSITIVE DBS DISCLOSURE CERTIFICATES



- 10.1 Decisions regarding the suitability of positive disclosures will be proposed by the Headteacher and Chair of Governors and approved by the Trust's Executive Team. Prior to any decisions, advice **must** be sought from the SDBE MAT HR Business Partner.
- 10.2 A copy of the positive Disclosure will be retained with the individual's consent while the Trust or Academy decides whether or not the Disclosure is acceptable. The employee may be required to prepare a written submission as part of this process and consideration will also be given to what was disclosed during the recruitment process (where applicable).
- 10.3 In accordance with the Rehabilitation of Offenders Act a criminal conviction does not automatically prevent an individual from working for the Trust. When assessing whether a positive Disclosure is acceptable, the following must be considered:
- the requirements of the role and level of supervision the worker will receive;
 - the seriousness of the offence/issue and its relevance to the safety of employees, customers or property;
 - the amount of money that was involved, for example in cases of benefit fraud;
 - how relevant the offence is to the role to be undertaken;
 - how much time has elapsed since the offence was committed and whether it was a one-off incident or part of a history of offending;
 - whether the individual's circumstances have changed since the offence was committed, making re-offending less likely;
 - whether the individual was open and transparent about their past and declared relevant information where required.
- 10.4 The outcome of a positive DBS check shall be confirmed in writing to the individual together with a warning that any future warnings, cautions, reprimands or convictions may put their employment at risk.
- 10.5 The copy of the positive disclosure should not normally be kept for more than six months from the date of decision being made by the Trust/Academy before being destroyed.

11 RECRUITING FROM OVERSEAS

- 11.1 When recruiting candidates who have lived or worked abroad in the last 10 years, a Disclosure must be obtained in the normal way. However, a criminal record check or its equivalent (e.g. 'Certificate of Good Conduct') must also be requested from the relevant country. Many countries have provided details of how to apply for

certificates of Good Conduct and/or criminal record certificates and these can be found on the following websites:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

12 DBS CHECKS FOR AGENCY, PARTNERSHIP WORKERS, CONTRACTORS, SUB CONTRACTORS AND VOLUNTEERS

- 12.1 SDBE MAT follows the *Keeping Children Safe in Education* guidelines.
- 12.2 The Trust will ensure that any contractor, or any employee of the contractor, who is to work at the Academy 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).
- 12.3 For all other contractors who are not engaging in regulated activity, but whose work provides them with an opportunity for regular contact with children, an enhanced DBS check (not including barred list information) will be required. In considering whether the contact is regular, it is irrelevant whether the contractor works on a single site or across a number of sites.
- 12.4 It is recommended that any volunteer who has frequent and direct contact with a vulnerable person, or who works at a specified place (such as a school), has an Enhanced DBS check – this includes school governors – but the level of the check the DBS check may vary. If the volunteer is continually supervised they should have an Enhanced DBS without a barred list check, and if they are not continually supervised they should have an Enhanced DBS check with the relevant barred list check.

13.0 SINGLE CENTRAL RECORD

Details of the DBS check including the issue number, issue date and details of who has seen this must be recorded in the schools Single Central Register.

All schools must use the prescribed template Single Central Register provided by that Trust.



Appendix A: DBS Assessment

For further guidance please visit: <https://www.gov.uk/government/collections/dbs-eligibility-guidance#eligibility-guide>

Section A	Yes/No
Is the post-holder/volunteer over 16 years?	

If a "No" DBS check is not permitted
If "Yes" complete sections B, C and/or D as applicable

Section B - Regulated Activity For Children Will the postholder undertake any of the following?	Yes/No
Unsupervised activities + meeting the "frequency test"	
Supervised activities + meeting the "frequency test"	
Drive a vehicle only for children + meeting the "frequency test"	
Work in a 'specified place' + meeting the "frequency test"	
Undertake relevant personal care	
Is the individual a registered child minder and/or foster-carer	

Section C - Regulated Activity For Adults Will the postholder undertake any of the following?	Yes/No
Health care	
Personal care	
Conveying i.e. transporting	

Section D	Code
Is the work listed in annex of the DBS Guide to Eligibility as a position, profession, office, employment or work identified as eligible to be checked? If so which code applies? (e.g. code11 for Actuary) https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance	
Give a brief description of how the post meets this criteria:	

Section E - Decision: based on the above assessment

Not eligible for DBS check	<input type="checkbox"/>	Enhanced DBS + children's barred list (any Section B criterion is met)	<input type="checkbox"/>
Standard DBS check (based on code in section D)	<input type="checkbox"/>	Enhanced DBS + adults barred list (any Section C criterion is met)	<input type="checkbox"/>
Enhanced DBS check (based on code in section D)	<input type="checkbox"/>	Enhanced DBS + children's + adult's barred list (any Section B and Section C criterion is met)	<input type="checkbox"/>

	Post Title:	Signature:	Date:
Headteacher:			
Business Manager:			



Appendix B: Rehabilitation of and Employment of Ex Offenders

1.1 Applicants for certain posts are subject to a criminal record and barred list checks in accordance with legislation relating to the rehabilitation of offenders. This will include details of cautions, reprimands, warnings and convictions in accordance with the DBS filtering rules.

2 Use of Criminal Record/Convictions Information

2.1 The disclosure of criminal record and barred list information will be used as one tool within the recruitment process. Applicants must be informed at the outset if this information will be requested from them, which will provide a basis for them to decide whether or not to apply for the post. It should be emphasised that this information will be used only to assess the applicant's suitability for employment.

2.2 Applicants must be told in writing that relevant criminal convictions and other associated information will be discussed at interview to assess job-related risks. They should be encouraged to submit appropriate written details and dates to a named and invited to attach any other information they wish to draw attention to that may improve understanding and fair decision-making.

2.3 When recruiting to posts exempted under the Rehabilitation of Offenders Act, the level of DBS check must be specified. When recruiting to posts not exempted under the Rehabilitation of Offenders Act, unspent criminal convictions should be taken into account only when they are relevant to the post.

2.4 At the interview, issues concerning offences must be raised with applicants as part of a carefully structured and managed process that allows open and honest discussion. They must also be given the opportunity to discuss disclosure information before a final recruitment decision is made as part of a post-interview process.

2.5 If information provided in the disclosure contradicts that provided by the applicant, this will be discussed with the applicant in person as part of a post-interview process. They must be given the opportunity to explain the situation before a final decision is made.

2.6 Where disclosure information is sought in relation to existing employees and it is then discovered they have failed to disclose an 'unspent' conviction, they should not necessarily be dismissed. Only after a full appraisal of the situation including the risks involved, should dismissal be considered. The relevance of the conviction to the post should be established. If an employee deliberately withheld conviction information to gain employment, disciplinary action must be considered.

3 Assessing the relevance of criminal records

3.1 The suitability for employment of a person with a criminal record will vary depending on the job and the details and circumstances of any convictions. An assessment of their skills, experience and conviction circumstances should be weighed against the risk assessment criteria for the job.

3.2 An applicant's criminal record will be assessed in relation to the tasks he or she will be required to perform and the circumstances in which the work is to be carried out. The following will be considered when deciding on the relevance of offences to particular posts:

- Does the post involve one-to-one contact with children or other vulnerable groups as employees, customers and/or clients or does it involve management of such posts?

- What level of supervision will the post holder receive?
- Does the post involve any direct responsibility for finance or items of value?
- Does the post involve direct contact with the public?
- Will the nature of the job present any opportunities for the post holder to re-offend in the place of work?

3.3 The answers to such questions will help the Trust to determine the relevance of convictions to specific posts. For short-listed applicants who are assessed as meeting the requirements of the person specification who then disclose a criminal record that is not related directly to the post, the recruiting manager should discuss the relevance of each offence with the applicant. Whilst it will not always be possible to carry out a thorough risk assessment on each individual, the following issues should be taken into account as a minimum requirement.

- The seriousness of the offence and its relevance to the safety of other employees, customers, clients and property;
- The length of time since the offence occurred;
- Any relevant information offered by the applicant about the circumstances which led to the offence being committed, for example the influence of domestic problems, financial difficulties, drug/alcohol dependency or mental illness;
- Whether the offence was a one-off, or part of a history of offending;
- Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely;
- The country in which the offence was committed; some activities are offences in Scotland and not in England and Wales, and vice versa;
- Whether the offence has since been decriminalised by Parliament;
- The degree of remorse, or otherwise, expressed by the applicant and their motivation to change.

4 Reviewing policies and procedures

4.1 Criminal record information must be used in a way that protects the vulnerable, is fair and improves the overall recruitment and retention process. In particular, the Trust will:

- Review new posts to assess whether they involve any risk.
- Ensure staff involved in recruitment are provided with guidance on the employment of ex-offenders and the Rehabilitation of Offenders Act.
- Provide information to staff involved in recruitment, on training and employment programmes for the unemployed, including those programmes that work specifically with ex-offenders.
- Provide relevant feedback related to their convictions to all unsuccessful applicants.

Appendix C: Definitions and Additional Information

Please see the DBS Eligibility Guide below: <https://www.gov.uk/government/collections/dbs-eligibility-guidance>

