



The STAR Multi-Academy Trust

DISCLOSURE and BARRING SERVICE (DBS)

POLICY

Approved by the Trust Board	July 2022
Reviewed	June 2025 1. 4 year renewal policy for governors, trustees and members.
Approved by the Trust Board	15 July 2025

Related Documents:

Child Protection and Safeguarding Policy
Recruitment Policy
Staff Code of Conduct

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Introduction

Trustees have agreed this policy and as such, it applies to all schools within the Trust and to all centrally employed Trust staff as well as those volunteering within the Trust.

1. Summary

Criminal record and barred list information plays a crucial part in: safeguarding vulnerable groups, including children; protecting the welfare of all those accessing our services; managing risk; protecting the reputation of the Trust; and ensuring appropriate levels of trust and confidence in those delivering Trust services. This policy sets out how this information is used in the workplace and relates to employees, volunteers, agency staff, contractors and subcontractors. In other words, anyone working for or on behalf of the Trust.

Note: Following changes made under the Protection of Freedom Act 2012 the Criminal Records Bureau (CRB) has been merged with the Independent Safeguarding Authority (ISA) to form a new Non-Departmental Public Body called the Disclosure and Barring Service (DBS). This means that from 1 December 2012 (when the new service came into force) the term CRB has been replaced with DBS.

“Disclosure” covers all types of disclosures (standard, enhanced, enhanced + barred list(s) for children and/or adults).

The Trust 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.

The Trust 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).

This policy should be read alongside guidance on the employment of ex-offenders (Appendix F) and the handling and safekeeping of Disclosure and Barring information (Appendix E).

It is a criminal offence to request a DBS check for posts which are not eligible.

2. DBS checks and when to use them

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 appointment) commences.

The following documents will assist Headteachers/schools in assessing whether or not a post is eligible for a DBS check:

- Appendix A: DBS assessment
- Appendix B: Deciding Which Posts Need a Check
- Appendix C & D: Flowcharts to determine Regulated Activity for children and adults

For all employees the DBS assessment must be completed by the member of staff overseeing recruitment in the school, such as the **HR Lead/School Business Manager/ Office Manager** and approved by the Headteacher. Where the DBS check is for a member of the Executive Team, the assessment must be approved by the Chief Education Officer, and where the check is for the Chief Education Officer the assessment must be approved by a Trustee.

For all visitors, volunteers and contractors, the DBS assessment must be completed by the member of staff overseeing recruitment in the school, such as the **HR Lead/School Business Manager/ Office Manager** and approved by the Headteacher. When a visitor, volunteer and contractor is contracted centrally by the Trust HR Advisor will complete the DBS assessment.

For all Governors, the DBS assessment must be completed by the associated school and approved by the Headteacher.

For all Trustees, the DBS assessment must be completed by the Trust HR Advisor and approved by a member of the Senior Executive Team or Chief Education Officer.

Headteachers are also responsible for the ongoing reassessment of the post to ascertain if the level and type of contact the worker has with vulnerable groups changes and, if necessary, to initiate a new DBS check.

DBS checks are recorded and monitored through each school's Single Central Register (which are in most cases maintained by the HR Lead/School Business Manager/ Office Managers). The Executive Team DBS checks are maintained by the Trust HR Advisor.

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.

Advertisements, application forms and invitations to interview should make it clear that a DBS check will be carried out and all employees will be required to engage in an annual self-declaration process. 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 (see appendix G) during the recruitment process. Any offer of employment will be conditional on the receipt of satisfactory checks.

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 (see Appendix B for a list of relevant positions/professions).

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 adult's barred list checks.

- a. **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. Also, anyone that met the definition of regulated activity (**prior to September 2012**) but no longer meets the new definition of regulated activity as amended by the Protection of Freedoms Act 2012, remains eligible for enhanced DBS checks. 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.
- b. **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 new 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.
- c. **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 new definition of regulated activity relating to adults. This check involves an Enhanced DBS Check (as above) and a check against the adults barred list.
- d. **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 lists.

A disclosure can no longer 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.

By exception and on a case by case basis where the post holder has access to highly sensitive information (for example case work, referrals and assessments in social care) an Enhanced DBS Check without a barred list check may be undertaken. Refer to 'Positions eligible for Disclosures, Appendix B, Ref No 05 (for vulnerable adults) and 02 or 29 (for children)'.

The Trust has a duty to inform the DBS about people (whether employed or voluntary) it has dismissed or removed from 'Regulated Activity' (see Appendix F), 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

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.

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 Headteacher.

Failure to do so may lead to disciplinary action. The Headteacher should seek advice from the Trust's HR Business Partner if an employee or volunteer declares any new criminal record information during their employment/work and reported to the Chief Education Officer.

4. Portability of DBS disclosure certificates

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 Trust only accepts portable Disclosures for an individual moving jobs within the Trust (see conditions in 4 below) or where the individual has subscribed to the DBS Update Service (see Appendix G). 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.

In relation to Agency Staff, Contractor or Subcontractors 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

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
 - (i) the individual has not had a break in service or
 - (ii) the individual has had a break in service of less than three months¹ and the Disclosure has been issued within the last 12 months.

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

¹ Taken from the Ofsted guidance to schools (Inspecting Safeguarding, Sept 2012, pg 11).

6. Frequency of DBS checking

The Trust requires the following renewal of Disclosures and a process of self- declaration.

- Staff working in our schools to undertake a new Disclosure upon appointment
- All staff in posts subject to enhanced DBS clearance will be reminded of their duty to disclose convictions in line with the provisions of this policy and complete an annual Self Declaration Form (see Appendix I)
- 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;
- All staff and volunteers will have their DBS status renewed on a 3 year cycle.
- Governors, Trustees and Members will have their DBS status renewed every 4 years from the appointment date.

The Trust will accept status checks via the DBS Update Service.

7. Criminal Record Information: Self-disclosures

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' introduced in May 2013 (see appendix G). 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. For Executive Team staff this process will be undertaken by the Trust HR Advisor, and in schools this process will be undertaken by the Headteacher/ HR Team.

An individual who makes a criminal record self-disclosure must not be automatically excluded from the recruitment process or from working, purely because they have done so. The DBS check must be processed as normal. On receipt of the disclosure certificate the information will be assessed in accordance with paragraph 7 below. If an employee or volunteer discloses criminal information whilst they are employed or working then advice should be sought from the dedicated HR Business Partner.

8. Commencement of work prior to receipt of DBS disclosure certificate

In all circumstances every effort must be made to ensure a Disclosure is obtained prior to an individual commencing work. Only in exceptional circumstances can an individual commence work without the full results of the Disclosure being known and then only when sufficient safeguards are in place to ensure the individual has no unsupervised access to children or vulnerable adults.

Decisions about starting individuals before the results of a Disclosure are known will be taken by:

- a. For Executive Central Team staff, a member of the Chief Executive Officer.
- b. For school based staff, the Headteacher and the Chair of Governors or designated Safeguarding Governor.

Prior to seeking approval of a member of the Executive Team or Headteacher:

- a. All other pre-employment checks must have been received and confirmed as being satisfactory.

- b. A correctly completed Disclosure application form must have been sent to DBS.
- c. The individual must have been checked and cleared against the relevant barred list (where applicable for regulated activity posts).
- d. Determine and ensure that sufficient safeguards are in place to ensure the individual has no unsupervised access to children or vulnerable adults. A risk assessment (Appendix H) must be undertaken and submitted by the line manager and a request to the CEO/Headteacher for an individual to start work prior to the receipt of a disclosure certificate.

The CEO/Headteacher's authorisation should be placed on the post holder's personnel file.

9. Receipt of a DBS disclosure certificate

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

Appointment

In the case of appointment to posts within the Trust, the individual will be required to present the **original** Disclosure Certificate to the HR Lead/ School Business Manager/ Office Manager before a start date is confirmed. The HR Lead/ School Business Manager/ Office Manager will verify and record the Disclosure reference number, the type of Disclosure, the issue date, and whether the disclosure is negative (the disclosure contains no criminal records) or positive (the disclosure contains criminal records) on the school's Single Central Register.

If the individual has already started work they must present their original Disclosure certificate within 7 working days of receiving it from the DBS.

Failure to present the original certificate as required in 8.2 and 8.3 above may result in the offer of employment being withdrawn or if the individual has commenced work, their employment being terminated without notice.

Renewals

Individuals will be required to present their original Disclosure certificate to the Headteacher or designated person for verification and recording as stated above. Individuals must present their certificate within 7 working days of receipt. Failure to do so may lead to pay being suspended, disciplinary action and/or removal from duties.

10. Positive DBS disclosure certificates

Decisions regarding the suitability of positive Disclosures will be taken by:

- a. For Executive Team the CEO and the Board of Trustees.
- b. For school based staff, the Headteacher, CEO.

A copy of the positive Disclosure will be retained with the individual's consent while the Trust or school 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).

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:

- a. the requirements of the role and level of supervision the worker will receive;
- b. the seriousness of the offence/issue and its relevance to the safety of employees, customers or property;
- c. the amount of money that was involved, for example in cases of benefit fraud;
- d. how relevant the offence is to the role to be undertaken;
- e. 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;
- f. whether the individual's circumstances have changed since the offence was committed, making reoffending less likely;
- g. whether the individual was open and transparent about their past and declared relevant information where required.

The Trust may seek advice from the Local Authority, HR Consultancy Team, or the Board of Trustees to discuss next steps. This is strongly recommended where the disclosure is deemed unacceptable.

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.

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/school before being destroyed.

11. Recruiting from overseas

When recruiting candidates who have lived or worked abroad, 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:

DBS: <https://www.gov.uk/disclosure-barring-service-check/arranging-checks-as-an-employer>

List of contact details for London based embassies can be found at:

<https://www.gov.uk/government/publications/foreign-embassies-in-the-uk>

The check/certificate should be obtained by the applicant and presented to the HR Lead/ School Business Manager/ Office Manager who must then verify that the documentation is authentic.

12. DBS checks for agency, partnership workers, contractors, sub-contractors and volunteers

The Trust will follow Safer Recruitment in Education and Keeping Children Safe in Education guidelines (as updated annually).

The Trust or associated schools will ensure that any contractor, or any employee of the contractor, who is to work in any of our schools 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 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.

In summary:

- The key determinant is how frequently staff are visiting individual schools.
- The above paragraph is not interpreted as meaning that all contractors who are not engaged in regulated activity require an enhanced DBS check. This only applies if they are a regular visitor and this has been defined in legislation and we will use the same frequency tests (i.e. four or more days within a thirty consecutive day period).
- The Trust will classify all schools as one site.
- Agency/partnership workers, contractors, sub-contractors and volunteers must be assessed against the same criteria as those working directly for the Trust to see if a Disclosure is required.
- Any organisation providing services for the Trust must be contractually required where relevant to comply with the Trust's procedures for safeguarding, including the need for repeat checks. The actual employer engaging workers or volunteers is responsible for assessing the need or not for a disclosure, and at what level it should be.
- It is the responsibility of schools/Estates Team to put appropriate measures in place to validate and ensure contract compliance as part of their normal contract monitoring.

13. Volunteers

As a result of the Protection of Freedoms Act 2012, volunteers may not meet the new definition of 'regulated activity' (see Appendix C and F); however, they remain eligible for an Enhanced DBS check (without a Children's or Adults' Barred lists) if they met the old definition of 'regulated activity' prior to September 2012.

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 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. See Appendix F for DBS definition of a 'volunteer'.

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

If 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 post holder undertake any of the following (see appendix C for further guidance)?	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 post holder undertake any of the following (see appendix D for further guidance)?	Yes/No
Health care	
Personal care	
Conveying i.e. transporting	

Section D (see appendix B for further guidance)	Code
Is the work listed in appendix B as a position, profession, office, employment or work identified as eligible to be checked? If so which code applies? (e.g. code 11 for chartered accountant)	
Give a brief description of how the post meets this criteria:	

Section E – Decision: based on the above assessment	
Enhanced DBS + children's barred list (any Section B criterion is met)	
Not eligible for DBS check	
Enhanced DBS + adult's barred list (any Section C criterion is met)	

Standard DBS check (based on code in Section D)	
Enhanced DBS + children's + adult's barred list (any Section B and Section C criterion is met)	
Enhanced DBS check (based on code in Section D)	

	Name:	Post Title:	Signature:
Completed by:			
Authorised by:			
Date:			

Appendix B Deciding Which Posts Need a Disclosure

Management Guidance

The list below is taken from the Disclosure & Barring Service eligible positions guide. For ease of reference, some posts have been excluded from the list because the Trust does not have these roles.

The Code listed is not enough evidence on its own to provide evidence of eligibility. If you are asked to confirm eligibility, the DBS need to be given full details of the role and how it meets the legal requirements. It is not sufficient to provide a category code without supporting evidence.

To be eligible, the post must be listed as exceptions in the Rehabilitation of Offenders Act for a standard level check (and also prescribed in the Police Act regulations for an enhanced level check).

Regulated activity needs to meet different criteria, depending on whether the post has contact with children or adults. Eligibility for an Enhanced disclosure is not restricted to those engaging in regular activity.

Regulated activity is work that a barred person must not do.

Under the Rehabilitation of Offenders Act 1974, a person with a criminal record is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the act.

Legal Responsibility

Before the Trust considers asking a person to make an application for a Disclosure, we are legally responsible for ensuring that we are entitled to ask that person to reveal their conviction history.

The Ministry of Justice has stated that organisations should not insist that a Disclosure forms part of a recruitment exercise or bid when tendering for contracts unless the services provided meet the criteria for a Disclosure, as defined by exceptions in the Rehabilitation of Offenders Act, as this would breach employment law.

It is against the law to allow a person to work or volunteer in a regulated activity if they are on the barred list for that activity. It is also a criminal offence not to forward information to the DBS about a person removed from regulated activity because they harmed or posed a risk of harm to vulnerable groups.

Positions eligible for Disclosures
(It is an offence to request a Disclosure for ineligible posts)

Note: for definition of regulated activity see Appendix G

Positions, Professions, Employment, Offices and Works eligible for DBS checks taken from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975	DBS Level²	Ref No³
Any work which is currently defined as regulated activity relating to children within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006.	Enhanced + children's barred list	01
Any work which was defined as regulated activity relating to children within the meaning of Schedule 4 Part 1 of the Safeguarding Vulnerable Groups Act 2006 before the coming into force of section 64 of the Protection of Freedoms Act 2012 on 10th September 2012.	Enhanced	02
Any work which is currently defined as regulated activity relating to adults within the meaning of Schedule 4 Part 2 of the Safeguarding Vulnerable Groups Act 2006.	Enhanced + adults barred list	03
Any work which was defined as regulated activity relating to vulnerable adults within the meaning of Schedule 4 Part 2 of the Safeguarding Vulnerable Groups Act before the coming into force of sections 65 and 66 of the Protection of Freedoms Act 2012 on 10 September 2012.	Enhanced	04
Any office or employment which is concerned with: the provision of care services to vulnerable adults; or the representation of, or advocacy services for, vulnerable adults by a service that has been approved by the Secretary of State or created under any enactment; and which is of such a kind as to enable a person, in the course of his normal duties, to have access to vulnerable adults in receipt of such services.	Enhanced (+ adults barred list if meets criteria for regulated activity for adults)	05
Any work in a regulated position within the meaning of Part 2 of the Criminal Justice & Court Services Act 2000. This does not include those working with 16/17 year olds on work experience.	Enhanced	06
Any work in a further education institution or 16 to 19 School where the normal duties of that work involve regular contact with children.	Enhanced (+ children's barred list if meets criteria for regulated activity for children)	07

² This is only an indication of the DBS level that may apply. Managers are still required to assess the level of check for each post

³ Reference numbers taken from DBS eligibility guide (September 2013)

Any position which otherwise involves regularly caring for, training, supervising or being solely in charge of children.	Enhanced (+ children's barred list if meets criteria for regulated activity for children)	08
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Healthcare Professional – A person who is regulated by a body mentioned in subsection (3) of section 25 of the National Health Service Reform and Health Care Professions Act 2002.	Enhanced + barred list (children / adult, where relevant)	09
Barrister (in England and Wales), solicitor.	Enhanced	10
Chartered accountant, certified accountant.	Standard	11
Actuary	Standard	13
Legal executive	Standard	15
Traffic Wardens	Standard	21
Any employment or other work which is concerned with the provision of health services and which is of such a kind as to enable the holder of that employment or the person engaged in that work to have access to persons in receipt of such services in the course of his normal duties.	Standard	23
Any employment which is concerned with the monitoring, for the purposes of child protection, of communications by means of the internet.	Standard	29
An individual designated under section 2 of the Traffic Management Act 2004	Standard	30
A person living at the premises where a childminding or day care service is provided or who regularly works on the premises at a time when the childminding takes place	Enhanced + children's barred list	37
A person living in the same household as a person whose suitability is being assessed for a position working with children and who lives on the same premises where their work with children would normally take place.	Enhanced + children's barred list	38
Applications for prospective adopters, special guardians or anyone who lives in the adoption household in England and Wales	Enhanced + children's barred list	39
Applications for prospective foster carers, prospective private foster carers or anyone who lives in the fostering household in England and Wales	Enhanced + children's barred list	40

For the award of public works contracts, public supply contracts and public service contracts in accordance with Directive 2004/17/EC and 2004/18/EC of the European Parliament and of the Council of March 2004(a).	Standard	42
Football Stewards, supervisors or managers of football stewards.	Standard (may meet criteria for regulated activity)	43
Approved Legal Services Body Manager	Enhanced (may meet criteria for regulated activity for adults)	44
For National Lottery licensing purposes	Enhanced	52
For obtaining or holding a licence under regulation 5 of the Misuse of Drugs Regulations 2001, article 3(2) of Regulation 2004/273/EC (b) or article 6(1) of Regulations 2005/111/EC(c)	Enhanced	56

Where to find further guidance

If you are unsure about whether a position is eligible for a Disclosure you should refer to any guidance provided for the job sector, consider obtaining legal advice on the requirements to obtain criminal records checks. You can also contact the DBS for advice via email at

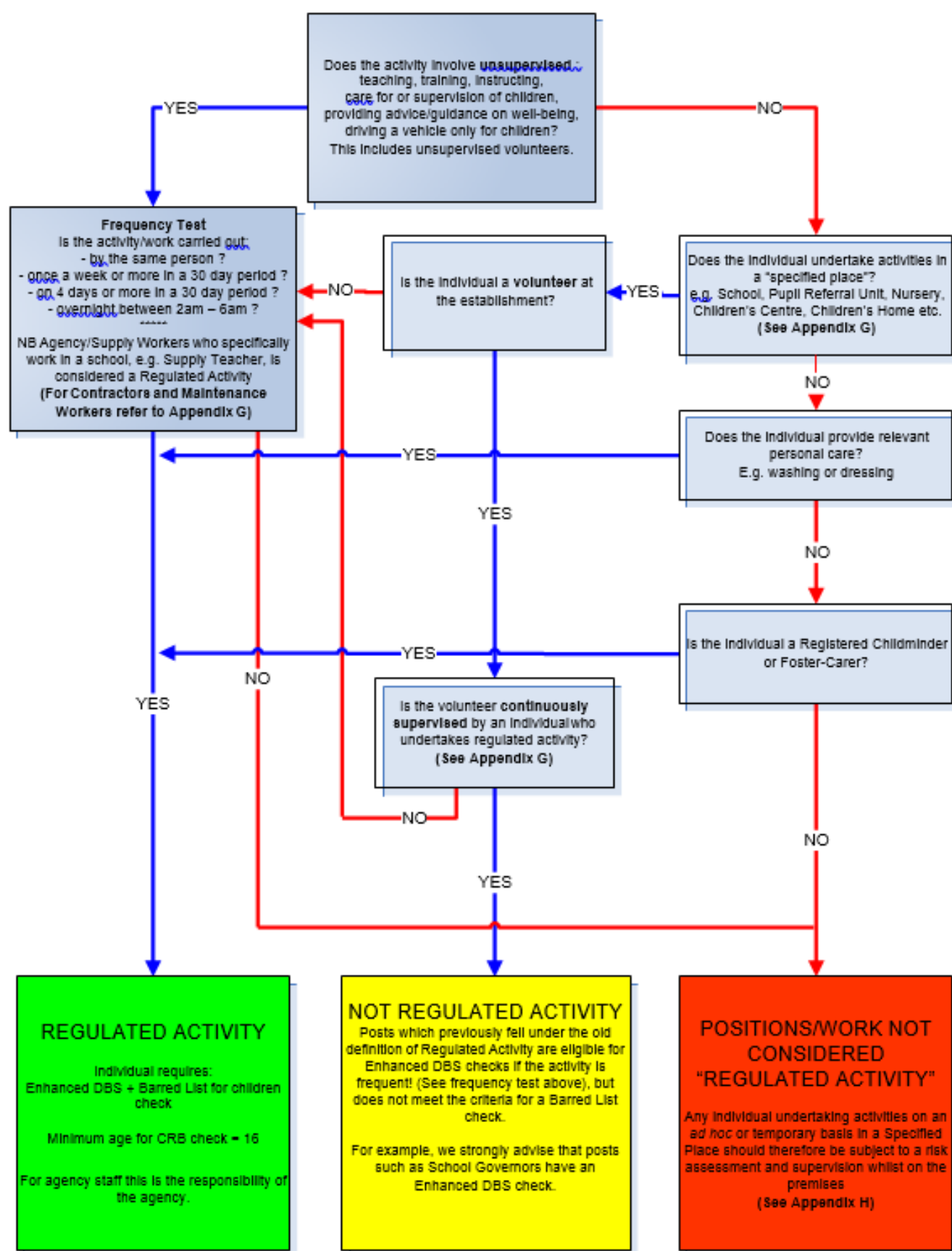
customerservices@db.s.gsi.gov.uk ; please include the job description and person specification.

Further information regarding the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, and the Disclosure and Barring Service can be found on the following websites:

<http://www.legislation.gov.uk/ukpga/2012/9/part/5/enacted?view=plain>

<http://www.legislation.gov.uk/ukpga/2006/47/schedule/4>

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

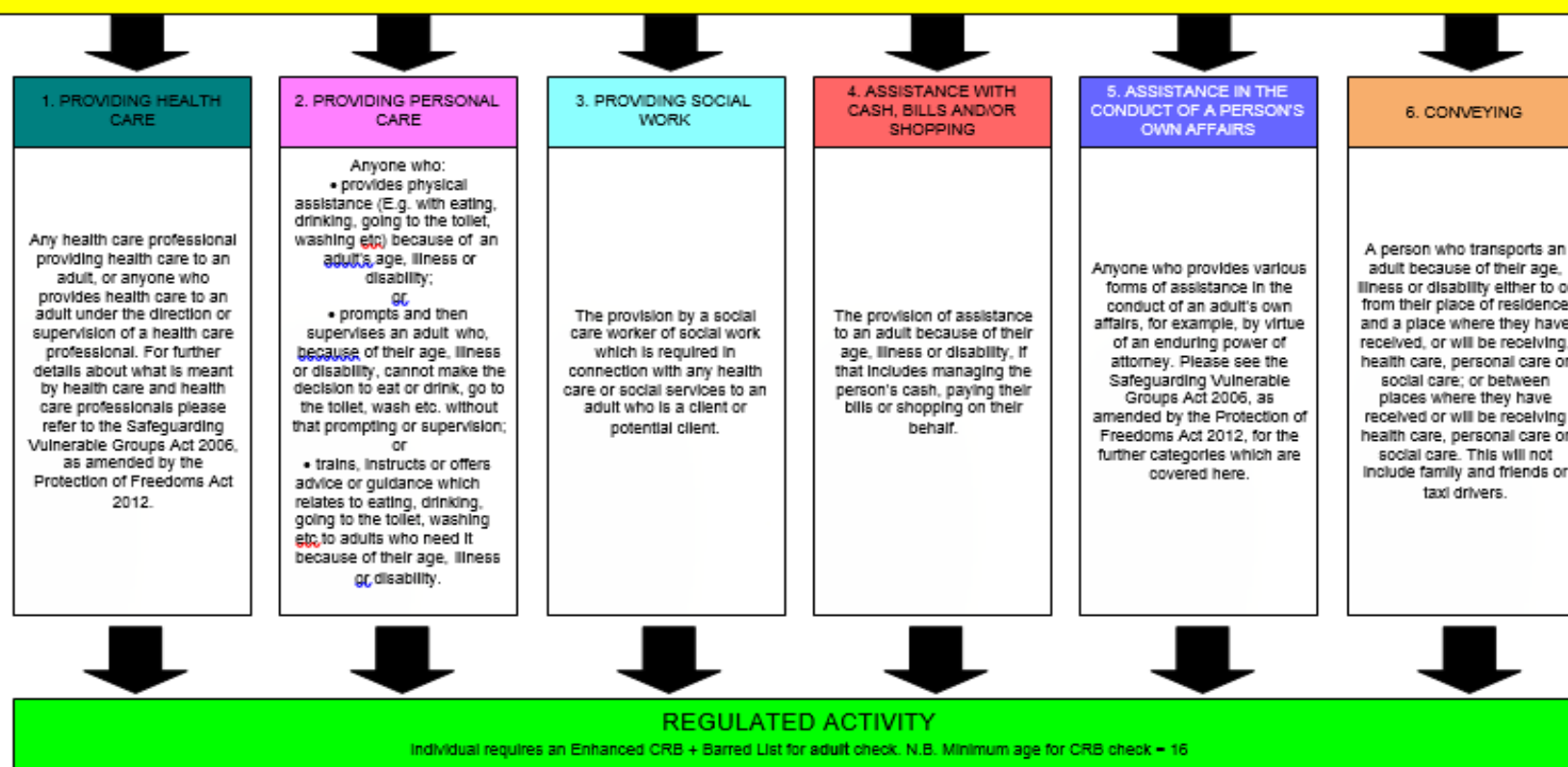


Appendix D:

Flowchart to Assess Regulated Activity for Adults

From 10 September 2012 the definition of regulated activity relating to adults no longer labels adults as 'vulnerable'. Instead, the definition identifies the activity which, if any adult requires them, lead to that adult being considered vulnerable at that particular time. There is no longer a requirement for a person to do the activity a certain number of times before they are engaging in a regulated activity.

There are six categories of people who fall within the new definition of regulated activity (which includes anyone who provides day-to-day management or supervision of those people).



Appendix E Safe Handling and Storage of Disclosure Information

Information about offences must be kept confidentially on a need-to-know basis in lockable filing cabinets and/or on a secure electronic system. Access must be restricted to individuals responsible for recruitment and relevant HR staff.

Positive Disclosures must normally be destroyed within six months of the recruitment decision and not later than the period specified in the [Code of Practice for Registered Persons](#) and other recipients of Disclosure Information.

The name of the individual, the date, type and reference number of the Disclosure and the position applied for can be kept as a record of the recruitment decision taken but must be kept confidential.

Appendix F Rehabilitation of and Employment of Ex-Offenders

A copy of this policy must be made available to all applicants for jobs requiring a disclosure.

Introduction

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

Use of Criminal Record/Convictions Information

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.

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.

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.

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.

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.

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 (see 3 below) 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.

Assessing the relevance of criminal records

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.

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?

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.

Reviewing policies and procedures

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 G Definitions and Additional Information

For the DBS Eligibility Guide please see link below:

<https://www.gov.uk/government/collections/dbs-eligibility-guidance>

Appendix H: Risk Assessment: Safer recruitment pre-employment checks

Within our Trust we follow safer recruitment practices in line with Keeping Children Safeguarding in Education (KCSIE), this risk assessment is to be used to document decisions regarding content of pre-employment checks. For example, when starting prior to receipt of full DBS clearance and/or documenting decisions where checks are not available (overseas checks/missing references). Further guidance on completing this document can be found [here](#).

Name:	
Job Title:	
Start Date:	
Is this person in Regulated Activity?	
Please state the reason for the person starting without the correct documentation:	
Has advice been sought and considered? Please add detail.	

NB. A barred list check must be in place before anyone starts in Regulated Activity.

Outline the reason and circumstance of the need for this Risk Assessment – ie. What is missing?	
References	Please choose
Enhanced DBS with Child Barred List	Please choose
Right to Work	Please choose
Overseas Check	Please choose
128 Check	Please choose

Outline the reason and circumstance of the need for this Risk Assessment – ie. What is missing and why?
If there is a clearance outstanding, what attempts to gain the clearance have been made? Are there alternative checks we could do?

If there is content on the DBS certificate, consider the following: Was it declared and explained by the applicant prior to/at interview? Consider the seriousness of the offence and relevance to the role, how long ago was the offence, was it a one-off incident or history of incidents, the circumstances and whether the applicant accepted responsibility?
What do we know and what evidence do we have about the staff member? Have they had a previous volunteer role in school, or are they a known parent?
Are all other clearances in place, in particular do we have 2 satisfactory references and are either or both from referees in the children's workforce?
If applicable, will the role operate under supervision? (please include DBS clearance level of the person supervising)

Summary of risk identified control measures and residual risk level

Risk Identified	Safeguards/Control Measures in place	Risk Level
Are the risks adequately controlled with the above measures?		

If supervision is required, outline the arrangements and review dates below and discuss with the staff member.

Details of agreed supervision arrangement	Review Date
Further comments or information	
Authorised By: (please sign and print)	Date

APPENDIX I

Disclosure and Barring Policy Annual Self Declaration

Disqualification Under the Childcare Act

A person may be disqualified through

1. having certain orders or other restrictions placed upon them
2. having committed certain offences

A disqualified person is not permitted to continue working with under 5s or under 8s in wrap around, extended hours or childcare, or be involved in the management of this provision, **unless they apply for and are granted a waiver from OFSTED.**

This form is to be completed by all existing staff who are covered by the regulations and by newly appointed employees as part of the pre-employment check procedure.

You are required therefore to sign the declaration below confirming that you are not disqualified under the Regulations from working in this academy.

Name		Post	
Please circle one option for every question			
Section 1 – Orders or other restrictions			
Have any childcare orders or other determinations been made in respect of you?		YES / NO	
Have any childcare orders or other determinations been made in respect of a child in your care?		YES / NO	

Have any orders or other determinations been made which prevents you from being registered in relation to childcare, children's homes or fostering?	YES / NO
Are there any other relevant orders, restrictions or prohibitions in respect of you as set out in the Schedule 1 of the Regulations? Available from the link below: http://www.legislation.gov.uk/uksi/2009/1547/schedule/1/made	YES / NO
Are you barred from working with Children (Disclosure and Barring DBS)?	YES / NO

Section 2 – Specified and Statutory Offences	
Have you been cautioned (including a reprimand or warning) or have you ever been convicted of: <u>*Cautions, reprimands and warnings prior to 7 April 2007 should not be included.</u>	
<input type="checkbox"/> Any offence against or involving a child? (A child is a person under the age of 18)?	YES / NO
<input type="checkbox"/> Any violent* or sexual offence against an adult? *a violent offence in this context is murder, manslaughter, kidnapping, false imprisonment, ABH, GBH	YES / NO
<input type="checkbox"/> Any offence under the Sexual Offences Act?	YES / NO
Any other relevant offence? http://www.legislation.gov.uk/uksi/2009/1547/schedule/2/made	YES / NO
Have you ever been cautioned, reprimanded, given a warning for or convicted of any similar offence in another country? <u>*Cautions, reprimands and warnings prior to 7 April 2007 should not be included.</u>	YES / NO

Section 3 – Provision of Information

If you have answered YES to any of the questions above you should provide details below. You may supply this information separately if you so wish, but you must do so without delay.

Details of the order,
restriction, conviction,
caution
***Cautions, reprimands and
warnings prior to 7 April
2007 should not be included**

The date(s) of these

The relevant court(s)
or body(ies)

The types of offences that are included by definition in the regulations are not contained in one single list and individual employees may need to seek clarification from Ofsted as to whether a particular offence would mean they were disqualified and should be disclosed by emailing disqualification@ofsted.gov.uk.

Section 4 – Declaration

In signing this form, I confirm that the information provided is true to the best of my knowledge and that:

- ☐ I understand my responsibilities to safeguard children.
- ☐ I understand that I must notify my head teacher immediately of anything that affects my suitability including any pending court appearances, cautions, warnings, convictions, orders or other determinations made in respect of me that may render me disqualified from working with children.

Signed

Print Name

Date

Please send your completed declaration to your Headteacher