



HR: Disclosure and Barring Service DBS Policy

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| Review Due: | November 2021 |
| Last Review | September 2018 |
| Applicable to: | All Trust Schools |
| Reviewed By: | SD |
| Approved by: | Trust Board |

The Board of Trustees of the Bath and Mendip Partnership Trust have agreed this policy, therefore this policy applies to all schools within The Bath and Mendip Partnership Trust. The Bath and Mendip Partnership Trust works in line with the DfE guidelines detailed within the document: “Keeping Children Safe in Education” September 2018.

The disclosure and barring service plays a vital role in obtaining the information that schools need to ensure the safety of The Bath and Mendip Partnership Trust pupils. “Disclosure” covers all types of disclosure. The Bath and Mendip Partnership Trust uses DBS check as part of a safeguarding measure to check the suitability of candidates, volunteers, contractors and agency staff.

All applicants for positions which are exempt from the provisions of the Rehabilitation of Offenders Act 1974 will be asked to declare any convictions, cautions or bind-overs which have incurred, including any that would be regarded as ‘spent’ under the act in other circumstances.

However, the amendments to the exception Order 1975 (2013) provide that certain spent convictions and cautions are ‘protected’ and are not subject to disclosure to employers, and cannot be taken into account.

All guidance and criteria on filtering of these cautions and convictions can be found on the Gov website, <https://www.gov.uk/government/collections/dbs-filtering-guidance>

The school will use Wiltshire county council as an umbrella service to provide the DBS service.

The Trust reserves the right to ask individuals that require a DBS check to be rechecked at any point where there is good reason to do so.

All application forms and invites to interview will make it clear that a DBS check will be carried out. Individuals will be asked to bring documentation to interviews so that the process can be started. Any offer of employment will be subject/ conditional to receipt of all satisfactory checks.

Legislative Requirements

The Bath and Mendip Partnership Trust is committed to ensuring it meets all requirements pertaining to safeguarding and background checks as prescribed in the following (the list is not exhaustive and other guidance, legislation and regulation may form part of the Academy’s policy):

- The DBS Code of Practice - 2015
- [JLF1] The Data Protection Act 2018
- The Freedom of Information Act 2018
- The Education Act 2002
- Keeping Children Safe in Education - 2018

Obtaining an Enhanced Disclosure

An Enhanced Disclosure, which will automatically include barring list information for people working in regulated activity with children. This adds checks of the DBS Children's Barred List to the enhanced Check.

For most appointments, an enhanced DBS certificate, which includes barred list information, will be required as a majority of staff will be engaging in regulated activity.

In summary, a person will be considered to be engaged in regulated activity if as a result of their 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 school or college where that work provides an opportunity for contact with children; or
- Engage in intimate or personal care or overnight activity, even if this happens once.

In a school or college, a **supervised** volunteer who regularly teaches or looks after children is not regulated activity.

The Department for Education (DfE) has published separate statutory guidance on supervision and regulated activity which schools and colleges should have regard to when considering which checks should be undertaken on volunteers. This is set out in Annex F of the Keeping Children Safe in Education Document.

In addition to obtaining the DBS certificate described, anyone who is appointed to carry out teaching work will require an additional check to ensure they are not prohibited from teaching.

Regulated Activity

The full legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012. HM Government has produced a factual note on regulated activity, in relation to children,

Regulated activity includes:

- a) Teaching, training, instructing, caring for (see (c) below) or supervising children if the person is unsupervised, or provided 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, regardless of their frequent or whether they are supervised or not. This includes:

- c) Relevant personal care, or health care provided by or provided 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 means care for children provided by, or under the direction or supervision of, a regulated health care professional.

Who requires a DBS?

All persons employed in a school- teachers, support staff and those employees who do not necessarily have regular contact with children such as caretakers, administrative and other ancillary staff are also required to have Enhanced Level DBS checks.

All volunteers whose job involves regularly caring (E.g. 3 or more occasions in a 30-day period, once a month or more or overnight) for, training, supervising or being in sole charge of children and young person under 18 years of ages.

All work experience students and teaching placement students, will need to provide a copy of their Enhanced DBS or written confirmation from college/university that all checks have been completed. If on placement for more than 15 days/sessions. Work experience students and teaching placements students for less than 15 days/sessions will not require an enhanced DBS but will need to be supervised at all times. Secondary age children are exempt because in these cases the school placing the pupil should be ensuring that students are suitable for the placement in question and will be supervised at all times.^[JLF2]

All new Trustees/Governors or Trustees/Governors renewing a Term of Office must have an Enhanced Level DBS clearance if they have not previously had one.

All individuals with involvement in extended school activities such as SALT, OT, Physio, all external therapists, sports coaches, after school clubs and breakfast clubs must have Enhanced DBS check with a barred list check where they are working with children and young people. The Bath and Mendip Partnership Trust will request evidence of DBSs or statement /declaration from /declaration from the employer stating all relevant checks have been completed.

Where a third party is responsible for running extended services (eg swimming lessons) there will be clear lines of accountability with written agreements setting out responsibility for recruitment and vetting procedures. The Bath and Mendip Partnership Trust will request written confirmation of such checks.

Examples of where DBS clearance is not required

The following are examples of where Enhanced DBS clearance is not required. However, it, must be noted that in every instance the person must be supervised at all times whilst on site, visiting school.

- Visitors who have business with the head teacher or who have a brief contact with children with a member of staff present (at all times)
- Visitors or contractors who come on site to carry out repairs or services equipment and who would not be left unsupervised with children or young people.
- Volunteers or parents who only accompany schools staff and children on one off outings or trips that do not involved overnight stays and who are supervised by school staff at all times.
- Volunteers or parents that are accompanied by staff at one off events such as sports days, fetes or open days.
- Secondary pupils on Key Stage 4 and 5 work experience and subject placement. The school that places the pupils will be responsible for ensuring he/she is suitable.

Individuals recruited from countries outside the UK /individuals who have lived abroad

Individuals who have lived or worked outside the UK must undergo the same checks as all other staff employed by The Bath and Mendip Partnership Trust. In addition, further checks will be made if they are considered appropriate so that any relevant events that occurred outside the UK can be considered. These further checks will include a check for information about any teacher sanction or restriction that an EEA professional regulating authority has imposed, using the NCTL Teacher Services' system.

Although restrictions imposed by another EEA regulating authority do not prevent a person from taking up teaching positions in England, the trust will consider the circumstances that led to the restriction or sanction being imposed when considering a candidate's suitability for employment.

Where an applicant is from or has lived in a country where criminal record checks cannot be made for child protection purposes the trust will refer to the Home Office published guidance on [criminal record checks of overseas applicants](#) and [guidance on the employment of overseas trained teachers](#) which gives information on the requirements for overseas-trained teachers from the EEA to teach in England, and the award of qualified teacher status for teachers qualified in Australia, Canada, New Zealand and the United States of America.

When requiring references from overseas the trust will be clear and specific about whether they have a record of any factors that would make them unsuitable to work with children and young people. Schools must check authenticity of any referee by telephone using an Ofsted approved set of questions.

As per Keeping Children Safe in Education in Education - 2018 (section 136) there is NO REQUIREMENT to obtain an enhanced DBS or carry out checks for events that may have happened outside the UK if, in the three months prior to their appointment, the applicant has worked:

1. In a school in England which has brought them into regular contact with children or in any post in a school since 12 May 2006; or

2. 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.

Re-checks and Renewals

- If an applicant is registered with the DBS update service, the applicant can re-use their DBS certificate for similar roles which require the same checks^[JLF3]. The school will check the update service but will need permission from the applicant to view the original DBS certificate and to carry out “online” checks through the update service whilst they remain employed at the school.
- If an employee changes role within the Trust, a new DBS ^{may be} ^[JLF4] required. For example, if a TA becomes a teacher, a volunteer becomes a paid member of staff (e.g. supply, fixed or permanent), or a student placement becomes a paid member of staff.
- A re-check is required for all casual staff with a three-month gap in their employment history with the school. Play workers should complete a safeguarding declaration each time they are employed.^[JLF5]
- For those play workers who work on a regular basis (more than once a year) the relevant school may contribute to the DBS update service, for these individuals the update service will be checked instead of the completion of a safeguarding declaration. If the casual members of staff are also a permanent member of staff in a different role a safeguarding declaration is not required.
- Commissioned Services- Although a re-check is not required, those staff who are associated with commissioned services will be asked to complete a safeguarding declaration bi-annually.

Starting Work Pending a DBS Disclosure

In exceptional circumstances the Head teacher/Principal (and only the Head teacher/Principal) can use discretion to allow an individual to begin work within school pending receipt of the DBS certificate. However, in every case the individual must be appropriately supervised; and all other pre-employment checks, including a risk assessment and a separate barred list check, must have been completed. Appropriate supervision for individuals who start work prior to the result of a DBS Disclosure being known, will also consider what is known about the person concerned, their experience, the nature of their duties and the level of responsibility they will carry. ^[JLF6]

For anyone employed without completed DBS certificate it will be made clear that they are subject to this additional supervision. The nature of the supervision will be specified and the roles of staff in undertaking the supervision spelt out. The arrangements will be reviewed regularly (at least every two weeks) until the DBS certificate is received. As Disclosure checks will take place before someone starts at a school it is important that everything possible is done to prevent delays in the disclosure process e.g. if appointing someone from another part of the country there may not be the opportunity to check their identity in person again until they take up the post.

DBS Disclosure

The DBS is completed online with the school confirming proof of ID. The DBS tracking service will show when a certificate has been issued but will not reveal what information the disclosure contains. The DBS certificate will be sent to the applicant (prospective new employee) which means they will be able to review and challenge what is contained in the certificate before they provide it to the school. The school will ask for sight of the DBS [JLF7] and a copy of the certificate should be retained on the personnel file, [JLF8] the school need permission from the individual to do this. The DBS copies are then destroyed generally after a 6-month period. [JLF9] If, in very exceptional circumstances, it is considered necessary to keep certificate information for longer than six months, the school will consult the DBS about this and will give full consideration to the Data Protection and Human Rights of the individual before doing so.

Should there be a positive disclosure the Head teacher/Principal will consider: - the number of offences; the nature of offences; the time expired since the last offence; the age of the applicant when the offence was committed; and any submission that the applicant may wish the Head teacher/Principal to consider by way of explanation of his/her actions. A risk assessment will be completed recording the outcome.

A record must be kept of date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken.

Data Protection

At all times The Bath and Mendip Partnership Trust will need to adhere to the Data Protection Act and as such have a duty of care to ensure that employees, future employees, volunteers or those acting on our behalf, are treated fairly and lawfully and that information is treated confidentially and is only used for the purpose it was intended.

Reviewed: September 2018 (reviewed every 3 years)

Flow chart to support the DBS and Barring Service process (see below)

(taken from the Keeping Children Safe in Education document)

