

Weston Park Primary School



Disclosure & Barring Service Policy

Weston Park Primary School has adopted Southampton City Council's model HR Policies and Procedures.

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<u>Contents</u>	<u>Page No.</u>
1. Policy statement	2
2. This applies to	2
3. Roles and responsibilities	2
4. Definitions	3
4.1. Disclosure & Barring Service	3
4.2. Eligibility	3
4.3. Standard Disclosure	3
4.4. Enhance Disclosure	3
4.5. Barred Lists	3
4.6. Regulated Activity	4
4.7. Update Service	4
5. Principles	5
5.1. Storage & Access	5
5.2. Handling	5
5.3. Usage	5
5.4. Retention	5
6. Disclosure with Content	5
7. Appointment Decision	5
8. Guidance	6
8.1. Commencing Employment	6
8.2. Re-checks	6
8.3. Engaging Contractors & Tendering for Services	6
8.4. Engaging Agencies and Agency Staff	7
8.5. Checking Job Applicants and Employees From Overseas	7
9. Review	7
Appendix 1	
Positive Disclosure Decision Sheet	

1. Policy statement

Having a criminal record will not necessarily prevent an individual from being employed by the school. This will depend on the nature of the role, professional suitability and the circumstances, nature and background of the offence(s).

The school complies fully with the DBS Code of Practice, with an undertaking to treat all job applicants and volunteers fairly, and not discriminate on the basis of conviction or other information revealed.

DBS checks will only be sought where a job is eligible to be checked, and after an applicant has been made a conditional offer of employment. The school reserves the right to require a disclosure and barring check/follow up disclosure on employees.

2. This applies to

All permanent, temporary and casual employees, volunteers, and to other third parties engaged in work for or on behalf of the school, where the duties to be performed require the individual to have a Standard or Enhanced DBS disclosure.

3. Roles and responsibilities

Governing bodies have the ultimate responsibility to:

- Ensure that a DBS checking procedure is in place and that checks are carried out lawfully and in line with this policy.
- Ensure that the Single Central Record of DBS checks is maintained, and that the appropriate security measures relating to storage and access are in place.

Headteachers must:

- Ensure that all school based employees have an Enhanced DBS check.
- Ensure that all volunteers who meet the eligibility criteria (see below) have an Enhanced DBS check.
- Ensure that the applicant presents their disclosure certificate for checking once they have received it.
- Decide whether an appointment will be confirmed or the offer withdrawn, where there is a positive disclosure.
- Consider whether information disclosed by employees in relation to a change in criminal record status impacts on their continued suitability for employment.

Job Applicants/Volunteers/Employees must:

- Co-operate fully with the checking procedure.
- Present the disclosure certificate to the recruiting Headteacher as soon as possible once it is received (and at the latest, within 28 days of receipt).
- Inform their Headteacher of any changes to their circumstances which affect their criminal record status. This may impact upon the individuals' suitability to undertake their role and will be reviewed. Failure to disclose information may result in disciplinary action being taken.

The Council will:

- Provide and an up-to-date DBS Policy for maintained schools to adopt.

4. Definitions

4.1 Disclosure & Barring Service

The Disclosure and Barring Service (DBS), previously the Criminal Records Bureau (CRB), allows authorised users to obtain information about a person's criminal record for approved purposes. Criminal record certificates (known as disclosures) are issued by the DBS.

The DBS offers the school a means to check the criminal background of job applicants, and where relevant existing employees for specific categories of posts, to ensure that they do not have a criminal history that would make them unsuitable.

4.2 Eligibility

The Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 (amended 2013), lists the types of work, employment or professions for which employers can legally obtain a DBS check. All employees in posts which are eligible will be required to undergo a DBS check.

Where a post is classified as 'regulated activity' (see 4.6 below) under the provisions of the Safeguarding Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012), an Enhanced Disclosure will be required.

4.3 Standard Disclosure

To be eligible for a standard DBS check the position **must** be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975

A Standard disclosure contains details of all spent and unspent convictions, cautions, reprimands and final warnings held on the Police National Computer.

4.4 Enhanced Disclosure

All schools based employees are eligible for an Enhanced Disclosure and are included in both the ROA Exceptions Order and in Police Act Regulations.

An Enhanced disclosure is the highest level of criminal record check. It will contain the same information as the Standard check but also includes a check of police records held locally.

Any role identified as regulated activity (see 4.6), will be eligible for an Enhanced disclosure with a check of the DBS barred lists.

4.5 Barred Lists

The Children's List holds information on individuals who have been classified by the DBS as unsuitable to work with children, and the Adults List holds information on individuals classified as unsuitable to work with (vulnerable) adults. Individuals placed on either list are legally barred from working with the relevant group, and employers are prohibited from employing them in regulated activity.

4.6 Regulated Activity

The definition of regulated activity relating to children (i.e. activity that a barred person must not do), comprises:

- Unsupervised activities:
 - teaching, training, instructing, caring for or supervising children, or providing advice/guidance to children on physical, emotional or educational well-being, or driving a vehicle only for children (and their carers/ supervisors);
- Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. (This does not include work by supervised volunteers).

Work under (i) or (ii) is regulated activity only if done frequently. Frequently means carried out by the same person (once a week or more often), or on 4 or more days in a 30-day period or in some cases, overnight. ("Overnight" in relation to (i) makes these activities regulated activities if carried out - even once - between 2am and 6am and with the opportunity for face-to-face contact with children).

- Relevant personal care, for example:
 - physical help with (or supervision/prompting of/other training and advice related to) eating and drinking - for reasons of illness or disability
 - physical help with (or supervision/prompting of/other training and advice related to) toileting, washing, bathing or dressing - for reasons of age, illness or disability;
 - health care (all forms of health care relating to physical or mental health) by, or supervised by, a health care professional;
- The day to day management or supervision on a regular basis for a person providing activities (i) - (iii) which would be regulated if unsupervised.
- Registered childminding; and foster-carers.

4.7 Update Service

Individuals undergoing a DBS check from June 2013 onwards can choose to register with the Update Service on an annual basis. The service keeps DBS certificates up to date so that they are transferable from role to role (within the same workforce i.e. children/adults), where the same type and level of check is required.

Where applicants have subscribed to the DBS Update Service, and meet the criteria out lined in section 8.2 regarding breaks in service, the school will seek their consent to undertake an on-line check of their DBS status. Applicants will still be required to produce a hardcopy of their most recent DBS certificate. Where the status check says that the DBS certificate remains current (i.e. no new information recorded), then there is no requirement to undergo a full DBS check.

5. Principles

5.1 Storage and Access

Disclosure information is kept securely with access strictly controlled and limited to those who are entitled to see it as part of their duties.

5.2 Handling

In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. The school maintains a record of all those to whom disclosure information has been revealed and recognises that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

5.3 Usage

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

5.4 Retention

The school will keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the disclosure and the details of the recruitment decision taken. The school will hold this information on the Single Central Register.

Only the information detailed above can be held by the school. Hard copies of an individual's DBS certificate must not be kept.

Disclosure information in relation to the withdrawal of job offers is not retained for any longer than is absolutely necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure 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 subject before doing so. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.

6. Disclosure with Content

Your DBS provider will inform you if they are advised of a disclosure with content. The Headteacher should arrange an appointment with the individual to view the paper disclosure in full and complete a Positive Disclosure Decision Sheet (PDDS) (see Appendix 1) which is designed to help them make a balanced decision on whether to employ the individual, and acts as a record of the decision-making process. The completed form will be retained in school or placed on the employee's personal file.

7. Appointment Decision

Where the DBS Disclosure contains no content, or the Headteacher has considered a Disclosure with content and determined that it is appropriate to continue with the appointment; the individual will be issued a contract of employment. The employment will be confirmed where it has been offered subject to satisfactory checks.

Where the Headteacher does not wish to continue with the appointment, they should contact the schools HR provider, who will assist with the written correspondence to the individual withdrawing the offer of employment.

8. Guidance

8.1. Commencing Employment

Safeguarding and Education - the Department for Education strongly recommend that Disclosures are obtained for individuals before they take up post. However, they recognise that in certain instances there may be a need to employ at short notice. In these circumstances, headteachers have the discretion to employ staff who have not yet received their Disclosure, provided that:

- a) they have been checked against "List 99"/Childrens Barred List now known as Section 142 of the Education Act 2002 .
- b) all other relevant pre-appointment checks have been carried out.
- c) they do not have unsupervised access to children until their full disclosure is received.

Casuals and Volunteers

Where a DBS check is required, a Disclosure must be received before individuals commence.

8.2 Re-checks

There is no legal requirement or mandatory time period for undertaking DBS re-checks on existing employees. A new disclosure must be gained where an individual moves to a new position that:

- a) requires a check at a higher level, or
- b) involves responsibilities not previously checked (e.g. moving from children's services to adults' services).

For all employees, casuals, volunteers and agency workers, where there is a break in service of 3 months or more the school will require a recheck. Where employees have subscribed to the DBS Update Service, the school will seek their consent to undertake an on-line re-check of their DBS status (as per 6.1 above).

If a new employee is appointed from a school where the Council is not the employer i.e. from a Trust or Academy school, then a new check must be done.

Schools may also want to consider re-checking a new employee who has transferred from another Council maintained school where their check was carried out a significant time ago.

If there are concerns that an individual has acquired or is in the process of acquiring another conviction, caution, reprimand, warning or has been added to the either of the Barred Lists, the Headteacher will need to discuss with the schools HR provider whether a DBS re-check or other action is necessary.

8.3 Engaging Contractors and Tendering for Services

Managers/ Headteachers who have responsibility for engaging contractors and tendering for services must ensure that the terms of any contract make clear the contractor's responsibility to ensure that the provisions relating to safeguarding children are followed.

This should include obtaining details of their policy in relation to DBS and Barred List checks, and where appropriate, ensuring that the appropriate level of DBS Disclosure has been obtained and appropriate records are maintained. These requirements should be explicitly written into any contract or Service Level Agreement.

Schools should refer to the 'Guidance on Building Contractors Working in Schools' for further information:

8.4 Engaging Agencies and Agency Staff

Managers / Headteachers with responsibility for engaging agencies and agency staff must ensure that the terms of any contract make clear the agency's responsibility to ensure that provisions in relation to safeguarding children are followed. This should include obtaining details of their policy in relation to undertaking DBS checks (including barred list checks), ensuring a Disclosure, at the right level, is repeated at least every 3 years. If the person has been out of the workforce for 3 months or over or their circumstances change, another DBS check must be done by the agency, Managers / Headteachers should obtain written confirmation from the agency that all the appropriate checks have been carried out before accepting the member of staff. Details of these checks need to be set out in the single central list/ record

8.5 Checking Job Applicants and Employees from Overseas

Newly appointed staff who have lived outside the UK must undergo the same pre-employment checks as other staff. This includes a DBS check as appropriate for the role.

The DBS can only check applicants from the date they arrive in the UK, as it does not have access to overseas criminal records. If an individual has resided overseas within the past 5 years, they will be advised to obtain a Certificate of Good Conduct and appropriate criminal checks from the country of residence. Where the applicant has lived in several countries, then all countries must be checked.

Guidance on checking applicants who have spent time overseas can be found on the DBS website at the following link: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

If the details for the country required are not listed then the individual should contact the relevant embassy to establish the process to be followed. Where there is a fee payable, then the applicant must pay this fee. Reimbursement will be at the discretion of the recruiting manager but will not ordinarily be paid for by the school. The Certificate of Good Conduct belongs to the applicant and must remain in their possession; the school can take a copy of this document. It is the responsibility of the applicant to have these documents translated.

9. Review

This policy does not form part of the employee's contract of employment and the council retains the right to change the policy at any time. This policy will be reviewed as necessary to ensure that it complies with current employment legislation and the requirements of the school.

APPENDIX 1 - POSITIVE DISCLOSURE DECISION SHEET

A disclosure with content is a certificate that shows cautions, warnings or convictions. It may show spent and unspent convictions, and for Enhanced checks, it may also show information that a police force deems relevant to disclose based on the nature of the job that the individual will be employed to do.

Before a decision is reached on whether to offer or confirm employment to an individual, the individual should be offered the opportunity to discuss the content of the disclosure with the recruiting manager.

Using this decision sheet, the manager will make a balanced decision on whether they are satisfied to employ the person / service provider. In completing the form the manager should not record the specific details of any criminal convictions, cautions etc appearing on the positive disclosure.

Question	Yes	No	Notes / Manager comments
Does the Children's/Vulnerable Adults Barred List result prohibit the appointment?	<input type="checkbox"/>	<input type="checkbox"/>	If "yes", it is illegal employ.
Does the post involve one-to-one contact with children or vulnerable adults as customers/clients/employees?	<input type="checkbox"/>	<input type="checkbox"/>	
Is the conviction relevant to the position?	<input type="checkbox"/>	<input type="checkbox"/>	
Are you satisfied with the circumstances of the offence, and the candidate's explanation?	<input type="checkbox"/>	<input type="checkbox"/>	
How do you regard the seriousness of the offence?	Please indicate Minor / Significant / Major		
Did the offence occur recently?	<input type="checkbox"/>	<input type="checkbox"/>	How long ago:
At what age were the offences committed?			
What age is the applicant now?			
Does the disclosure show a pattern of offending behaviour, or was the offence a one-off?	Please indicate Pattern / One-off		
Have the circumstances that led the applicant to commit the offence changed for the better?	<input type="checkbox"/>	<input type="checkbox"/>	

Did the applicant disclose the conviction(s) / cautions, warnings or reprimands when asked?			If they did not disclose, it may constitute gross misconduct if they are already in post
Does the role allow the opportunity to re-offend?			
What level of supervision will the person receive?	Please indicate None / Limited / Regular		
Does the post involve responsibility for finance, items of value or other high risk areas?			