



Merchant Taylors'
School

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DBS Policy

Title: DBS Policy

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1. Introduction and Purpose

- 1.1 The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevents unsuitable people from working with children. This document outlines the School's policy on the use of DBS checks for new applicants and the renewal of DBS checks for current staff.
- 1.2 This policy is designed to supplement the School's Safer Recruitment Policy.

2. Scope

- 2.1 This policy applies to all 'staff' involved in regulated activity including employees, casual workers, volunteers, governors and some self-employed contractors.

3. Level of disclosure

- 3.1 The majority of staff working in a school environment will require an enhanced DBS check with a check of the Children's Barred List because they will be engaging in regulated activity with children. In summary, a person will be engaging in regulated activity with children 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;
 - will be working on a regular basis in a specified establishment, such as a school, for or in connection with the purposes of the establishment, where the work gives opportunity for contact with children; or
 - engage in intimate or personal care or healthcare or any overnight activity, even if this happens only once.

4. Contractors and Agency Staff

- 4.1 For contractors and agency staff, the School requires confirmation that the appropriate level of DBS check has been undertaken by the contractor/agency. The level of check required will depend on the work to be undertaken and HR advice must be sought. The original DBS certificate and proof of ID must be provided to the School before commencement of work.

5. Visiting Speakers and Visiting Professionals

- 5.1 The School is not permitted to request to see the DBS disclosure or Children's Barred List check on any visiting speaker or visiting professional. For visiting professionals, it is necessary for the teacher in charge to contact the visiting professional's employer to establish whether an enhanced DBS check with children's barred list has been carried out on the visiting professional, in line with Section 301 of KCSIE.
- 5.2 All visiting speakers and visiting professionals will be required to provide photographic ID on arrival and will be subject to the School's usual visitors signing in protocol. This will include signing

in and out at Reception, the wearing of a visitor's badge at all times and being escorted by a fully vetted member of staff between appointments. A visiting speakers/visiting professionals proforma must be completed in advance of the visit and provided to the HR team so that an online check can be undertaken in the line with the Prevent Duty.

6. Umbrella Body

6.1 The School engages an umbrella body to process its DBS checks. An umbrella body is an organisation who can process and submit applications to the DBS on behalf of other organisations. The School takes all reasonable steps to satisfy themselves that the umbrella body will handle, use, store, retain and dispose of certificate information in full compliance with the DBS code of practice and in full accordance with this policy.

7. Disclosure of criminal convictions

7.1 Prior to interview, all short-listed candidates must complete a criminal records declaration. All offers of employment are conditional upon the receipt of a satisfactory enhanced DBS and Children's Barred List check.

7.2 With effect from 29 May 2013 the DBS commenced the filtering and removal of certain specified information relating to old and minor criminal offences from all criminal records disclosures. The filtering rules developed by the DBS and the Home Office designate certain spent convictions and cautions as "protected". "Protected" convictions and cautions are not included in a DBS certificate and job applicants are not required to disclose them during the recruitment process. It is unlawful for an employer to take into account a conviction or caution that should not have been disclosed. If a protected conviction or caution is inadvertently disclosed to the School during the recruitment process it must be disregarded when making a recruitment decision.

7.3 A conviction will always be disclosable if it was imposed for a "specified offence" committed at any age. A caution issued for a "specified offence" committed over the age of 18 will always be disclosable. However, a caution issued for a "specified offence" committed under the age of 18 is never disclosable. "Specified offences" are usually of a serious violent or sexual nature, or are relevant for safeguarding children and vulnerable adults. The list of "specified offences" can be found at: <https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>

7.4 The filtering rules have recently been updated and work as follows:

For those aged 18 or over at the time of an offence

A spent criminal conviction for an offence committed in the United Kingdom when a person was over the age of 18 will not be disclosed in a DBS certificate (and does not have to be disclosed by the job applicant) if:

- (a) eleven years have elapsed since the date of the conviction;
- (b) it did not result in a custodial sentence; and

(c) it was not imposed for a "specified offence".

A spent caution for an offence committed when a person was over the age of 18 will not be disclosed in a DBS certificate (and does not have to be disclosed by a job applicant) if:

(d) six years have elapsed since the date it was issued; and

(e) it was not issued for a "specified offence".

For those aged under 18 at the time of an offence

A spent conviction for an offence committed when a person was under the age of 18 will not be disclosed in a DBS certificate (and does not have to be disclosed by a job applicant) if:

(a) five and a half years have elapsed since the date of the conviction;

(b) it did not result in a custodial sentence; and

(c) it was not imposed for a "specified offence".

A caution issued for an offence committed when a person was under the age of 18 will never be disclosed in a DBS certificate (and does not have to be disclosed by a job applicant).

8. Regulated activity

8.1 The School applies for an enhanced disclosure from the DBS and a check of the Children's Barred List (now known as an Enhanced Check for Regulated Activity) in respect of all positions at the School which amount to "regulated activity" as defined in the Safeguarding Vulnerable Groups Act 2006 (as amended). The purpose of carrying out an Enhanced Check for Regulated Activity is to identify whether an applicant is barred from working with children by inclusion on the Children's Barred List and to obtain other relevant suitability information. Any position undertaken at, or on behalf of, the School will amount to "regulated activity" if it is carried out:

(a) frequently, meaning once a week or more; or

(b) overnight, meaning between 2.00 am and 6.00 am; or

(c) satisfies the "period condition", meaning four times or more in a 30-day period; and

(d) provides the opportunity for contact with children.

8.2 Roles which are carried out on an unpaid / voluntary basis will only amount to regulated activity if, in addition to the above, they are carried out on an unsupervised basis.

8.3 It is for the School to decide whether a role amounts to "regulated activity" taking into account all the relevant circumstances. However, nearly all posts at the School amount to regulated activity. Limited exceptions could include an administrative post undertaken on a temporary basis in the School office outside of term time or voluntary posts which are supervised.

9. The DBS disclosure certificate

- 9.1 The DBS issues the DBS disclosure certificate to the subject of the check only, rather than to the School. It is a condition of employment with the School that the **original** disclosure certificate is provided to the School prior to commencing employment. Employment will remain conditional upon the original certificate being provided and it being considered satisfactory by the School.

10. Starting work pending receipt of the DBS disclosure

- 10.1 If there is a delay in receiving a DBS disclosure the Head of School, the Executive Head or the Chief Operating Officer has discretion to allow an individual to begin work pending receipt of the disclosure certificate. This will only be allowed if all other checks, including a clear check of the Children's Barred List (where the position amounts to regulated activity), have been completed and once appropriate supervision has been put in place. A risk assessment should be completed to document this decision and this should be reviewed fortnightly.

11. Recruitment of ex-offenders

- 11.1 The School will not unfairly discriminate against any applicant for employment on the basis of conviction or other details disclosed. The School makes appointment decisions on the basis of merit and ability. If an applicant has a criminal record this will not automatically bar them from employment with the School. Each case will be decided on its merits in accordance with the objective assessment criteria set out in paragraph 11.5 below.
- 11.2 All positions within the School are exempt from the provisions of the Rehabilitation of Offenders Act 1974. All applicants must therefore declare all previous convictions and cautions, including those which would normally be considered "spent" except those received for an offence committed in the United Kingdom if it has been filtered in accordance with the DBS filtering rules (see section 7.4 above).
- 11.3 A failure to disclose a previous conviction (which should be declared) may lead to an application being rejected or, if the failure to disclose is discovered after employment has started, may lead to summary dismissal on the grounds of gross misconduct. A failure to disclose a previous conviction may also amount to a criminal offence.
- 11.4 It is unlawful for the School to employ anyone who is barred from working with children. It is a criminal offence for any person who is barred from working with children to apply for a position at the School. The School will make a report to the police and / or the DBS if:
- it receives an application from a barred person
 - it is provided with false information in, or in support of an applicant's application; or
 - it has serious concerns about an applicant's suitability to work with children.

11.5 **Assessment criteria**

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, the School will consider the following factors before reaching a recruitment decision:

- whether the conviction or other matter revealed is relevant to the position in question
- the seriousness of any offence or other matter revealed
- the length of time since the offence or other matter occurred
- whether the applicant has a pattern of offending behaviour or other relevant matters
- whether the applicant's circumstances have changed since the offending behaviour or other relevant matters; and
- the circumstances surrounding the offence and the explanation(s) offered by the applicant.

If the post involves regular contact with children, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of any the following offences:

- murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence; or
- serious class A drug related offences, robbery, burglary, theft, deception or fraud.

If the post involves access to money or budget responsibility, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of robbery, burglary, theft, deception or fraud.

If the post involves some driving responsibilities, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted of drink driving within the last ten years.

11.6 **Assessment procedure**

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, the School will carry out a risk assessment by reference to the criteria set out above. The assessment form must be signed by a member of the Executive Team before a position is offered or confirmed.

If an applicant wishes to dispute any information contained in a disclosure, they may do so by contacting the DBS. In cases where the applicant would otherwise be offered a position were it not for the disputed information, the School may, where practicable and at its discretion, defer a final decision about the appointment until the applicant has had a reasonable opportunity to challenge the disclosure information.

11.7 Retention and security of disclosure information

The School's policy is to observe the guidance issued or supported by the DBS on the use of disclosure information.

12. Ongoing duty to disclose

12.1 All current employees must advise the School immediately if there is any change that may impact on their suitability to work with children. This includes being:

- barred from working with children
- under investigation, charged or convicted of a criminal offence
- in receipt of a police caution, reprimand or warning, or if there is a formal child protection investigation of you or any member of your household under Section 47 of the Children Act 1989 as amended.

12.2 All current volunteers must inform the School of any changes that may impact on their ability to volunteer in a School environment.

12.3 If there is any change in relation to the above, the School will seek to obtain a new DBS check in order to verify suitability to work or volunteer with children. In these circumstances, the individual will meet the cost of the full recheck.

12.4 Failure to inform the School of a change in circumstances with reference to any of the above may lead to investigation and potential disciplinary action, or for volunteers may lead to removal from voluntary duties at the School.

12.5 Any information disclosed is handled in accordance with the Code of Practice published by the DBS.

13. DBS rechecks and update service

13.1 The School may undertake DBS rechecks on current staff and volunteers in regulated activity where it considers that putting them onto the DBS Update Service would be helpful given the role they undertake. The member of staff is responsible for renewing their annual membership of the DBS Update Service.

13.2 All new staff will be expected to join the DBS Update Service as part of their recruitment process.

14. DBS payment

14.1 The cost of the initial DBS check for all new starters will be met by the School. There is no cost in order to undertake a DBS check for those defined by the DBS guidelines as volunteers.

- 14.2 The DBS update service requires an annual direct debit fee of £13 (it is free for those defined by the DBS guidelines as volunteers). This must be paid for by the employee and reclaimed from the School.
- 14.3 All staff must ensure that they keep their payment card details updated for the DBS renewal; a failure to renew in time means that the individual is automatically removed from the DBS update service and must apply again for a full recheck. In these circumstances, the individual will meet the cost of the full DBS recheck.

15. Time abroad

- 15.1 Any applicants who have spent a period of 3 months or longer abroad within the previous 10 years must obtain a police check from the relevant country (or countries) of residence, known as a certificate of good conduct or an overseas check. It is the responsibility of the applicant to provide any necessary overseas police check(s) to the School and to meet the costs of doing so.
- 15.2 The School recognises that formal checks are not available from some countries, that they can be significantly delayed or that a response may not be provided. In such circumstances the School will seek to obtain further information from the country in question, such as a reference from any employment undertaken in that country.
- 15.3 The School may allow an applicant to commence work pending receipt of a formal check from a particular country if it has received a reference and/or letter of professional standing from that country and considers the applicant suitable to start work. Decisions on suitability will be based on all of the information that has been obtained during the recruitment process. Unless expressly waived by the School, continued employment will remain conditional upon the School being provided with the outcome of the formal check and it being considered satisfactory.
- 15.4 If no information is available from a particular country the School may allow an applicant to commence work if they are considered suitable based on all of the information that has been obtained during the recruitment process. The School will take proportionate risk-based decisions on a person's suitability in these circumstances. All suitability assessments must be documented and retained on file
- 15.5 If the formal check is delayed and the School is not satisfied about the applicant's suitability in the absence of that information, the applicant's proposed start date may be delayed until the formal check is received.

16. Usage

- 16.1 DBS disclosure information will only be used for the specific purpose for which it was requested and for which the applicant's full consent will have been obtained.

17. Retention

- 17.1 Once a recruitment (or other relevant) decision is made, copies of any DBS certificates will be kept for a period of up to six months, to allow for the consideration and resolution of any disputes. If,

in exceptional circumstances, it is considered necessary to keep certificate information for longer than six months we may consult the DBS and seek legal advice. We will give full consideration to the Data Protection and Human Rights of the individual before doing so, including our own retention periods.

18. Disposal

18.1 Once the retention period has elapsed, any DBS certificate information will be destroyed by secure means. A record of the date of the certificate, the date it was seen and by whom will be saved on the Single Central Register.

19. Portability

19.1 If the applicant has worked in another school or further education college in England in the three months prior to their appointment at the School, and has an enhanced DBS certificate which is registered on the DBS update service, the School may not be required to undertake a fresh DBS. In these circumstances, the original DBS certificate must be seen prior to commencing work and the DBS update service must be checked.

20. Referrals to the DBS and Teaching Regulation Agency

20.1 This policy is primarily concerned with the promotion and practice of safer recruitment. However, applicants should also be aware that the School has legal responsibilities to fulfil when employment comes to an end. In particular, the School has a legal duty to make a referral to the DBS where:

- an individual has applied for a position at the School despite being barred from working with children; and / or
- an individual has been removed by the School from working in regulated activity (whether paid or unpaid), or has resigned prior to being removed, because they have harmed, or pose a risk of harm to, a child.

20.2 The DBS will consider whether to impose sanctions on that individual which may restrict or prevent them from working with children in future.

20.3 In addition, if a teacher is dismissed because they are found to have committed serious misconduct, or they have breached the Teachers' Standards, or they resign prior to dismissal on such grounds, the School will make a referral to the Teaching Regulation Agency.

20.4 The Teaching Regulation Agency will consider whether to impose a prohibition from teaching order.

21. ASSOCIATED POLICIES

21.1 Employees should read this policy alongside the following School policy documents:

- Safer Recruitment Policy
- Safeguarding Children and Child Protection Policy.

This policy and procedure is non-contractual and will be reviewed annually.