



Holy Trinity CE Primary School and Nursery

Criminal Records Checking Policy and Procedure

**Incorporating DfE Requirements for School Record
Keeping of Recruitment and Vetting Checks**

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1. SCOPE

1.1 This policy and procedure document applies to all employees of Holy Trinity CE Primary School and Community Nursery as well as volunteers and school governors.

1.2 The principles of the policy will also be applied to agency staff, self employed individuals engaged by the school/academy, individuals employed by any contractors/sub-contractors (where the contract agreement specifies the requirement for a criminal record check) and appropriate staff in organisations that are providing long term work placements for children and young people. In such cases organisations are required to either adopt this policy or produce their own policy complying with the general principles of this policy.

1.3 The policy has been drawn up by the County Council following consultation with the recognised trade unions and teachers' professional associations and is recommended to all school Governing Bodies for adoption (in the case of school federations and academies, it is recommended to the federation's Governing Body/Academy's Governing Body.).

2. POLICY STATEMENT

2.1 The Governing Body is committed to fulfilling its duty to protect children and young people by ensuring the highest integrity of those appointed to positions in the school/academy as well as ensuring that appropriate checks are made in respect of agency staff, self employed individuals, employees of contractors/sub-contractors, volunteers and those who come into contact with children and young people within the school/academy or on long term work placements.

2.2 The Governing Body is also committed to the elimination of discrimination and to equal treatment in employment. This applies to prospective employment and all stages of employment and includes providing equal opportunities to both potential and existing employees, including ex-offenders, subject to the over-riding duty to protect children and young people. The policy and procedure has been developed to comply with legislation relevant to criminal record checking.

2.3 The Governing Body recognises that criminal record checking forms part of installing a safer recruitment/ongoing safer culture and is committed to ensuring that the other appropriate policies/procedures (listed below) are in place to complement this policy.

- [Recruitment and Selection Policy](#)
- [Code of Conduct](#)
- [Dealing with allegations against staff](#)
- [Whistleblowing Policy](#)
- [Policy on the Employment of Ex-Offenders](#)

3. DISCLOSURE AND BARRING SERVICE

3.1 Functions of the DBS

The Disclosure and Barring Service (DBS) acts as a 'one-stop-shop' for organisations, checking police records and the Barred List (formally known as List 99). Dorset County Council is a Registered Body with the DBS and processes checks for schools and academies.

3.2 DBS countersignatories at Dorset County Council

Countersignatories for the DBS at Dorset County Council are responsible to a lead signatory for ensuring the proper application of the DBS procedures through a Code of Practice. This includes the requirement for establishing standards and policies concerning applicants for employment, the recruitment of ex-offenders, and relations with persons and agencies for whom a Registered Body may access disclosure checks on an umbrella basis. There are countersignatories in the schools Support Services team who are responsible for the disclosure application process for schools and academies.

3.3 DBS checks administration

The school/academy is responsible for ensuring that the appropriate DBS checks are undertaken in a timely way in accordance with this policy and for recording the outcome of the check on the Single Central Record. The school/academy will undertake the necessary identity checks and check the relevant documents and submit the identity checking form and DBS application form to Dorset County Council in a timely way.

3.4 DBS checks

DBS checks are available in cases where an employer is entitled to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974. This includes any organisation whose staff or volunteers work with children. In the schools and academies context where checks are undertaken checks will either be Enhanced Checks or Enhanced Checks with a barred list check.

3.4.2 Enhanced check with a Barred List check

This check is available to anyone employed in regulated activity i.e. regularly caring for, training, supervising or being in sole charge of children. It is important to request the check to be made for working with children as this may make a difference to the information that is disclosed. Such a check will show the criminal record of an individual including those convictions that are 'spent', any additional information from the Police and a check against the Children's Barred List.

3.4.1 Enhanced check

Whereas all employees in schools/academies are entitled to an enhanced check with a check of the Barred List, volunteers including Governors may not be as it will depend on their frequency of access to children and whether or not they are supervised. Where volunteers do not meet the requirements that would entitle them to an enhanced Check with a check of the Barred List either because they do not have contact weekly, 4 times in a 30 day period or overnight, or where they do not undertake personal care or where they are supervised then they would only be entitled to an enhanced check without a check of the barred list

3.4.3 Disclosure Certificates

As of 17 June 2013, copies of the Disclosure certificate will only be sent to the applicant and no longer to Registered Bodies. It is the responsibility of the School/Academy to ensure that they have seen a copy of the applicant's disclosure certificate and recorded the disclosure certificate number on the Single Central Record.

4. DISCLOSURE PORTABILITY

Previously, the DBS has not allowed organisations to share disclosures with each other except in relation to Supply Staffing Agencies and on this basis; DBS disclosures were not portable from one LA to another. Within the Dorset LA, disclosures were portable at the discretion of the Headteacher provided that there was no more than a three month gap in employment and there had not been a change in the level of contact with children and/or personal details. The introduction of the DBS Update Service on 17 June 2013 changes the portability of DBS disclosures.

4.1 Individuals subscribed to the Update Service

The Update Service allows individuals to keep the information on their DBS disclosure certificate up to date for an annual subscription of £13. Individuals can only join the Update Service where they have had a DBS check in the previous 14 days. Where an individual has subscribed to the Update Service, an employer will be able to carry out a status check, free of charge, on the individual's DBS certificate which will say whether there have been any changes since the last full criminal record check but not what they are. Where there are changes noted, the employer will be advised to obtain another DBS check. Disclosure certificates can therefore be portable **ONLY** in the following circumstances and at the discretion of the Headteacher:

- The applicant has subscribed to the Update Service
- You have the applicant's consent to carry out a Status Check
- The certificate is the same type and level that you need and are legally entitled to e.g. Enhanced with Children's' Barred List check.
- The DBS Certificate is for Child Workforce only

If the applicant has not subscribed to the Update Service, their current certificate is of a different type or level to the one that you are legally entitled to or is for anything other than Child Workforce, the certificate will **NOT** be treated as portable and you will need to obtain a new DBS disclosure check.

4.2 Portability within the Dorset LA

Where Dorset County Council has carried out a check on an employee who moves schools within the LA boundary and where there is not more than a three month gap in continuous employment, a new check is not required unless there is a change in the level of contact with children. Where, however, there is a change in the level of contact with children and/or a change in personal details, a new enhanced disclosure with a check of the barred list will be required. This portability is at the discretion of the Headteacher

4.3 Moving jobs within the school/academy

Where an employee already employed within the school/academy is being considered for another position within the school/academy, a new check is not required unless there is a change in the level of contact with children and/or a change in personal details.

5. POSTS SUBJECT TO CRIMINAL RECORD CHECKS

The Protection of Freedoms Act of May 2012 set out a number of changes that affect employers and the checks they are able to carry out on potential employees and volunteers. Two of the main changes that impact on schools are a change in the definition and scope of Regulated Activities (RA) which will impact on governors and volunteers and the fact that it is no longer possible to carry out a DBS check on a young person aged less than 16 years at the time of application.

5.1 School/Academy staff

The School Staffing (England) (Amendment) Regulations 2006 make it mandatory for a DBS enhanced with a barred list check to be obtained for all newly appointed school/academy staff. This includes workers who do not work directly with children such as caretakers, administrative and other ancillary staff. The definition of newly appointed is anyone who has not worked in a school/academy in England for 3 months or more. There is no requirement for existing staff who were recruited prior to the establishment of the DBS (previously the Criminal Records Bureau) in March 2002 and who have continuity of service (i.e. no break longer than 3 months) to be DBS checked. The only requirement for

these staff is to have been checked against the Children's Barred List (List 99) which was done as part of the Police check at the time.

It is a requirement that any employee working in a boarding house within a school/academy must have an enhanced DBS with barred list check before being permitted to start work.

5.2 Designated Senior Person for Child Protection

Any individual, including an existing member of staff, taking up this post will be subject to an enhanced criminal record check. The only exception to this is in the case of existing employees within the school/academy who have been subject to a criminal record check in the previous 3 months.

5.3 Governors

Since 10 September 2012, Governors are no longer automatically subject to an enhanced DBS check, eligibility for an enhanced check with a check of the barred list depends on the level of contact with children. However, where the eligibility criteria is not met, at the discretion of the Headteacher, xxx School/Academy will undertake an enhanced DBS check without a check of the barred list. All governors will be required to complete a criminal records declaration form (**see Appendix B**).

5.4 Volunteers

It is recognised that many parents and other volunteers help regularly in the classroom and with activities associated with the school/academy. Some will require a DBS Disclosure because of the frequency of their volunteering activity and the contact they have with children, others will not.

5.4.1 Determining whether volunteer DBS checking is required

The DfE does not expect schools/academies to check existing volunteers continuing with their old duties, unless they have cause for concern. For new volunteers, where the volunteering is frequent, intensive or overnight and involves contact with children, personal care or those changing duties to ones that will bring them into increased contact with children, Headteachers should obtain an enhanced DBS check. Statutory guidance states that frequent means once a week or more; intensive means four or more times in a thirty day period and overnight is from 2am to 6am.

Headteachers should refer to the DfE statutory guidance on supervision of activity and the DfE factual note on regulated activity in relation to children when coming to a decision about whether a DBS check is necessary.

5.4.2 School Exchange Host Families

UK host families providing accommodation for foreign students in organised school exchange visits must have an enhanced DBS check. This is in line with guidance to schools in respect of volunteers involved in activities requiring an overnight stay in the DfE document *Safeguarding Children and Safer Recruitment in Education*. It is also recommended that schools give host families basic awareness of child protection issues and the contact details of the Designated Senior Person for Child Protection in the school. Where the visit is less than 28 days the DBS check will include all adults living at the address of the lead family member. If the visit is longer it will be treated in the same way as a private fostering arrangement and advice from HR Employee Relations should be sought.

5.4.3 Starting work pending a DBS check or where no check is required

It is XXX School/Academy policy not to start any new employee or volunteer prior to having seen a valid DBS disclosure certificate and recorded the disclosure certificate number on the SCR. (delete as necessary) In those circumstances where no check is required or where it is necessary to start someone pending a DBS check the following steps should be taken:

- A satisfactory check of the Children's Barred List and completion of other pre-employment checks
- The Criminal Records Self Declaration form (HR14) should be completed
- A full risk assessment should be carried out
- An offer of employment has been made subject to seeing a satisfactory DBS certificate.

Before allowing an employee or volunteer to commence their duties prior to the DBS check being received, the Headteacher should complete a risk assessment. Anyone who has not obtained a DBS check should not be left unsupervised with children.

5.5 Extended services & partnership staff

5.5.1 Staff employed and managed by the school/academy

Staff employed and supervised or managed by the school/academy to undertake any extended services must be subject to the school's/academy's arrangements for staff appointments, recruitment, vetting checks and record keeping for all staff. All such appointments will be subject to an enhanced disclosure with barred list check.

5.5.2 Staff employed by a third party

Where extended services are provided by a third party, there should be clear lines of accountability and responsibility for carrying out recruitment and vetting checks for staff and volunteers. All staff are subject to enhanced disclosures. Schools/Academies obtaining their childcare through private or voluntary sectors should use Ofsted approved providers (Ofsted will apply to the DBS for Enhanced Disclosures for such staff).

5.6 Agency supply staff

5.6.1 Agency checks

Staff supplied to the school/academy via an agency will be subject to checks by the agency itself. In all cases the school/academy will obtain written confirmation from the agency that appropriate checks have been completed using the form at **Appendix C**. The school/academy is not required to see evidence that the checks have been completed although it must have sight of a DBS check where relevant information is recorded. If the school/academy wishes the individual to commence work where information has been added to the disclosure, the *school/academy* must undertake a new check for the individual (ensuring that the person does not start work until it is received).

5.6.2 Identity checking agency staff

Identity checks must be carried out by the school/academy to confirm that the individual arriving at the school/academy is the individual that the agency intends to refer to them.

5.6.3 Portability of disclosures for agency staff

A Disclosure may be passed from agency to agency, between LAs and agencies, and between schools/academies and agencies if the subject gives written consent. Regulations under the Police Act also authorise passing Disclosure information from agencies to schools where the subject's suitability for work at the school/academy is under consideration. If, exceptionally, the DBS check refers to the existence of information in addition to that on the face of the check, a supply agency cannot pass this information on to a school/academy. In this instance, the school/academy should obtain a new check prior to any work commencing.

5.7 School/Academy employed supply staff

The school/academy should carry out the same checks as for all other employed staff and details should be kept on the single central record (SCR).

5.8 Contractors and sub-contractors

Contracted staff who come into regular contact with children such as cleaning, caretaking and kitchen staff must be checked by the contractor in the same way as school/academy employees, including having an enhanced DBS with barred list check and such requirements form part of the contract. The outcome of such checks must be notified to the school/academy and include on the single central record. The contractor is also responsible for ensuring that the same procedures are followed by any sub-contractors. The contractor must provide the school with a list of its direct employees and those of any sub-contractors at least 20 days before they start work on site. The Recruitment and Vetting Check form at **Appendix C** should be used for recording purposes.

FAQs on contract staff can be found at **Appendix D**

5.8.1 Building contractors

Children should not be allowed in areas where builders are working, for health and safety reasons, so these workers should have no contact with children. However schools/academies should ensure that arrangements are in place with contractors, via the contract where possible, to make sure that any of the contractors' staff that come into contact with children undergo appropriate checks including an enhanced disclosure. The LA recommends that the contractor should provide the school/academy with written confirmation to this effect although the school is not required to see evidence of such checks). The Recruitment & Vetting Check form at **Appendix C** should be used for recording purposes.

5.9 Work experience organisers & placement providers

5.9.1 Students undertaking work experience placements

There are occasions where children and young people may be placed in settings outside the school setting – for instance as part of work experience at Key Stage 4 or under the Increasing Flexibility agenda.

'**Safeguarding Children and Safer Recruitment in Education**' (available on Schoolsnet) should be used by the school/academy in determining what measures should be in place for work experience placements. The following sections in particular will be of particular relevance:

Pages 68 – 78, Annex A: Safeguarding Children – Additional Advice and Guidance
Pages 112 – 120, Appendix 14 – Extended Work Experience and Child Protection

These two sections discuss short and long term placements and extended work experience.

5.9.2 Deciding if DBS checking is required

In deciding whether a DBS check is needed, the duty of care remains with the school/academy, but in some instances it may be useful to discuss particular short-term and long-term placements with your HR Support Services contact.

Full details of whether the placement of a child does or does not need to be DBS checked are set out in the guidance. In most cases, safeguards will be necessary for placements in the same workplace when one or more of the following conditions apply. The placement is:

- for **more** than one day per week, every week, over one term;

- for longer than one term in any academic year;
- children who may be vulnerable, e.g. those who have special needs;
- one where the workplace supervisor or a colleague will have substantial unsupervised access to the child because of the nature of the business (for instance, self employed or out on the road);
- residential or has a residential component.

In all cases, however, the rationale behind any decision not to have a DBS check should be recorded. Because work experience placement providers are regarded as volunteers, there are no direct costs for obtaining checks via the DBS to the business or school/academy.

5.9.3 Work experience students placed in schools/academies

Work Experience students placed in schools/academies are not required to obtain clearance from the DBS because it is not expected that they will at any time be left unsupervised whilst working with children. Additionally, since the introduction of The Protection of Freedoms Act in September 2012, it is not possible to obtain an enhanced check or barred list check for anyone under the age of 16.

5.9.4 Teaching trainees or graduates placed in schools/academies

Student (placements) or Teaching Graduate Trainees placed in schools/academies should have an Enhanced DBS with barred list check and such a check will not be free of charge because the student is not defined by the DBS as a volunteer. Enhanced DBS with barred list checks are undertaken by the initial teacher training provider so that disclosures are received prior to the trainee commencing school/academy based training. The school/academy will ensure that this is in place prior to the trainee commencing at the school/academy.

5.10 Self employed individuals undertaking work in schools/academies

5.10.1 Checks required for the self-employed

The DBS recommends that self-employed persons should be subject to an enhanced disclosure (carried out by the LA on behalf of the school/academy but paid for by the individual) prior to commencing a role in circumstances where there is likely to be unsupervised access to children (in a school/academy setting this may include music tutors for example). The normal vetting checks such as identity checking should also be conducted.

Schools/Academies can obtain DBS checks for self-employed people who will be working on school premises as long as the disclosure is intended to be used to consider their suitability for undertaking a particular role. Self-employed individuals are not able to obtain their own personal checks via the DBS.

5.10.2 Currency of DBS checks for the self-employed

If the individual has registered with the DBS Update Service then it is possible to check their DBS certificate providing the guidance in section 4.1 is followed. If the individual has not registered with the Update Service then there is no definitive guidance in terms of the portability of DBS checks for self-employed individuals between schools/academies and LAs. Headteachers should consider where re-checking may be appropriate on a case by case basis – consideration should be given to the duration of the anticipated work and the level of contact with pupils.

5.11 Staff from overseas

5.11.1 Overseas staff to be checked

Newly appointed staff and staff recruited since 2002 who have lived outside the United Kingdom must undergo the same checks as for all other staff in schools/academies. This includes an Enhanced DBS with a barred list check.

5.11.2 Additional checks to conduct

Schools/Academies should ensure that they have confirmation of each individual's right to work in the UK and this information should be included on the Single Central Record. This should include passport information for EEA nationals and the date a work permit was received for those who require them. In addition, schools/academies must make such further checks as they consider appropriate due to the person having lived outside the United Kingdom. *These further checks must be completed prior to an individual starting work.*

DBS checks will not generally show offences committed by individuals whilst living abroad (except in the case of service personnel and their families). Therefore, in addition to an enhanced DBS with barred list check, additional checks such as obtaining certificates of good conduct from relevant embassies or police forces are necessary. The level of information contained in these certificates varies from country to country: some are complete extracts from the criminal record; others are partial. Extra care should, therefore, be taken in ensuring that references are taken up and that other background checks are conducted.

5.11.3 Further guidance on overseas appointments

Further guidance on the appointment of overseas staff is available at **Appendices J & K**. Further information about the criminal record information which may be obtained from overseas police forces and countries, is available from the DBS at www.homeoffice.gov.uk/agencies-public-bodies/dbs.

5.12 People who are not required to obtain a DBS check

It is not necessary to obtain a DBS check for:-

- staff appointed before 2002 who have continuity of service and who have not previously been DBS checked unless moving roles into posts with closer contact with children or where there are concerns about suitability to work with children. The exception to this is workers from overseas.
- public sector staff such as psychologists, nurses, dentists and centrally employed teachers (because they will have been checked by their own organisations). However, the school should check the identity of such staff on arrival to ensure impostors do not gain access to children;
- visitors who have business with the Headteacher, principal or other staff who have brief contact with children with a member of staff present;
- visitors or contractors who come on site only to carry out emergency repairs or service equipment and who would not be expected to be left unsupervised on school premises;
- volunteers or parents who only accompany staff and children on one off outings or trips that do not involve overnight stays, or who only help at specific one off events e.g. a sports day, school fête;
- secondary pupils on Key Stage 4 work experience in other schools/academies, or nursery classes;
- secondary pupils undertaking work in another school/academy as part of voluntary service, citizenship or vocational studies;
- Key Stage 5 or sixth form pupils in connection with a short careers or subject placement. In these cases the school/academy placing the pupil should ensure that s/he is suitable for the placement in question;
- people who are on site before or after school/academy hours and when children are not present, e.g. local groups who hire premises for community or leisure activities, contract cleaners who only come in after children have gone home, or before they arrive.

6. RECRUITMENT

Criminal record checking is a key element in the safer recruitment process but is only one aspect of ensuring that an applicant is the right person for the job role which involves being in a position of trust. Further information is provided in the **Recruitment and Selection Toolkit**.

6.1 Elements of the recruitment and selection process

It starts with the process of planning the recruitment exercise and, where the post is advertised, ensuring that the advertisement makes clear the school's/academy's commitment to safeguarding and promoting the welfare of children. It also requires a consistent and thorough process of obtaining, collating, analysing, and evaluating information from and about applicants. From 1 January 2010 it has been a requirement for at least one member of any interviewing panel to have been trained in Safer Recruitment and certificates will need to be available for inspection. Training can be undertaken within the LA or by accessing on-line training with the Department for Education. Refresher training is strongly recommended every 5 years.

The main elements of the process include:

- ensuring the job description makes reference to the responsibility for safeguarding and promoting the welfare of children (**See R&S Toolkit App 5, 6 & 6a**);
- ensuring that the person specification includes specific reference to suitability to work with children (**See R&S Toolkit App 5, 6 & 6a**);
- obtaining and scrutinising comprehensive information from applicants, taking up and satisfactorily resolving any discrepancies or anomalies (**See R&S Toolkit App 7, 8 a & b, 9 & 18**);
- obtaining independent professional and character references that answer specific questions to help assess an applicant's suitability to work with children and following up any concerns (**See R&S Toolkit App 12 & 12a**);
- a face-to-face interview that explores the candidate's suitability to work with children as well as his or her suitability for the post (**See R&S Toolkit App 13, 14, 15 & 17**);
- verifying the successful applicant's identity (**See App I & J & R&S Toolkit App 16 & 18**);
- verifying that the successful applicant has any academic or vocational qualifications claimed (**See App L and R&S Toolkit App 18**);
- checking his or her previous employment history and experience (and any gaps);
- verifying that s/he has the health and physical capacity for the job (**See R&S Toolkit App 19 & 18**);
- verifying that s/he is able to work in the UK (**See App I & J**);
- the mandatory checking of information held under Section 142 of the Education Act 2002 (previously known as List 99) and an Enhanced Disclosure via the DBS (**See R&S Toolkit App 18**).

6.2 Key principles of recruitment in Holy Trinity CE Primary School and Community Nursery

Applicants will be made aware, at the earliest opportunity, that they will be required to disclose all criminal convictions including those that are spent. This will either be included as part of the advertisement and/or within the candidate recruitment pack. Legislation introducing a new filtering mechanism came into effect from 29 May 2013. The DBS will now filter out certain specified old and minor offences from criminal record certificates. The filtering rules set out in legislation are as follows:

For those over 18 at the time of the offence, an adult conviction will be removed from the DBS certificate if

- 11 years have elapsed since the date of conviction **and**
- It is the person's only offence **and**
- It did not result in a custodial sentence.

Even then, it will only be removed if it does not appear on the list of offences relevant to safeguarding. If a person has more than one offence, then details of all their convictions will be included.

An adult caution will be removed after 6 years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.

For those under 18 at the time of the offence:

- The same rules apply as for adult convictions, except that the elapsed time period is 5.5 years
- The same rules apply as for adult cautions, except that the elapsed time period is 2 years.

There are a number of offences that will never be filtered and removed from the DBS certificate. This list and further information on the filtering of convictions and cautions can be found at www.gov.uk/dbs

Details of convictions will be requested on the appropriate application form (there are separate forms for support posts and teaching posts – **Refer to Appendix 8a and 8b of the Recruitment and Selection Toolkit**)

Applicants will also be requested to complete a Criminal Records Declaration (see **Appendix B**).

As part of the interview process, the employee identity check form will be completed to note which documents have been provided (see **App I**).

7. COMMENCING EMPLOYMENT PENDING A DISCLOSURE

It is XXX School/Academy policy not to start any new employee or volunteer prior to having seen a valid DBS disclosure certificate and recorded the disclosure certificate number on the SCR. However, XXX School/Academy are able to allow an employee to start employment pending a DBS check as long as other recruitment and vetting checks have been carried out. The Headteacher should weigh up the risks on a case by case basis and as a minimum ensures that:-

- The individual has completed a Criminal Record Declaration Form (See **App B**);
- A risk assessment is carried out where required (a copy of the risk assessment form is available at **App F**);
- the individual is appropriately supervised;
- all other checks, including checking Information that is held under Section 142 of the Education Act 2002 (the Children's Barred List) have been completed;
- the disclosure application is submitted before the individual commences work.

7.1 When an employee does not produce a disclosure certificate

Registered Bodies are only entitled to ask the DBS for a copy of the applicant's DBS certificate if all of the following conditions apply:

- The individual is subscribed to the Update Service; **and**
- The employer has carried out a Status check which revealed a change to the DBS Certificate; **and as a result**
- The individual has applied for a new DBS check as the result of a change to an existing DBS Certificate; **and**
- The DBS issued the new DBS Certificate to the applicant more than 28 days ago; **and**
- The applicant has not shown the employer their new DBS Certificate.

If none of these conditions apply and it is not possible for the School/Academy to obtain a copy of the applicant's DBS Certificate and the applicant has already started work, a disciplinary investigation will take place as set out in the school's/academy's disciplinary procedure. Findings will be presented to a disciplinary panel convened for this purpose where consideration will be given to the appropriate action to be taken. This could include a decision to terminate employment.

8. DISCLOSURE OF CONVICTIONS ARISING DURING EMPLOYMENT

Employees are required to declare any cautions, convictions or reprimands (including judgements or investigations pending) that they receive during the course of their employment. The relevance of such disclosures will be considered as detailed in paragraph 9 below.

9. CONSIDERING THE RELEVANCE OF CONVICTIONS

9.1 Ensuring equal treatment

The school/academy is committed to ensuring that applicants and existing employees who have been checked/rechecked, and where there is a criminal record are treated fairly.

9.2 Convictions where working in a school/academy is banned

Receipt of a positive disclosure will not automatically make an applicant or existing employee unsuitable for a position unless stipulated by statute/guidance. Under the Protection of Children Act 1999 and the Criminal Justice and Court Services Act 2000 certain persons are banned for life from working with children. These are those registered on Information held under Section 142 of the Education Act 2002 [previously known as List 99], those registered on the DH list, those listed on the register maintained by the National Assembly of Wales, and those aged 18 years or older convicted of a schedule 4 offence.

It is an offence for a disqualified person to apply for, offer to do, accept or do any work in any of the regulated positions (including those in school settings) set out in the Act. It is also an offence for an employer to knowingly offer work in a regulated position, or to procure work in a regulated position for an individual who is disqualified from working with children, or to fail to remove such an individual from such work.

9.3 Assessing positive disclosures where no statutory ban is in place

In assessing the suitability of a person with a criminal record for employment or voluntary work the Headteacher will liaise with a member of the HR Employee Relations Team in considering both the nature of the job and the details and circumstances of any convictions.

Generally, only convictions relevant to the position will be taken into account. The over-riding consideration, however, will be the duty to safeguard children and young people.

9.4 Considering the circumstances against the risks identified

Aside from those who are banned from working with children, the relationship between the offence and the appointment will be clear enough for the Headteacher to decide on the suitability of the applicant for the job, albeit that no two offences are exactly alike.

Assessing the risk of employing a person with a criminal record means comparing the applicant's skills, experience and conviction circumstances against risk criteria identified for the job. Whilst it will not be possible to carry out a thorough risk assessment on each individual, the Headteacher will consult with their ER Officer and take the following matters into account when considering clearance:

- the seriousness of the offence;
- the length of time since the offence occurred, and the age at which it occurred (e.g. juvenile);

- any relevant information offered by the individual about the circumstances which led to the offence being committed;
- whether the offence was one-off or part of a history of offending;
- whether the individual's circumstances have changed since the offence was committed;
- the country in which the offence was committed (e.g. some activities are offences in Scotland but not England and Wales and vice versa);
- whether the offence has since been decriminalised by Parliament;
- the explanation, degree of remorse, rehabilitation or otherwise, expressed by the individual and the motivation to change.

Where it is deemed to be necessary, a full risk assessment may be carried out.

9.5 Handling positive disclosures of existing staff

Should the receipt of information on a disclosure result in an existing employee being considered as potentially unsuitable for their position, a disciplinary investigation will take place. Findings will be presented to a disciplinary panel convened for this purpose where consideration will be given to the appropriate action to be taken. This could include a decision to terminate employment.

9.6 Recording of the decision to employ based on a disclosure

In all circumstances where an applicant or existing employee has either disclosed a criminal record or where there is relevant information on the DBS check, the ER Officer and Headteacher will complete a decision form which will be held on the individual's personal file. A blank version of this form can be found at **App E**.

9.7 Right of appeal against a decision to decline employment on the grounds of a criminal record

Where the decision is taken to deny the applicant an offer of employment, the individual will have the right of appeal through the Director for Children's Services. The appeal decision will be final and as such there is no further right of appeal within Dorset County Council.

10. RETENTION OF INFORMATION

10.1 Confidentiality of information

Information disclosed as part of a recruitment process, via self-declaration during the course of employment or as part of a DBS checking process will be treated as highly confidential. It is an offence for information in a disclosure to be passed to anyone who does not need it in the course of their duties.

10.2 Compliance with DBS standards

Disclosure information will be managed in accordance with DBS guidance on the security and retention of disclosures and disclosure information (see www.homeoffice.gov.uk/agencies-public-bodies/dbs). The key provisions are:-

- Copies of the DBS disclosure can only be made with the applicant's permission
- A copy of the DBS Certificate can only be retained with the applicant's permission
- disclosures will not be retained for periods longer than necessary (normally a maximum of 6 months from the date of the disclosure);
- disclosures will be destroyed by secure means at the end of any retention period;

10.3 Records to be retained

Before a Disclosure is destroyed, records need to be kept by the School/Academy detailing:-

- the date the Disclosure was obtained;
- who obtained it (i.e. school/academy, local authority, supply agency);
- the unique reference number on the disclosure certificate.

The Headteacher will also keep:-

- a note of what other information was used to assess suitability;
- Any correspondence sent to the individual confirming their clearance

In addition, where a disclosure reveals information about an individual the Record of Positive Check (see **App E**) will be completed and retained on the personal file of that individual. This record will not detail information about actual offences disclosed. These measures accord with the requirements of both the DBS and the School's/Academy's Single Central Record (for further information see paragraph 11 below).

11. SCHOOL/ACADEMY RECORD KEEPING OF RECRUITMENT AND VETTING CHECKS

11.1 Single central record

The DfE requires all schools/academies to be able to demonstrate that they have robust and accurate records of all recruitment and vetting checks carried out. This information must be compiled into a Single Central Record (SCR) of completed checks in each school/academy. The SCR is often the first document an Ofsted Inspector will ask to see and failure to produce an SCR evidencing that all the appropriate checks have been made will have an immediate and serious impact on the outcome of the inspection

11.2 People to be included on the central record

- all staff who are employed to work at the school/academy;
- all staff who are employed as supply staff to the school/academy, whether employed directly by the school/academy or LA or through an agency;
- all others who have been chosen by the school/academy to work in regular contact with children (volunteers and governors who also work as volunteers);
- people brought into the school/academy to provide additional teaching or instruction for pupils but who are not staff members, such as specialist sports coaches, music tutors or artists;
- all others who are brought into the school/academy and have regular contact with the children in the school/academy

11.3 Checks to be included on the central record

The single central record must indicate whether or not the following have been completed:

- identity checks;
- qualification checks for any qualifications legally required for the job e.g. those posts where a person must have QTS or NPQH;
- additionally, for those applying for teaching posts, registration check with the Teaching Agency where appropriate;
- checks of right to work in the United Kingdom;
- checks on information held under the Children's Barred List
- DBS Enhanced Check and number;
- further overseas records checks where appropriate.

The information needs to be recorded on the SCR by the person in the school with the responsibility for doing so. That person should sign and date the record to verify that they have checked the employee's (or volunteer's) details. The record needs to show the date on which check was completed or the relevant certificate obtained and should show who carried out the check

A sample form can be found at **App H**. Further information about recruitment and vetting checks can be found at **App G to L**.

12 FURTHER ADVICE AND INFORMATION

Disclosure and Barring Service (DBS)	www.homeoffice.gov.uk/agencies-public-bodies/dbs
	Criminal Records Bureau checks: guidance for volunteering document
	Applicants Guide to completing the DBS Application Form (advice on filling out forms correctly and also what identity information the school/academy will need to see)
	ID Checking Process (advice on how to check the identity of applicants and to check for indicators of fraud)
	‘Safeguarding Children and Safer Recruitment in Education’ document
Department for Education	http://www.education.gov.uk/
Volunteering England	http://www.volunteering.org.uk/ Information on volunteering
Chartered Institute of Personnel and Development (CIPD)	Employing Ex-Offenders – A practical guide