



CHELMSFORD
LEARNING
PARTNERSHIP

DBS POLICY

A policy created in order to establish a safe environment where students are cared for appropriately and are free from harm. DBS checks allow the school to ascertain an individual's suitability to work with children in an educational environment.

Committee Responsible	Staff Student
Lead Staff Member	CEO
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Changes to 2019 policy

Page	Change
3	Change in date to reflect update Keeping Children Safe in Education guidance-2019

Statement of intent

At The Chelmsford Learning Partnership we are committed to promoting the welfare of our staff, students and visitors. Ensuring the safety of our school communities is of paramount importance and, as a result, this policy has been created in order to establish a safe environment where students are cared for appropriately and are free from harm.

For certain roles, the school may be required to request a Disclosure and Barring Service (DBS) check as part of its recruitment process. This check may also include barred list information held on the DBS barred list, as well as any information held by the police which is relevant to the role applied for.

DBS checks allow the school to ascertain an individual's suitability to work with children in an educational environment. This policy will ensure that all staff, students and parents/carers are aware of the measures taken by the school to promote the welfare of the school community.

1. Legal framework

1.1. This policy has due regard to statutory legislation including, but not limited to, the following:

- The Protection of Freedoms Act 2012
- The Rehabilitation of Offenders Act 1974
- The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2015)
- The Police Act 1997
- The Police Act 1997 (Criminal Records) (Registration) Regulations 2006
- The Data Protection Act 1998
- The Safeguarding Vulnerable Groups Act 2006
- The School Governance (Constitution) (England) Regulations 2012 (as amended in 2016)
- The Education (Independent School Standards) Regulations 2014
- The Equality Act 2010

1.2. This policy also has due regard to statutory guidance, including, but not limited to, the following:

- Home Office (2015) 'Revised Code of Practice for Disclosure and Barring Service Registered Persons'
- DfE (2019) 'Keeping children safe in education'

2. Roles and responsibilities

2.1. The Board of Trustees is responsible for:

- Making decisions in regards to disclosure information concerning existing and prospective employees.
- Ensuring that any disclosure containing convictions for an existing or prospective employee is discussed with our HR providers and, if necessary, Legal Advisors before deciding on their suitability for employment.
- Ensuring that current and prospective employees do not commence or continue their practice without a satisfactory DBS check and an appropriate risk assessment on their suitability to work with children.
- Ensuring that this DBS Policy and the Code of Practice (CoP) is adhered to at all times.

- Ensuring that the identity of any existing or prospective employee is confirmed and verified beyond doubt before commencing or continuing employment.

2.2. The Headteacher/Principal/Head of School/Principal of each school is responsible for:

- Ensuring that they are aware of any posts in the school that are subject to a DBS check.
- Maintaining an up-to-date single central record.
- Ensuring that any job descriptions and person specifications for any posts within the school indicate whether an individual will require a DBS check, as well as what level of check is required.
- Taking reasonable steps to make sure that any individual who is not an employee, but who is covering an existing post or other work within the school, holds the appropriate level of DBS check.
- Ensuring that all members of staff hold current, acceptable DBS checks according to the appropriate level required, and that upcoming renewals are applied for within two months prior to the renewal date.
- Ensuring that new employees are aware of the update service and encouraging them to subscribe to this.
- Informing the LA of any decisions made regarding disclosure information.

3. Regulated activity

3.1. For the purpose of this policy, engaging in “**regulated activity**” involves any individual who:

- Will be responsible for teaching, training, instructing, caring for or supervising children at the school.
- Will carry out paid or unsupervised, unpaid work regularly at the school, and where that work provides an opportunity for contact with children.
- Engages in intimate or personal care or overnight activity, even if this happens only once.

3.2. Regulated activity is described as being “regular” if it is carried out by the same person and is conducted:

- Once a week or more often.
- On four or more days in a 30 day period.
- Overnight (between 2am-6am).

4. DBS procedures for staff

4.1. All those in regulated activity, as defined in [section 3](#) of this policy, are required to obtain an enhanced DBS check with barred list information.

4.2. Staff in leadership roles are required to obtain an additional check to ensure they are not prohibited under section 128 provisions.

- 4.3. Only members of staff who have the opportunity for regular contact with children, but who would not be engaging in regulated activity, are required to obtain an enhanced DBS certificate that **does not** include a barred list check.
- 4.4. In accordance with the School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016, all **governors** at each school are required to obtain an enhanced DBS check as are Members of the Trust and Trustees.
- 4.5. The school will carry out all “relevant checks”, including an enhanced DBS certificate with barred list check, for **existing staff** where:
 - There are concerns about a staff member’s suitability to work with children.
 - A person moves from a post that was not regulated activity into work that is regulated activity.

NB. Other than in the above circumstances, the school will not request a DBS certificate or barred list check for any existing staff.

- 4.6. When employing **agency staff** from a third-party organisation, the school will obtain written notification that the organisation has carried out the relevant checks, including a barred list check prior to their appointment where necessary.
- 4.7. **Contractors** who engage in regulated activity will be required to obtain an enhanced DBS with barred list check.
- 4.8. Any **contractors** who have the opportunity for regular contact with children, but who would not be in regulated activity, will be required to obtain an enhanced DBS check.
- 4.9. The school will check that the individual presenting themselves for work is the same person for whom the checks have been made when employing any member of staff.
- 4.10. All members of staff will be encouraged to subscribe to the DBS update service to ensure that their DBS certificates are up-to-date.
- 4.11. The school will only check the status of any DBS certificates if this is legally required for a new role or a change in roles. The individual’s consent will be gained before the DBS certificate status is checked.

5. **DBS procedures for visitors and volunteers**

- 5.1. The Headteacher/Principal/Head of School/principal will use their professional judgement when deciding whether visitors and volunteers (including parents) will need to be escorted or supervised.
- 5.2. An enhanced DBS check with barred list information will be obtained for volunteers (including parents) who will work in regulated activity with children.

- 5.3. Although DBS checks are not required for supervised volunteers, the school may obtain an enhanced DBS check (not including barred list information) if there is a risk that the volunteer may come into contact with children.
- 5.4. Under no circumstances will a visitor or volunteer in respect of whom no DBS checks have been obtained, be left unsupervised or allowed to work in regulated activity.
- 5.5. The school will undertake a risk assessment for all supervised volunteers to decide whether an enhanced DBS check is required, with consideration for:
 - The nature of the volunteer's work with children.
 - What the school knows about the volunteer.
 - Whether the volunteer has referees who can advise on his or her suitability.
 - Whether the role is eligible for an enhanced DBS check.
- 5.6. If the school has any concerns regarding a volunteer that may pose a risk to students, and as result the volunteer is removed from the school, a referral will be made to the DBS by the Headteacher/Principal/Head of School.
- 5.7. The school will not conduct any DBS checks for any volunteers who are under the age of 16.
- 5.8. When allowing any visitors or volunteers to work at the school, the Headteacher/Principal/Head of School will check that the individual presenting themselves for work is the same person for whom the checks have been made.

6. Disclosures containing criminal information

- 6.1. A DBS check is considered to contain criminal information if it includes details of the following:
 - A police record of convictions, cautions, reprimands and final warnings
 - DBS Barred List
 - Any other relevant criminal information obtained by the police
- 6.2. In the event of a disclosure containing criminal information, the Headteacher/Principal/Head of School will check whether the individual has obtained any previous criminal convictions or cautions by instructing them to complete a disclosure review form, which will be followed by a meeting.
- 6.3. The Headteacher/Principal/Head of School will discuss the disclosed information with the Board of Trustees and the trust's HR and Legal Advisors immediately to agree a course of action regarding any prospective or existing employee.
- 6.4. The individual will be required to attend a meeting with the Headteacher/Principal/Head of School/principal to confirm that the convictions are theirs. If the individual denies that the convictions relate to them, the

Headteacher/Principal/Head of School/principal will contact the DBS to carry out an investigation.

- 6.5. If it is established by the DBS that the convictions do concern the individual, the Headteacher/Principal/Head of School will explore the circumstances surrounding these and their suitability to work with children, in accordance with the Board of Trustees and the trust's HR and Legal Advisors.
- 6.6. For prospective employees, all posts will remain pending whilst meetings and investigations take place.
- 6.7. For current employees, the Headteacher/Principal/Head of School will consider whether adjustments will need to be made whilst meetings and investigations take place, including:
 - Whether the employee can continue their practice.
 - Whether closer supervision is required of the employee.
 - Whether the employee should be temporarily transferred to other duties.
 - Whether the employee should be dealt with in accordance with the Staff Disciplinary Policy and suspended with entitlement to full pay.
- 6.8. The Headteacher/Principal/Head of School will consult the school business manager when deciding what adjustments will need to be made for the employee concerned.
- 6.9. An exception to section 6.7 is if the Headteacher/Principal/Head of School was already aware of the employee's convictions and had previously discussed with the governing body and LA that they were still suitable for their appointment, or, if it is revealed that the convictions do not relate to the individual concerned.

7. Making a decision

- 7.1. The Chief Executive Officer will consider the magnitude of any DBS disclosures.
- 7.2. **Major disclosures** will result in the candidate being automatically unsuitable for the role. These include where the adult is named on the following lists:
 - Children's Barred List
 - Adults' Barred List
- 7.3. **Serious disclosures** which involve criminal activity, but do not pose a risk to students, will be discussed with the Headteacher/Principal/Head of School prior to the candidate being accepted for the role.
- 7.4. The Headteacher/Principal/Head of School will endeavour to ascertain the relevant facts from the individual and decide upon a conclusion. Following this, the candidate will receive a rejection or acceptance letter.

- 7.5. When considering an applicant, the school will not take into account any minor or old convictions which are 'protected' from disclosure, as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2015).
- 7.6. When deciding to accept or reject a candidate, the school will consider the following information:
 - The relevance of the disclosure in relation to the position applied for
 - The nature of the offence or other matters revealed
 - The length of time since the offence or other matters occurred
 - Whether there is a pattern of offending behaviour
 - Whether the candidate's circumstances have changed since the offending behaviour or other matters occurred
 - Any extenuating circumstances surrounding the offence and explanations offered
- 7.7. A risk assessment will be conducted by the Headteacher/Principal/Head of School following a positive disclosure, before deciding on the candidate's suitability.
- 7.8. A record of all recruitment decisions following positive DBS disclosures will be kept by the Headteacher/Principal/Head of School.
- 7.9. Depending on the circumstances of each case, the Chair of the Board of Trustees and the Chief Executive Officer may be asked to countersign the form recording the recruitment decision.

8. Overseas applicants

- 8.1. A candidate from overseas will be checked in the same way as other candidates in line with the procedures outlined in [section 4](#) of this policy.
- 8.2. The DBS cannot obtain police records from overseas; however, a check will be conducted to establish whether the individual has disclosed any criminal convictions during their time in the UK.
- 8.3. As the DBS cannot provide details of police records for overseas applications, the school is aware that the DBS information may not provide a complete picture of a candidate's criminal record.
- 8.4. In relation to the above, the school will conduct additional recruitment checks such as obtaining a certificate of good conduct from relevant embassies or the police.
- 8.5. A check will also be made for any teacher sanctions or restrictions that a European Economic Area (EEA) authority has imposed.
- 8.6. Each school will be extra vigilant when considering an applicant from overseas and will obtain additional references to ensure their suitability for the role.

9. Recruitment of ex-offenders

- 9.1. The Chelmsford Learning Partnership is aware of its responsibility under the Police Act 1997 not to discriminate applicants on the basis of their criminal record.
- 9.2. Each school will only ask an individual to provide details of convictions and cautions that the school is legally entitled to consider when recruiting candidates.
- 9.3. Each school selects all candidates for interview based on their skills, qualifications and experience.
- 9.4. All job application forms, job adverts and recruitment briefs that require a DBS check, will outline that an application for a DBS certificate will be submitted for all candidates once they have been offered the position.
- 9.5. During the recruitment process, each school will ensure that a discussion takes place to evaluate any offences or other matters relevant to the position.
- 9.6. Candidates will be informed that failure to reveal any information which is directly related to the post could result in withdrawal of an offer of employment.
- 9.7. Any DBS certificates that reveal criminal information will be discussed with the individual, and their eligibility for the position will be reviewed in accordance with [section 6](#) and [section 7](#) of this policy.
- 9.8. All applicants will be given a copy of the school's [Recruitment of Ex-offenders Policy](#) prior to the interview.

10. Data handling

- 10.1. The Chelmsford Learning Partnership does not keep copies of individual DBS certificates
- 10.2. In accordance with the Police Act 1997, access to information relating to DBS certificates is strictly controlled and records will only be accessed by the Headteacher/Principal/Head of School, HR staff and Chief Executive Officer.
- 10.3. If in exceptional circumstances, and as part of their duties, another member of staff is required to access information relating to a DBS check, the school will keep a record of the named individual, and the individual whom the DBS certificate concerns will be informed prior to the sharing of the information.
- 10.4. DBS certificate information will only be used for the specific purpose for which it was requested and for which the individual's full consent has been given.
- 10.5. The school will not keep information relating to a DBS check for any longer than is necessary once a recruitment decision has been made – usually, for no longer than six months to allow for the consideration and resolution of any disputes or complaints.

- 10.6. In exceptional circumstances, the school may decide to retain information relating to DBS checks for longer than six months. In such cases, the school will consult the DBS and will have due regard to the data protection and human rights of the individual concerned.
- 10.7. Information relating to DBS checks will be disposed of securely such as by shredding, pulping or burning.
- 10.8. Prior to disposal, all waste will be stored securely.
- 10.9. Although each school will not keep any copy of the certificate, a record will be kept of the following:
 - The date of issue of the certificate
 - The name of the subject
 - The type of certificate requested
 - The position for which it applied to
 - The unique reference number
 - The details of the final recruitment decision

11. Monitoring and review

- 11.1. This policy will be reviewed on an annual basis by the Headteacher/Principal/Head of School and school business manager in conjunction with the governing body.
- 11.2. Any changes made to the policy will be amended by the Headteacher/Principal/Head of School and will be communicated to all members of staff.
- 11.3. All staff are required to familiarise themselves with this policy as part of their induction programme.

Appendix A: Recruitment of Ex-offenders Policy

- The Board of Trustees fully complies with the DBS Code of Practice and will not discriminate unfairly against any subject of a disclosure on the basis of conviction or other information revealed.
- All applicants are subject to a DBS check before the job appointment is confirmed; this includes details of convictions, cautions and reprimands, as well as spent and unspent convictions. A positive disclosure will not necessarily prohibit a candidate from being offered a position.
- The trust will not take into account any minor or old convictions which are 'protected' from disclosure when considering an applicant, as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2015).
- The trust is committed to the fair treatment of all applicants, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical or mental disability or offending background.
- The trust promotes equal opportunity and welcomes applicants from a wide range of backgrounds, including those with criminal records.
- Candidates are selected for interview based on their skills, qualifications and expertise.
- All application forms and recruitment notices will contain a statement that a disclosure will be requested if a position is offered.
- All applicants are encouraged to provide details of their criminal record at the earliest stage possible. This may be sent under a separate and confidential cover.
- The trust is committed to ensuring all disclosure information will only be seen by those who require access as part of their duties.
- At interview, or in a subsequent discussion, open and measured discussion will take place on the subject of the offences.
- Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of any offer made.
- Legal advice is available for all involved in the recruitment process to ensure they can identify and assess the relevance and circumstances of offences.
- All recruitment personnel have received appropriate training and guidance in the relevant legislation relating to the employment of ex-offenders.