

**DBS Policy for Teachers and Support Staff in
Schools & Academies**

Barkisland CE VA Primary School

CONTENTS

1. Policy Statement	1
2. Policy Objectives	1
3. Policy Scope.....	1
4. Types of DBS Disclosure and Barred Lists Checks.....	1
5. Definition of Regulated Activity	2
6.1 Regulated activities relating to Adults	2
6.2 Regulated activities relating to Children	2
6. DBS Checks and when to use them	3
7. Validity of DBS Disclosures	4
8. Portability of DBS Disclosures	4
9. DBS Disclosure Requirements for those moving positions within the school.....	4
10. Frequency of DBS Disclosure Checking	5
11. How to Apply for a DBS Online (e-Bulk)	5
12. Receipt of a DBS Certificate	6
13. Recruiting from Overseas	7
14. DBS Update Service/Service Check	7
15. Gender Recognition Certificates.....	8
16. Making a Referral to the Disclosure and Barring Service	8

1. Adoption of the DBS Policy

The Governing Body of Barkisland CE VA Primary School adopted this policy in March 2019

The policy has been the subject of consultation with recognised trade unions

It will be reviewed annually

Barkisland CE VA Primary School is committed to safeguarding and promoting the welfare of children, young people and adults at risk. Whilst we seek to uphold the principle of equality of opportunity, it is mindful of its responsibility to protect children, young people and adults at risk for whom it cares and provides services. Their needs and welfare are the primary consideration.

2. Policy Objectives

- 2.2 This policy provides guidance on the effective use of the DBS process to safeguard the children and adults who access our services. This policy should be read in conjunction with the school's Recruitment and Selection policy and guidance.
- 2.3 This policy does not form part of any employee's contract of employment and it may be amended by the School at any time following consultation with Trade Unions.

3. Policy Scope

- 3.1 The guidance set out in this DBS Policy relates to all employees (including teaching and non teaching staff within Schools / Academies), Governors, volunteers, agency staff and contractors/sub contractors.
- 3.2 When managing a DBS, the School/Academy processes personal data collected in accordance with its data protection policy on processing special categories of personal data. Data collected from the point at which an employee informs the organisation about details of their work history is held securely and accessed by and disclosed to individuals only for the purpose of managing their DBS.
- 3.3 Inappropriate access or disclosure of employee data constitute as a data breach and should be reported in accordance with the School's data protection policy immediately. It also may constitute a disciplinary offence, which will be dealt with under the Schools / Academies disciplinary policy.

5. Types of DBS Disclosures and Barred Lists Checks

- 5.1 With the merging of the CRB (Criminal Records Bureau) and ISA (Independent Safeguarding Authority) to form the Disclosure and Barring Service there have been changes in the terminology which will now appear throughout this policy, these are:-

Previous Term	New Term
Criminal Records Bureau (CRB), Independent Safeguarding Authority (ISA)	Disclosure and Barring Service (DBS)
Enhanced CRB check	Enhanced DBS check

Enhanced CRB check with Barred List Check	An Enhanced DBS check with barred list check
ISA Adult First	DBS Adult First
List 99 / POCA list	Barred list (children)
POVA list	Barred list (adults)
Vulnerable Adults	Adults at Risk

6. Definition of Regulated Activity

6.1 The Protection of Freedoms Act 2012 has resulted in a differentiation between those posts which can legally have an Enhanced DBS check and those posts for which there is also a legal duty to check the children or adults barred lists (an Enhanced check for regulated activity). The definition of regulated activity has been changed from 10 September 2012.

6.2 Regulated activities relating to Adults

- Providing healthcare – provision by a healthcare professional or under the direction or supervision of one including counselling and psychotherapy.
- Providing personal care – physical assistance with personal activities i.e., eating, drinking, going to the toilet, washing, bathing, dressing etc, because of the adult's age, illness or disability. It also includes anyone who trains, instructs or advises on the provision of personal care.
- Providing social work.
- Assisting with general household matters – assisting an individual manage their cash, paying bills or shopping on their behalf due to the adults age, illness or disability.
- Assisting in the conduct of people's own affairs.
- Conveying adults to, from or between places where they receive healthcare, personal care or social work because of their age, illness or disability. This does not include taxi or licensed private hire drivers.

A regulated activity only needs to be engaged in once to class the individual as carrying out regulated activity. A full definition of regulated activity related to Adults can be found on the DBS Website:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216900/Regulated-Activity-Adults-Dec-2012.pdf

6.3 Regulated activity relating to Children

- Unsupervised activities – teach, train, instruct, care for or supervise children, or provide advice/guidance on wellbeing, or driving a vehicle solely for children carried out on a frequent, intensive or overnight basis.
- Work within a limited range of establishments – including schools, nursery schools, childcare premises, children's homes and children's centres – with the opportunity for contact with children on a frequent, intensive or overnight basis. Any individual being paid

for these services is undertaking regulated activity even if they are supervised by another individual also undertaking regulated activity.

- Providing healthcare – provision by a healthcare professional or under the direction or supervision of one including counselling and psychotherapy.
- Providing personal care – physical assistance with eating or drinking because of illness or disability, physical assistance with going to the toilet, washing, bathing or dressing because of age, illness or disability, or teaching someone to do one of these tasks.
- Registered childminders and foster carers.
- Day to day management of supervision of individuals carrying out regulated activity relating to children.

6.4 The following are no longer classed as regulated activity and therefore do not require a barred list check:

- Activities by a contracted or volunteering person to provide occasional or temporary services (which are not teaching, training or supervising children) are no longer regulated activities i.e., an electrician coming in to a school for a limited period of time to check the schools electrics.
- A volunteer carrying out supervised activities under reasonable day to day supervision by another person also undertaking regulated activity is not themselves undertaking regulated activity.

A full definition of regulated activity related to Children can be found on the DBS Website:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/550197/Regulated_activity_in_relation_to_children.pdf

7. DBS Checks and When to Use them

7.1 It is best practice to determine the type of DBS disclosure that is required by way of a risk assessment which should be undertaken by the manager responsible for the activity that the individual will be undertaking. The Headteacher / Recruiting Manager should conduct the risk assessment before the activity commences and in the case of recruitment to a vacant post, this should take place prior to the recruitment process. The Headteacher / Recruiting Manager are also responsible for the ongoing reassessment of the post/work to ascertain if the level and type of contact the individual has with children and/or adults has changed and, if necessary, to initiate a new DBS check.

The checks that are available are:-

- Enhanced check for Regulated Activity (Children) – used when someone is undertaking regulated activity relating to children. This check involves a check of the police national computer, police information and the children's barred list.
- Enhanced check for Regulated Activity (Adults) – used when someone is undertaking regulated activity relating to adults. This check involves a check of the police national computer, police information and the adults barred list.
- Enhanced check for Regulated Activity (Children and Adults) – used when someone is undertaking regulated activity relating to both children and adults. This check involves a

check of the police national computer, police information and the children's and adults barred list.

- Enhanced DBS check without barred list check– used when someone meets the pre September 2012 definition of regulated activity. This level of check involves a check of the police national computer and police information.
- Standard DBS check – used primarily for people entering certain professions such as: members of the legal and accountancy professions. Standard DBS checks just involve a check of the police national computer and do not include a check of police information or the children's or adults barred lists.

Please note: -

- You cannot apply for a DBS check for someone who is under 16 years old.
- From 10 September 2012 we cannot obtain a DBS check for anyone undertaking "controlled activity" (i.e., roles that are not regulated but that allow holders the opportunity to have contact with vulnerable groups or have access to certain records relating to vulnerable groups). This means there is no longer eligibility for people with access to sensitive data to be DBS checked.

7.2 If there are concerns about an existing worker's suitability to continue working with children and/or adults then there is the discretion to undertake a new enhanced DBS check. Due to the requirements of the DBS disclosure process the individual concerned must give their consent for the DBS check to be obtained. Please contact your HR Provider for further advice.

8. Validity of DBS Disclosures

- 8.1 A DBS check has no official expiry date. However, any information included will only be accurate at the time the check was carried out.
- 8.2 Barkisland School Staff handbook states that "an employee who is charged with a criminal offence of any nature must declare the fact of any such charge to the Head Teacher or Chair of Governors immediately. Failure to disclose such information may lead to disciplinary action being taken".

9. Portability of DBS Disclosures

- 9.1 Portability refers to the re-use of a DBS check, obtained for a position in one organisation and later used for a position in a new organisation.
- 9.2 Barkisland CE VA Primary School does not accept portability for any positions, with the exception, in some circumstances, of those individuals registered with the DBS update service, this also includes students who may have a DBS certificate in respect of their University Course of study and who are on placement within CMBC – a further DBS check, if relevant, will need to be undertaken by the School / Academy prior to commencement of their placement.
- 9.3 In relation to contractors or agency staff, the "employer" is responsible for obtaining the DBS check. This check can then be used within any organisation that the agency or contractor provides staff to work within.

10. DBS Disclosure Requirements for those Moving Positions within the school

10.1 Where an individual has undertaken a DBS check for a position within the school and they move to another position or take on additional positions, the DBS Disclosure will be acceptable in the following circumstances:-

- The type of DBS disclosure (i.e., Enhanced, Enhanced + relevant barred list check) is the same for the old and new post and
- The individual has not had a break in service of more than three months, and
- The new work does not represent a significant increase in responsibility for, and contact with, children and/or adults.
- The DBS disclosure is for the same workforce ie, you cannot use a disclosure which has only searched on Adults for a post within Children.

NB: if the new work is regulated activity, the School is required by law to check the relevant DBS barred list even if the enhanced DBS check is considered acceptable.

11. Frequency of DBS Disclosure Checking

11.1 Where DBS disclosure is required, the individual will complete an enhanced DBS check as part of a recruitment and selection process to ascertain their suitability for the post.

11.2 Barkisland CE VA Primary School has taken a policy decision which means that a new DBS check will be required every 5 years with the exception of where management have carried out a risk assessment which indicates that an earlier recheck is necessary. The 5 year renewal decision may be reviewed in light of future national guidance.

Barkisland CE VA Primary School has the discretion to request a recheck at any time where there is concern about an individual.

11.3 A refusal to renew a DBS check when already in employment with the school may result in formal action being taken which could lead to dismissal.

11.4 The Office Admin assistant will have responsibility for monitoring DBS rechecks via the e-Bulk system. Further advice in respect of the e-Bulk system can be obtained via the HR Contracts and Payroll team.

12. How to Apply for a DBS on line (E-Bulk System)

12.1 Barkisland CE VA Primary School is a registered body with the DBS e-Bulk online processing system. The e-Bulk process allows employers to submit multiple electronic applications for both DBS certificates and Disclosures receiving the results electronically. The following process should be followed:-

- The School is responsible for providing details to the applicant of the link to the e-Bulk website and the School's reference code.
-
- The applicant completes the application online.

- The applicant should ensure that they present their ID documents (originals) to the Recruiting Manager who should verify and add the relevant information to the e-Bulk system.
- HR Contracts and Payroll will validate, countersign and submit the application to the DBS.
- The applicant will normally receive a response from the DBS within 5 working days, although there may be exceptions to this.
- If the DBS check is clear then the recruiting manager will be able to see details on the e-Bulk system. Where criminal information has been disclosed on the certificate, which has not been disclosed at application or interview stage, or which doesn't match what was disclosed by the applicant, the manager should arrange to meet with the applicant as detailed in Section 12.

13. Receipt of A DBS Certificate

13.1 The DBS no longer issue a copy of the applicant's DBS certificate to the Registered Body i.e., the employer who countersigned the DBS application form. The DBS now only sends a copy of the certificate to the applicant. The Recruiting Manager will therefore need to ask the applicant to see their certificate.

13.2 Where criminal information has been disclosed on the certificate, which has not been disclosed at application or interview stage, or which doesn't match what was disclosed by the applicant, Head Teacher / Recruiting Manager should follow the steps below. Please contact your HR Provider for further advice.

- Applicant is invited to attend a meeting to discuss the disclosed information.
- Determination made by the Recruiting Manager as to whether disclosed information makes applicant unsuitable for the role, taking into account the following factors:-
 - Whether the conviction (or other matter revealed) is relevant to the position in question.
 - The seriousness of the offence – the length and type of sentence issued.
 - At what age the individual committed the offence.
 - The length of time since the offence occurred.
 - Whether there is a pattern of offending or other relevant matter.
 - Whether the applicant's circumstances have changed since the offending behaviour.
 - The circumstances surrounding the offence and the explanation offered by the individual involved.
 - The reason for the omission.
- Consider whether it would be appropriate to withdraw the offer of employment based on failure to disclose during application process.

14. Recruiting From Overseas

14.1 DBS Disclosures do not usually record convictions that were committed abroad. When recruiting candidates who have spent a period of time living or working abroad, a DBS check must be obtained in the normal way and a police check or 'certificate of good conduct' or equivalent from the country(s) concerned may be required as well. In general, this applies to any individual arriving from another country – or having been employed in another country

- 14.2 The home office has published guidance on criminal checks for applicants that have lived or worked overseas and can be found at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

15. BDS Update Service / Service Check

- 15.1 For a small annual fee (payable by the individual) applicants can have their DBS certificate kept up to date and take it with them from role to role, employer to employer, as long as the roles are within the same workforce, where the same type and level of check is required.
- 15.2 It is the responsibility of the individual to register with the update service via the DBS website.
- 15.3 Recruiting Manager should ask applicants if they are a member of the update service. If they are, with their written permission, then a free, instant, online check to see if any new information has come to light since the certificate's issue. To do this, the manager must see the original certificate and check the person's identity very closely.
- 15.4 If the original certificate contains criminal information, the manager should follow the steps described in paragraph 10 above.
- 15.5 If the update service produces a result that the certificate is no longer current then this means that either the person has not paid their annual fee, the data on the certificate is incorrect or new information has since come to light. In all cases, a new DBS application will be required.

16. Gender Recognition Certificates

- 16.1 The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate. When a full gender recognition certificate has been issued, the person is legally considered to be of the acquired gender.
- 16.2 If the person is required to undergo a DBS/Basic Disclosure Check as part of the recruitment process they must disclose any previous names and/or gender to the DBS who have established a special application procedure/dedicated contact officer to maintain confidentiality.
- 16.3 Gender confidentiality will be maintained where the individual has no criminal convictions and where there is no other information held by any Police Authority, as a clear disclosure certificate is the ultimate result. However, if they did have convictions under their previous gender that were considered relevant to the post/position, then the individual's gender change would become evident through the provision of conviction information on the DBS disclosure certificate showing both gender names.

17. Making A Referral To the Disclosure and Barring Service

- 17.1 Before any referral is made, please see:

<https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#who-has-a-legal-duty-to-refer>

- 17.2 The School has a duty to refer all allegations of abuse or misconduct towards a child or adult made against a member of staff or a member of staff of a contractor or partner organisation.

Regulated activity is work that a barred person must not do. It refers to both paid and unpaid work with vulnerable groups.

17.3 A referral must meet **both** criteria below:-

1. The school withdraws permission for a person to work in regulated activity with children and/or adults either through dismissal or by moving the person to another area of work that is not regulated activity, or would have done so had that individual not resigned, retired or been made redundant,

And

2. The school is of the belief that the person has carried out one of the following:
 - Been cautioned or convicted of a relevant (automatic barring) offence, or
 - Engaged in relevant conduct in relation to children and/or adults i.e., action that has harmed a child or vulnerable adult or put them at risk of harm, or
 - Satisfied the harm test in relation to children and/or adults at risk i.e., there has been no harm but a risk of harm

17.4 Harm may include sexual, physical, financial, neglect, emotional, psychological or verbal. This is not an exhaustive list and harm may take many different forms.

17.5 If both conditions have been met the information must be referred to the DBS once the regulated activity provider i.e., The school has gathered sufficient evidence as part of their investigation process to support their reasons for withdrawing permission for that individual to engage in regulated activity, and in following good practice has consulted with their Delegated Officer (Children) or Adult Safeguarding Manager.

17.6 The school should always investigate and gather sufficient evidence and information to establish if the allegation has foundation in the first instance before a referral is made and advice should be sought from your HR Provider.

17.7 If following an internal investigation it is decided that the best course of action is to issue a formal warning and return the employee to a regulated activity with additional training there is no legal duty to make a referral to the DBS. However, there may be occasions when the School may wish to make a referral in good faith in the interest of safeguarding children or vulnerable adults including acting under the advice of the Police or a safeguarding professional, but the legal duty (as above) has not been met. For example, where there are strong concerns but the evidence is not sufficient to justify dismissing or removing the person from working with children or adults at risk. In these circumstances please seek advice from your HR Provider in the first instance.

17.8 The DBS is required by law to consider any and all information sent to it from any source. This includes information sent to the DBS where the legal referral criteria has not been met. DBS will use its legal powers and barring processes to determine whether the person should be barred from working in regulated activity relating to children and/or adults at risk. The DBS have the legal right to receive information where it asks for it from regulated providers. This duty applies irrespective of whether the Council has or has not made the referral.

17.9 A referral form can be obtained from the DBS website along with additional information on the duty to refer and referral instructions. (www.gov.uk/guidance/making-barring-referrals-to-the-dbs) It is the line manager's responsibility to complete and return the referral form after seeking advice from your HR Provider.