



## **DISCLOSURE AND BARRING SERVICE (DBS) POLICY - SCHOOLS**

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**This policy must be read in conjunction with the DBS Guidance - Schools which must be applied.**

### **1. Aims of this Policy**

To ensure that schools within Blackburn with Darwen Borough Council comply with the requirements outlined in the:

- Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975;
- The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013;
- Police Act 1997;
- Criminal Justice and Court Services Act 2002;

- Protection of Freedoms Act 2012;
- School Staffing Regulations 2009;
- School Staffing (England) (Amendment) regulations 2012;
- School Governance (Constitution and Federations) (England)(Amendment) Regulations 2016
- Guidance issued by the Disclosure and Barring Service.

This policy satisfies the requirements of legislation and best practice for schools to undertake DBS clearances on individuals seeking to work with, or who may come into contact with, children and adults who are deemed vulnerable or data relating to them, and other occupations involving positions of trust.

This policy will ensure good practice in relation to the recruitment and retention of employees and potential employees and protection of both children and adults who are deemed vulnerable.

### **Links to other Policies/Documents**

This policy links to the Schools Recruitment & Selection Policy.

## **2. Scope**

This policy will apply to:

- all posts which involve “regulated” contact with children or adults who are deemed vulnerable - in schools this includes:
  - all staff employed to work at the school/educational establishment;
  - other adults who have been chosen by the school to work in regular contact with children, e.g. volunteers, tutors, instructors;
  - contractors and commissioned services involving “regulated” contact with children or adults who are deemed vulnerable and regulated activity which has statutory DBS requirements.
- Schools’ Governors (in line with School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016).

Age requirements - the minimum age for a DBS check is age 16.

If a school requires advice or support about the requirement for a DBS disclosure, where Blackburn with Darwen Borough Council is the ultimate employer, the Local Authority (LA) can be contacted for advice. For all other schools where Blackburn with Darwen is not the ultimate employer, schools are not obliged to speak with the LA, however the LA is happy to give advice and guidance to these schools if they wish.

## **3. Schools’ Staffing and Governing Body Responsibilities**

The School Staffing Regulations 2009 make it mandatory for **Enhanced Disclosures** to be carried out on all new appointments to the school workforce (employees and volunteers).

The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016 make it mandatory for **Enhanced Disclosures** to be carried out on all existing Governors and all new appointments to the Governing Body.

## **4. Definitions**

For the purposes of this policy, the following definitions will apply.

**Ultimate Employer** – The ultimate employer for Community and Voluntary Aided Schools is the Local Authority.

**Regulated Activity - Children** - Any activity involving working or volunteering with children that is of a specified nature:

- unsupervised activities - teaching, training, instruction, care for or supervision of children, or providing advice/guidance on well-being, or driving a vehicle only for children\*;
- work for a limited range of establishments ('specified places') with the opportunity for contact with children, e.g. childcare premises. Not work by supervised volunteers\*;
- providing personal care, e.g. washing or dressing or health care by, or supervised by, a professional;
- registered child minding; and foster-caring.
- The direct supervisors of apprentices aged 16 and 17 and work placements for young people under the age of 18, should be cleared as working in a regulated activity with children, if they have unsupervised access with the young person. (Paid Apprentices and 16 and 17 year olds in paid work placements are classed as young adults and their supervisors are exempt from DBS clearance)

\* Working with children is regulated activity only if done frequently (i.e. once a week or more often) or on four or more days in a single 30 day period (or in some cases overnight).

**Eligible Roles and Level of Disclosure** - Under the Rehabilitation of Offenders Act 1974, a person is not required to disclose any spent convictions unless the position they are applying for, or are currently undertaking, is listed as an exception under the Act. Please refer to the eligibility guidance document issued by the DBS.

**Standard checks** - To be eligible for a standard DBS check the position **must** be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975. A standard check will include details of spent and unspent convictions held on the Police National Computer including cautions, reprimands and final warnings (filtered in accordance with the Amendment Order).

**Enhanced checks** - To be eligible for an enhanced DBS check the position **must** be included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975 and in Police Act Regulations. An enhanced check will include details of spent and unspent convictions held on the Police National Computer (filtered in accordance with the Amendment Order) plus non conviction local police information.

**Enhanced checks with Children's and Adults' Barred list check(s)** - To be eligible to request a check of the Children's or Adults' Barred lists, the position must also meet the post September 2012 definition of Regulated Activity. This level of check will include details of spent and unspent convictions held on the Police National Computer (filtered in accordance with the Amendment Order) plus non conviction local police information and information held against the relevant barred list.

**Spent/unspent convictions/offences** - If a convicted individual completes a specified period of time without being convicted of further offences, the conviction can be regarded as “spent”; until that time the conviction is considered to be unspent. Please also see the information regarding minor offences below.

**Filtering of ‘Protected’ Offences** - From 29 May 2013, the DBS have removed certain specified old and minor offences from criminal record certificates issued from this date. Such offences are “protected” under the Amendment Order.

The filtering rules, together with the list of offences that will never be filtered, are available from [www.gov.uk/dbs](http://www.gov.uk/dbs). Should any applicants disclose information which would be “protected” under the Amendment Order verbally, or on the application form, or on a DBS certificate issued prior to the 29 May 2013, this **must** be disregarded and not included in any part of the recruitment process. If an employer takes into account a conviction or caution that is “protected” under the new rules they are acting unlawfully under the Rehabilitation of Offenders Act 1974.

**Primary Role** - This is the main role which an individual has applied or is employed in.

**Secondary Roles** - Additional post and/or duties an individual may be required to undertake from time to time.

## **5. Roles & Responsibilities**

For the purpose of this policy, responsibility shall be stated as being with the Headteacher. The Headteacher may delegate responsibility to an appropriate Senior Manager.

In the case of DBS checks for Governors, the statutory responsibility for obtaining the Enhanced Disclosure for every Governor rests with the Governing Body.

DBS disclosures and the information they contain may be passed to persons authorised to receive it i.e. the Headteacher, the Local Authority (LA) Nominated Officer and those who need to have access to it in the course of their duties. It is a criminal offence to pass disclosure information to anyone who is not entitled to receive it.

Disclosure information must be used only for the purpose for which it was requested and for which the applicant has given full consent.

**The Governing Body/Headteacher (as applicable)** - will ensure that the request for an Enhanced DBS Disclosure is made in time and that all necessary documentary evidence is checked and validated

**The Headteacher (in liaison with the Governing Body when appropriate)** is responsible for:

- following advice from the LA Nominated Officer (where Blackburn with Darwen Borough Council is the ultimate employer) in making the decision on continued or future employability where adverse disclosures are received;
- ensuring that the recruitment of employees follows appropriate procedures and includes open and honest discussions with the applicant where disclosure information is revealed to enable a full and accurate decision to be made at the recruitment stage;

- ensuring that contractors comply with any contract specifications in relation to DBS checks;
- ensuring commissioned activity complies with statutory requirements;
- ensuring compliance with statutory requirements for any regulated activity;
- providing a link for the dissemination of updates to DBS processes to relevant staff/Governors;
- identification of the requirement for DBS checks for those volunteering or delivering activities within the school;
- ensuring a risk assessment is completed prior to allowing an individual to commence in their new post prior to receipt of a satisfactory DBS clearance;
- ensuring weekly reviews of risk assessments take place whilst DBS clearance is awaited;
- approving any student placement applicants following receipt of their DBS disclosure;
- ensuring that employment contracts contain the appropriate DBS requirements and that contract audit requirements are in place.

**The LA Nominated Officer** - is responsible for:

- advising the Governing Body/Headteacher (where Blackburn with Darwen Borough Council is the ultimate employer) on the decision regarding continued or future employability where adverse disclosures are received;
- investigating cases of non-compliance and responsibility for monitoring the use of disclosure information in schools; and
- advising on the decision regarding student placement applications for applicants with adverse disclosures (where Blackburn with Darwen Borough Council is the ultimate employer).

Where a candidate who is barred from working with children or adults applies for a post, the Headteacher must relay that information to the appropriate authorities.

The Headteacher will be responsible for making referrals relating to barring individuals directly to the DBS. The Headteacher must inform the LA Nominated Officer of the referral.

**DBS Check Provider** - carries out all DBS checks with the Disclosure and Barring Service. The lead counter signatory is responsible for monitoring compliance with the DBS Code of Practice.

## **6. The Level of Disclosure**

It is a legal requirement that all members of the school workforce and all Governors undergo an enhanced DBS check.

### **6.1 Standard Disclosure**

Standard disclosures are not appropriate for persons undertaking regulated activity; however, they may be relevant for people entering occupations which involve positions of trust that do not undertake regulated activities in a specified establishment.

The standard disclosure will contain details of **all** convictions on record including current and spent convictions (other than those which will now be filtered under the amended rules). In addition, they include details of any cautions, reprimands or warnings held on the police national computer (save those which will now be filtered).

Standard disclosures do not reveal whether the person is on the lists of those barred from working with children and/or adults.

## **6.2 Enhanced Disclosure**

As well as the information that would be on a standard disclosure, an enhanced disclosure may also contain non-conviction information that is held locally by the police, which may be disclosed when the police “reasonably believe it to be relevant and consider that it ought to be disclosed”. This information will appear on the disclosure document sent to the applicant.

## **6.3 Enhanced Disclosure with Children’s and Adults’ Barred list check(s)**

Posts which meet the post September 2012 definition of Regulated activity are eligible for checks of the Children’s and/or Adults’ Barred lists – as well as for Enhanced Disclosure. (The information which would be received under an Enhanced Disclosure is set out above at 6.2).

The DBS guidance has confirmed that in addition to the disclosure types set out above, the Police can use their common law powers to provide information directly to employers where it is necessary to prevent crime and/or harm to others. Should this situation arise the information would be passed to the Headteacher (or to the LA Nominated Officer, where the Local Authority is the ultimate employer) who will discuss it with the Director of HR and Legal. They will review the information and determine appropriate actions required.

## **7. DBS and the Recruitment Process**

### **Notification of Returned Disclosure:**

The School will receive an email stating that either a disclosure “contains information” (this refers to an adverse conviction shown against an applicant) or “contains no information” (this refers to an applicant with no convictions shown). Where an applicant’s disclosure contains information, the school’s policy must be applied. A DBS disclosure is not a substitute for other pre-recruitment responsibilities/checks.

The school must undertake a thorough recruitment process and will scrutinise previous employment history and references. If an applicant has worked with vulnerable groups previously, the most recent such employer (or employers, if there are several in a short time) should be contacted and asked whether they have made a referral of any misconduct to the DBS, for possible barring.

All schools within the Local Authority must fully comply with the DBS Code of Practice and commit to treat all applicants for positions fairly. Schools will not discriminate unfairly against any subject of a disclosure on the basis of a conviction or other information revealed.

Where a post is **exempt** from the Rehabilitation of Offenders Act 1974, applicants will be required to declare both spent and unspent convictions unless the conviction falls within the ROA (Exceptions) Order 1975 (Amendment) Order 2013. Under this Amendment Order, from 29 May 2013, the DBS will filter certain specified old and minor offences from criminal record certificates issued from that date onwards. The filtering rules, together with the list of offences that will never be filtered, are available from [www.gov.uk/dbs](http://www.gov.uk/dbs).

Not all applicants may be aware of these changes and some may have valid portable DBS certificates issued before 29 May 2013 which still contain information which would have been filtered / removed from the certificate if it had been issued after 29 May 2013. Should an applicant disclose any information which would now be filtered under the new rules, verbally, or the application form, or on a DBS certificate issued prior to the 29 May 2013, this information **must** be disregarded and must not be included / considered in any part of the recruitment process.

Having a criminal conviction will not necessarily bar individuals from working with the school. This will depend on the nature of the position and the circumstances and background of the offence(s).

### **7.1 Advertising**

When a post designated as exempt under the Rehabilitation of Offenders Act 1974 is advertised, either internally or externally in the press, the advertisement must contain the following statement:

***“This post is exempt from the Rehabilitation of Offenders Act 1974. Any offer of employment will be subject to a satisfactory check supplied by the Disclosure and Barring Service. The check will include any convictions, cautions, reprimands or final warnings which are not “protected” as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) Order 2013”.***

Application forms will contain reference to the school’s ability to request information relating to an individual’s convictions – and should also confirm the position regarding the new filtering rules (i.e. “Convictions, cautions, reprimands and final warnings which are “protected” as defined by the Exceptions Order (as amended) will not be disclosed to the school by the DBS. Full information about this is available at [www.gov.uk/dbs](http://www.gov.uk/dbs)”

Because applicants are not always clear about whether they need to disclose convictions, where a post warrants a DBS check, applicants should be advised that all convictions, cautions, reprimands and final warnings (whether spent or unspent) need to be disclosed, other than those which are “protected” under the 2013 Amendment to the ROA 1974 (Exceptions) Order. Application forms must carry a statement to the effect that a conviction will not necessarily be a bar to employment and that disclosure information will not be used unfairly.

Schools wishing to seek impartial advice relating to adverse convictions should include the following statement on the application form: “You give the School permission to share the details contained within this application form (and in any DBS check) with relevant bodies, in order to obtain any necessary advice or support”.

Applicants should receive a copy of the DBS Policy for Schools and be advised that copies of the DBS Code of Practice are available on request.

### **7.2 Shortlisting**

Full consideration will be given to candidates who declare previous convictions, against their suitability for the post, measured against the person specification.

Any conviction disclosed on an application form must be duly considered. Where Blackburn with Darwen Borough Council is the ultimate employer, the Headteacher

should inform the LA Nominated Officer regarding applicants who disclose a conviction on their application form, and the LA Nominated Officer will advise accordingly.

Factors taken into account should include:

- the seriousness of the offence;
- length of time since the conviction;
- age of applicant at time of offence;
- the individual's suitability for the post, against the person specification;
- whether the offence carries an automatic ban from work in a regulated position.

**N.B** Should any applicant disclose any information about a "protected" conviction, caution, reprimand or final warning verbally, or on the application form, or on a DBS certificate issued prior to 29 May 2013, this **must** be disregarded and not included/considered in any part of the recruitment process.

If the Headteacher (in liaison with the Governing Body when appropriate) considers the offence(s) disclosed on an application form to be serious, but the applicant meets all other shortlisting criteria, the Headteacher **must** discuss the situation with the LA Nominated Officer (where Blackburn with Darwen Borough Council is the ultimate employer) who will advise on the decision as to whether or not the criminal conviction is compatible with employment to the post in question. Headteachers of other schools (where the Local Authority is not the ultimate employer) are not obliged to speak with the LA Nominated Officer, but the LA is happy to discuss such situations with these schools if they wish. The LA would advise these schools to seek further advice in all such cases as appropriate.

### **7.3 Interview**

Schools will comply with the following vetting processes within the recruitment procedures.

Candidates may be required to bring documentary evidence in line with DBS requirements to the interview with them and this should be included in the Invite to interview letter (see DBS Guidance for Schools):

It is the responsibility of the Headteacher or delegated Recruiting Manager to:

- verify the documentary evidence of candidates; and
- destroy applications which may have been completed by unsuccessful candidates at the interview stage (after retaining them for such period as is necessary to enable the school to deal with enquiries from such candidates)
- ensure that the successful candidate(s) completes the necessary sections on the DBS application form and provides the documentary evidence, as required by your DBS Check Provider;
- complete the relevant sections of the application form as required by your DBS Check Provider.

Following completion of the form, the details should be sent to your DBS Check Provider for countersignature and to be processed.

At interview, or in a separate discussion, an open and honest discussion must take place on the subject of any offences or other matter that might be relevant to the position. The applicant must be reminded that the post is exempt from the Rehabilitation



of Offenders Act 1974 and that, as a result, all convictions etc should be disclosed, other than those which are “protected” under the 2013 Amendment Order.

Factors taken into account should include:

- the seriousness of the offence;
- length of time since the conviction;
- age of applicant at time of offence;
- the individual’s suitability for the post, against the person specification;
- whether the offence carries an automatic ban from work in a regulated position.

**N.B** Should any applicant disclose any information about a “protected” conviction, caution, reprimand or final warning verbally, or on the application form, or on a DBS certificate issued prior to 29 May 2013, this **must** be disregarded and not included/considered in any part of the recruitment process.

Where posts entail working with vulnerable groups, the interview (or a second interview) should include questions to explore with applicants with regard to their attitude towards the care of children or adults and their perceptions about boundaries of acceptable behaviour towards them.

Failure to reveal disclosable information may lead to the withdrawal of an offer of employment or to an individual being subject to the Formal Disciplinary Procedure. The seriousness of the offence and any reason given by the applicant for their failure to reveal it should also be taken into account.

#### **7.4 Making an Offer**

Offers of employment should be made subject to a satisfactory DBS check. Individuals should **not** commence in post until a satisfactory DBS clearance is received, unless both of the following criteria are satisfied:

- the individual is moving directly from a school or Council department within the Local Authority; and
- the individual has had a DBS check in the last three years (which is shared with the school and is satisfactory).

In exceptional circumstances, an individual may take up their post prior to receipt of their DBS disclosure. This must be authorised by the Headteacher. Before this occurs, it must be stressed to the successful applicant that the offer is conditional, subject to receipt of a satisfactory DBS disclosure, and that the offer may be withdrawn if the DBS disclosure is not satisfactory. This **must** also be confirmed in the written offer of appointment letter which will outline the conditions to which the offer of appointment is subject.

In these circumstances, the Headteacher must also ensure that a full risk assessment is conducted (form available in DBS Guidance - Schools) and that all appropriate safeguards are put in place to ensure children and adults who are deemed vulnerable are not exposed to any potential risk.

Employees who have not received their DBS clearance should not be allowed to carry out any unsupervised work with children or adults who are deemed vulnerable.

Headteachers should review the situation weekly for those awaiting DBS Clearance.

All DBS certificates are sent to the applicant and not the employer. The offer should remain conditional, and normally the applicant should not be permitted to commence employment until the applicant produces their DBS certificate to the Headteacher or delegated Recruiting Manager for verification.

### **7.5 Single Central Record**

It is a statutory requirement that the School must maintain a **single central record** of recruitment and vetting checks for all employed staff at the school and other individuals identified as having regular contact with the children. This record must include all employed staff, supply staff, volunteers, governors and any others who work in regular contact with children or young people.

The central record must indicate whether or not the following have been completed - identity and qualifications checks, checks that the employee is not barred from regulated activity, checks to establish right to work in the UK, enhanced DBS certificate obtained and overseas criminal record checks (where appropriate). The record must show the date on which each check was completed and should show who carried out the check.

### **8. Satisfactory DBS Disclosures**

The Employee shall provide their DBS Certificate to the Headteacher/Recruitment Manager. Where the DBS Certificate is satisfactory recruitment can then proceed. The School shall retain those details it requires for the purpose of the Single Central Record.

### **9. Adverse DBS Disclosures (New Applicants)**

Where a DBS disclosure reveals adverse information (other than in relation to the Barred list), the Headteacher must inform the LA Nominated Officer (where Blackburn with Darwen Borough Council is the ultimate employer) of the details of the post and the DBS Certificate. The LA Nominated Officer will review the case and will advise the Headteacher to discuss the details of the DBS certificate fully with the individual prior to any employment decision being made. The Headteacher must also complete a Risk Assessment Form.

The Headteacher should feedback to the LA Nominated Officer who will advise on the decision whether to confirm the appointment or to withdraw the offer. This decision should be based upon the details of the discussion with particular emphasis on the nature of the criminal record, taking into account whether or not the individual had previously disclosed convictions, cautions, reprimands and final warnings (save those which are 'protected').

Once a decision has been made, the applicant must be informed of the outcome in writing within 5 working days. If the candidate requests additional feedback as to the reason then they should be directed to the Headteacher who should seek advice from the LA Nominated Officer for schools where the LA is the ultimate employer.

Headteachers of schools where the Local Authority is not the ultimate employer are not obliged to speak with the LA Nominated Officer in these cases, but the LA is happy to discuss such situations with these schools if they wish. The LA would advise these schools to seek further advice in all such cases as appropriate.

The Headteacher, (in liaison with the LA Nominated Officer where Blackburn with Darwen Borough Council is the ultimate employer), is responsible for completing associated paperwork based on the final decision.

Some offences carry an automatic ban from working in a regulated position and these are detailed in the DBS Guidance Document for Schools. Where a candidate who is barred from working with children or adults applies for such a post, the Headteacher must relay that information to the appropriate authorities.

The School must not discriminate unfairly against an applicant on the basis of a conviction or other information revealed in a DBS disclosure.

### **9.1 Decision to Appoint following adverse DBS**

If a decision to appoint is made, a record of the meeting held with the applicant regarding the disclosure should be made and maintained on the individual's personnel file. A risk assessment should be undertaken by the Headteacher. The risk assessment information will be retained for a limited period of time (this is normally for a period of six months to allow for any queries or complaints to be resolved) in accordance with DBS protocols. This should be confirmed in writing to the individual within 5 working days.

### **9.2 Decision not to Appoint following adverse DBS**

If a decision is made to not appoint, a record of the meeting held with the applicant regarding the disclosure should be made and maintained with the post recruitment documents and be stored securely.

A risk assessment should be undertaken by the Headteacher. Risk assessment information will be retained for a limited period of time, (this is normally for a period of six months to allow for any queries or complaints to be resolved) in accordance with DBS protocols.

Decisions will be made on the basis of an assessment of any possible risk to children or adults, rather than the simple fact of a conviction or other information disclosed. Where there is a significant doubt, however, the decision will always ensure the safety and welfare of children and adults. This should be confirmed in writing to the individual within 5 working days.

## **10. Regular DBS Disclosures**

In order to ensure the continued suitability of employees, the school will carry out regular DBS disclosures every three years.

Where an employee obtains an additional role that also requires a DBS, this disclosure application will be requested at the highest level applicable and include any other roles they are currently undertaking. Any re-checks will be carried out 3 years following this disclosure issue date.

It is a condition of an employee's contract of employment that they submit to a Disclosure and Barring Service request when required to do so. Any unreasonable refusal to do so will be viewed as a breach of their contract which could potentially result in disciplinary action up to and including dismissal.

Employees are also required to notify their line manager of any matters that could reasonably be perceived as affecting the performance of their duties, including any conviction, caution, reprimand or final warning which would be disclosed on a DBS certificate.

### **11. Adverse DBS Disclosure (Existing Employees)**

Where an employee fails to disclose any convictions, cautions, reprimands and final warnings (save those which are 'protected' under the (Amendment) Order 2013) or where an additional DBS disclosure reveals a conviction, caution, reprimand or final warning, the Headteacher must inform the LA Nominated Officer (where Blackburn with Darwen Borough Council is the ultimate employer).

The Headteacher will be advised to meet with the individual to discuss the disclosure and complete a Risk Assessment Form. The school must not discriminate unfairly against the individual. During the meeting, consideration should be given to the nature of the offence and the potential implications this has on an employee's suitability to perform in the role in which they are employed.

Where Blackburn with Darwen Borough Council is the ultimate employer, the Headteacher should feedback to the LA Nominated Officer following the meeting, who will advise on the decision regarding progress to disciplinary action which could lead up to and including dismissal. The Risk Assessment form shall be kept on file for 6 months.

Headteachers of schools where the Local Authority is not the ultimate employer are not obliged to speak with the LA Nominated Officer in these cases, but the LA is happy to discuss such situations with these schools if they wish. The LA would advise these schools to seek further advice in all such cases as appropriate.

### **12. Additional Information**

If the police use their common law powers to disclose additional information to the school which is deemed to give rise to concerns about an employee's suitability for a post then a full investigation will take place and a Risk Assessment Form will be completed by the Headteacher. Depending on the severity of the allegations, this could lead to disciplinary action up to and including dismissal.

The Risk Assessment form shall be kept on file for 6 months.

### **13. Portability of Disclosures**

#### **13.1 Portability does not apply when:**

- the new employee **is not** moving directly from employment in another school or council department within Blackburn with Darwen Borough Council; and/or
- the employee is changing posts within a school and the new post is different from the employee's previous post or is a promoted position; and/or
- the employee has had a gap in employment.

#### **13.2 Portability may apply when:**

a) For existing employees changing post within a school:

- the new position is the same as the previous position with the same level of disclosure;
- and**

- there has been no gap in employment;  
**and**
- the employee has had a DBS check in the last 6 months.

b) Employees moving from a school or council department within Blackburn with Darwen Borough Council:

- the new post is the same as the employee's previous position with the same level of disclosure;  
**and**
- there has been no gap in employment;  
**and**
- the employee has had a DBS check in the last 6 months.

Where portability does not apply, the employee should not start their new role until the clearance is obtained unless they are eligible to commence in role pending DBS subject to a risk assessment.

An additional disclosure may be necessary if the employee has not previously had an **enhanced** disclosure.

### **13.3 Portability Documentation**

#### **Internal Appointments (employees changing role within the school)**

It is the responsibility of the recruiting school to seek confirmation that the job offered is the same as the previous job with the previous level of disclosure and that the disclosure was obtained within the last 6 months.

#### **Appointments made from employees recruited directly from a school or council department within Blackburn with Darwen Local Authority**

It is the responsibility of the recruiting school to:

- gain written consent from the candidate for the school to approach the previous employer to enquire about their previous DBS and any disclosable additional information that may have been provided to the previous employer (a consent form is available in the DBS Guidance - Schools);
- seek written confirmation from the previous employer that a satisfactory disclosure was sought in the last 6 months (a template letter is available in the DBS Guidance - Schools);
- seek written clarification of the level of disclosure and be satisfied that it is appropriate to the post;
- have sight from the candidate of their actual disclosure certificate. This must not be a photocopy (as the DBS disclosure contains safety features to prevent tampering or forgery).

### **14. Student Placements**

Any student seeking to take up a placement with the school should be referred to the Headteacher. If the duties of the placement warrant a DBS disclosure, the student will be required to undergo a DBS disclosure at the appropriate level for the placement through the School. Where a placement warrants a DBS disclosure, the student must have received DBS clearance before commencing his/her placement.

#### **14.1 Work experience for school pupils (Defined as a period of no more than two weeks)**

School pupils undertaking work experience, and aged under 16, do not need to apply for a DBS disclosure. Schools accepting work experience placements should review the duties of the placement prior to the student commencing work. The school placing the pupil must ensure that the pupil is suitable for the placement. The Headteacher of the receiving school should complete a Risk Assessment placing appropriate measures in place. It is the responsibility of the Headteacher of the receiving school to ensure it is a one off placement. The receiving school is responsible for the supervision of the pupil during the placement period.

The risk assessment should take into consideration the role that the child will undertake whilst at the school and should also consider, where necessary, the person who is allocated responsibility of the pupil during the work experience period.

For further guidance regarding student placements and work experience for school pupils, please refer to the following DCSF/DfE guidance:

- Safeguarding children and safer recruitment in education;
- Safeguarding young people on work-related learning including work experience.

#### **15. Volunteers**

Volunteers should be DBS checked where the activity they are carrying out meets the criteria in the regulated activities list. Volunteers include parent helpers and professional sports men and women who may undertake activities at the school. A DBS check will be required when the volunteer is undertaking work which constitutes **regulated** activity (see Section 4). Where an activity does not constitute regulated or controlled activity the Headteacher should conduct a risk assessment and ensure that the volunteer is supervised at all times.

#### **16. Casual Workers**

Casual workers should be DBS checked where the activity they are carrying out meets the criteria in the regulated activities list of this policy. Re-checks should be undertaken where the casual worker has a break in their employment of 3 months.

#### **17. Employees Absent from Work for Extended Periods of Time**

Where employees are absent from work for extended periods of time consideration should be given to whether a recheck should be undertaken at the point of return to work. This should be agreed by the Headteacher e.g. employees returning from long term absence, maternity/paternity or sabbatical.

#### **18. Contractors**

The school should specify any DBS clearance requirements within the contract specifications. The Headteacher should ensure that contractors understand and accept their responsibilities to comply with the requirements. The Headteacher should undertake regular audits of the contract to ensure compliance with the service specifications in respect of DBS requirements.

## **19. Governors**

The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016 require that all School Governors obtain an Enhanced Disclosure. The explanatory information attached to the legislation explains that the purpose for this new requirement is to provide reassurance to the Governing Body that an individual is not disqualified from holding office as a governor due to criminal convictions. Please see the Guidance document for details of the specific legal requirements in relation to obtaining these disclosures.

When the Enhanced Disclosure is received from the DBS, it is the responsibility of the Chair of Governors to check the information contained in the certificate, against the list of conditions/convictions which disqualify an individual from holding office as a school governor. If the DBS disclosure establishes that the individual is prohibited from holding office as a school governor, the Chair of Governors must take immediate steps to ensure that this Governor is removed from/not permitted to take up office as a school governor.

Where an adverse disclosure is received that does not disqualify the individual from holding office as a governor but causes concern about this individual's fitness to hold office as a School Governor, schools should seek further advice from the body that provides them with Governors Support services as there are specific legal requirements for the appointment and removal of Governors.

## **20. Handling of Disclosure Information**

This policy adheres to the standards set by the Disclosure and Barring Service. Where the school uses a DBS Checks Provider, it shall be the responsibility of the service provider to maintain appropriate procedures for the handling of disclosure information.

### **20.1 Security**

Disclosure information must be kept securely, and only those entitled to see it in the course of their duties should have access. A written record must be kept of those to whom disclosure information has been revealed.

### **20.2 Storage**

Disclosures and any additional information provided by the DBS or the police (and any other document or record of information contained in a disclosure) must be kept securely. Documents must be kept in locked, non-portable storage containers. Keys or combinations for such storage units must not be freely available within an organisation and access must be restricted to named individuals. Wherever possible, access to rooms containing storage containers should be restricted to employees engaged in recruitment work.

If disclosure information is to be held electronically, for example on the centralised database, it must be in a separate file and password protected.

### **20.3 Retention of Disclosure Information**

The school must not retain DBS disclosures or related correspondence (including any additional information supplied by the police), or any copy of the disclosure or subsequent record of the information contained in disclosures (for example the Risk Assessment Form) for longer than is required for the particular purpose.

In general, this should be for a maximum of six months after the date on which the recruitment or other relevant decisions have been taken, or six months after the date on which any dispute about the accuracy of the disclosure information or the recruitment decision has been resolved. This period should be exceeded only in very exceptional circumstances following consultation with the DBS. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will apply.

Disclosures and associated records or documents should be destroyed by suitably secure means, i.e. shredding, pulping or burning. They should not be kept in any insecure receptacle (e.g. a waste bin or confidential waste sack) whilst awaiting destruction.

If held electronically, all records must be permanently deleted.

It is advisable to keep a record of the date of a disclosure, the name of the subject, the type of disclosure, the position in question, the unique number issued by the DBS and the recruitment decision taken. These details shall be recorded and held within a secure system.

### **21. Cost of Disclosure**

The school will meet the cost of each application and the associated administration fee for posts.

The DBS provide disclosures, free of charge, for volunteers working in sensitive positions (including working with children and adults) providing the volunteer meets the following DBS criteria:

"A volunteer can be defined as a person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative."

### **22. The Update Service**

As at 17 June 2013, individuals were able to apply to have their criminal record check kept up to date easing the administration of the regular re-checks as employers are able to go online to see if the information is still current and valid. This service requires an annual subscription fee of £13.00 per applicant which will be reimbursed by the school for the duration the employee remains in a post with the school subject to regular re-checks. Once paid any requests from the school to re-check an employee's DBS status may not be declined.

### **23. Implementation of the Policy**

The school will undertake regular reviews to ensure appropriate implementation has taken place and is maintained. Implementation will be overseen by the LA Nominated Officer (where Blackburn with Darwen Borough Council is the ultimate employer).

### **24. Further Guidance**



Further guidance is available in the DBS Guidance – Schools.

If schools require any general advice regarding the application of this policy and guidance, please contact your HR provider. If schools require specific guidance or LA view on any aspect of the policy and guidance they may contact the LA who will be happy to provide advice.

## **25. Policy Review**

This policy will be reviewed in accordance with any changes to statutory legislation and in consultation with the recognised trade unions.