

**Whatever you do, work at it with all your heart.
Colossians 2:23**



St. Mark's C of E Primary School

A policy for DBS

Approved by governors: (data)

Reviewed September: January 2018

To be reviewed September 2019

Mission Statement

At St Mark's C of E Primary School we will:

- Welcome everyone
- Build Christian values and worship into our teaching
- Establish strong links between home, school and community
- Endeavour to reach our full potential and celebrate our achievements
- Care for, encourage and respect each other
- Support each other to stay safe, healthy and make a positive contribution to our world.

Our school is a place where every person has the right to be themselves and to belong and learn in a safe and happy environment. Everyone at our school is equal and treats each other with respect and kindness. We do not tolerate bullying.

1.0 Introduction

This policy reflects the changes to criminal record checks since the creation of the Disclosure Barring Service (DBS) and supports the schools aim to protect vulnerable adults and children. It also sets out the recommended requirements and expectations in respect of agency workers and contractors.

This policy applies to all school workforces which includes anyone employed by the school including those employed to deliver extended services. The policy applies to all school employees and volunteers.

Xentrall Services manage the DBS application and renewal process for maintained schools and for schools who buy the service from Stockton Borough Council.

This policy should be read in conjunction with the following documents:

- DfE Keeping children safe in education – statutory guidance for schools and colleges July 2015;
- HR Briefing 9 Recruitment and Selection Guidance for Schools 2016
- Revised Code of Practice for Disclosure and Barring Service Registered Persons November 2015
- Ofsted, School Inspection handbook - August 2015
- Ofsted, Inspecting safeguarding in early years, education and skills settings - August 2015

1.1 DBS – Academies

The Department of Education has produced a DBS guide for Academies and the guide should be read and followed in conjunction with this policy. The guide can be found using the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255232/DBS_guide_for_academies.pdf

2. Safe Recruitment and Safeguarding

DBS checks are just one aspect of safe recruitment and safeguarding and the DBS check itself is only a snapshot in time of a person's criminal record. HR Briefing 9 Recruitment and Selection Guidance for Schools (updated 2016) provides further advice and guidance to schools/academies on the whole recruitment process and includes the below essential arrangements for safeguarding:

- Safe recruitment – identity checks, reference checks, face to face interviews;
- Safe working practices – vigilant and ongoing day to day management;
- Training and awareness – ensuring employees are appropriately trained and aware of safeguarding issues;
- Confidential reporting procedures to ensure that employees are able to express any concerns they may have.

3.0 Legal requirements and Ofsted Guidance

Ofsted work very closely with the Department for Education to ensure that their inspectors do not expect schools or other providers to exceed the legal requirements. However, inspectors will wish to discuss those situations where providers have the authority to make their own decisions about safeguarding arrangements as part of the inspection of leadership and governance.

There is no legal requirement for a rolling programme of three yearly checks for employees with unbroken service, which is no break of three months or more. It is the schools own decision on how often or if staff are re-checked following their initial DBS check, if they are not new to the school. A DBS check does not last for an agreed length of time but the Ofsted advice is to expect that an existing check is no older than 12 months.

As a note for guidance, Ofsted may consider such routine re-checks to be excessive, as they go beyond what the law requires or the Government recommends. They will not be considered evidence of good practice, and may be considered to represent a poor use of resources.

Ofsted advice is that the school should be encouraged to risk assess each case individually and be prepared to demonstrate the basis of their decisions. Where a school allows an individual to start work in regulated activity before the DBS certificate is available then it must be ensured that the individual is appropriately supervised and that all other checks, including a separate barred list check, have been completed. **Appendix 2** of this document *Risk Assessment – Employees Starting Work Before an Enhanced Check is Returned* will assist in the risk assessment exercise in these instances.

Further information from Ofsted is available in regard to DBS checks in Annex 2 of the Inspecting Safeguarding, in early years, education and skills settings guidance which can be found on the website at www.ofsted.gov.uk

4.0 Types of DBS Checks for Schools

All staff employed in schools requires an enhanced disclosure (including the children's barred list check) as the work is deemed to be a regulated activity, see below. The enhanced disclosure will include information held on the Disclosure and Barring Service barred list. Please refer to paragraph 12 for guidance regarding volunteers.

The full lists of the different types of checks are:

- **Enhanced Disclosure (including the barred list check)** if the job involves regulated activity (see below) the enhanced disclosure will include information held on the Disclosure and Barring Service barred lists.
- **Enhanced Disclosure (excluding the barred list check)** – an enhanced disclosure contains the same information as a standard disclosure but also includes any non-conviction information held by local police, where they consider it to be relevant to the post and where this is thought necessary in the interests of preventing or detecting crime.
- **Standard Check** – where the post or office is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, for example, Accountant or Solicitor.

NB: A DBS check cannot be undertaken for anyone under the age of 16 years.

For those schools that have pupils 18 years or over, the enhanced disclosure must be checked where the employee is deemed to be working in a regulated activity, against both the children's and vulnerable adult's lists to ensure full compliance.

A factsheet in relation to regulated activity relating to Adults can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249431/dbs-factsheet-regulated-activity-adults.pdf

5.0 Regulated Activity

The full definition of Regulated Activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 (as amended). It still excludes activity carried out in the course of family relationships, and personal, non-commercial relationships between two people living in the same household who treat each other as family.

A Regulated Activity relating to Children includes those who provide:

- a) teaching, training, instructing, caring for (see (c) below) or supervising children if the person is unsupervised, or providing advice or guidance on well-being, or driving a vehicle only for children,
- b) work for a limited range of establishments (known as 'specified places', which include schools and colleges), with the opportunity for contact with children, but not including work done by supervised volunteers;

Work under (a) or (b) is regulated activity only if done regularly.

Some activities are always regulated activities, regardless of their frequency or whether they are supervised or not. This includes:

- c) relevant personal care, or health care provided by or provided under the supervision of a health care professional:
 - personal care includes helping a child, for reasons of age, illness or disability, with eating or drinking, or in connection with toileting, washing, bathing and dressing;
 - health care means care for children provided by, or under the direction or supervision of, a regulated health care professional.

(KCSIE Guidance July 2015)

6.0 Posts in Schools Defined as a Regulated Activity

6.1 School Appointments

The following posts are identified as a regulated activity and require an **Enhanced Disclosure**; including a barred list check. The enhanced disclosure will include any information held on the Disclosure and Barring Service barred lists:

- Teachers (including NQTs and Unqualified Teachers)
- All support staff employed directly by the school
- Agency staff – e.g. supply teachers, support staff, administrative etc.
- Volunteers – (see paragraph 12 Volunteers for further guidance)
- Students on extended work related learning in another school or nursery (over 15 days)
- 6th formers and younger students on regular community work e.g. helping with a football club
- Invigilators
- Interpreters
- After school club staff
(Where there is a third party ensure that there are clear lines of accountability and written agreements setting out responsibilities for recruitment and vetting of staff and volunteers)
- Self-employed staff e.g. sports/drama/music etc.
(Ensure there is a written agreement in place to include appropriate health & safety checks are in place and ensure that child protection training has been undertaken)

6.2 Local Authority and Agency Appointments

The following posts which are identified under regulated activity and are recruited to and directly employed by Stockton Borough Council or an Agency will be DBS checked by the Local Authority or relevant agency (please refer to Paragraph 7 for guidance for Agency Workers).

- Home & Hospital Teachers
- Counsellors and Therapists
- Music Teachers (TVMS)
- Psychologists
- Social Workers
- Librarians
- School Crossing Patrol, Escorts & Coach drivers
- School Meals Staff - Catering staff
- Cleaning/site management/grounds staff
- Students on placement (if provided through the LA)
- Cycling proficiency trainers
- Road Safety Officers

It is sufficient for schools to seek written confirmation that appropriate DBS checks have been carried out and by whom and to confirm the identity of these visitors. It is not necessary (or practicable) to require a date for such checks. Written confirmation may be in the form of a letter or public statement on the employing organisations/agency website as in the case with visiting Ofsted Inspectors.

The Headteacher should be provided with written confirmation from the Local Authority or Agency, that appropriate checks have been completed and visiting officers may be required to provide that written confirmation.

Where the employee begins work with a DBS application in progress the school should ensure that children are not left unsupervised around that person until notification of satisfactory DBS is received.

Please see **Appendix 4** *When Does a School Need to Request a DBS Certificate* for guidance on when you should request a DBS certificate.

6.3 Sub-Contractors

Taxi Drivers – Taxi drivers are DBS cleared by Stockton Borough Council when their taxi licences are issued and therefore they will have a DBS certificate to show the school on request.

Tees Achieve - Swimming Instructors/sports coaches etc. from Tees Achieve will also have been DBS cleared and their employer will be able to confirm that the necessary clearance is in place.

Catering - All catering positions are deemed to be a regulated activity if working with children and therefore if a school has their catering service from Stockton's' Catering Service or an outside provider the staff should be DBS cleared through their employer who will be able to confirm that the necessary clearance is in place.

7. Agency Workers

Where an Agency Worker is working in a post which would require a DBS disclosure, the Headteacher must ensure that the Agency Worker has the appropriate DBS check, in the case of a teacher a prohibition order check and has had written confirmation from the agency, or third party organisation who have carried out the checks that the necessary checks have been undertaken.

Ofsted guidance is that the agency worker put forward must have been checked against the relevant list of those barred from working with children held by the Disclosure and Barring Service within the last 12 months. Employment agencies and businesses must provide written confirmation of this to the organisation employing the person.

The school must also check that the person presenting themselves for work is the same person on whom the checks have been made.

8. Contractors

Due to the new definitions of regulated activity, contractors and other visitors to premises where children and vulnerable adult services are provided are unlikely to have or be eligible for a DBS Disclosure. It is therefore essential that appropriate supervision is provided to contractors and visitors and all unsupervised contact with children and vulnerable adults is avoided.

Contractors working in a regulated activity will require an enhanced DBS certificate (including barred list information). For all other contractors who are not engaging in a regulated activity,

but whose work provides them with an opportunity for regular contact with children an enhanced DBS check (not including barred list check) will be required.

Safer working practices should be adopted including signing in and out of the premises; displaying visitor badges; carrying out work out of school hours where possible; and provision of any relevant policies and procedures to be complied with during the period visiting the premises.

The identity of contractors and their staff should always be checked on arrival at school.

9. Visitors

Schools do not have the power to request DBS checks and barred list checks, or ask to see DBS certificates for visitors e.g. children's relatives attending sports day. Headteachers should use their professional judgment about the need to escort or supervise visitors.

Officers of the Local Authority i.e. Health & Safety representatives, HR Advisors, Finance Officers; School Improvement Advisers etc. no longer qualify for DBS clearance as they do not have unsupervised regular access to children and therefore appropriate supervision and the normal risk assessment that applies to all visitors while they are on school premises, is sufficient.

The identity of visitors in an official capacity as above should always be checked on arrival at school.

10. School Governors

In accordance with the Kcsie July 2015 Paragraph 90, Governors who are volunteers should be treated on the same basis as other volunteers, that is, an enhanced DBS check (which will include a barred list check) which should only be requested if the Governor will be engaging in a regulated activity. Please see paragraph 12 below re Volunteers.

The School Governance (Constitution) (England) Regulations 2012**(b)** have been amended as follows.

16A.—(1) Where a governor has been elected or appointed before 1st April 2016 and does not hold an enhanced criminal record certificate, the governing body must apply for such a certificate in respect of that governor by 1st September 2016.

(2) Where a governor is elected or appointed on or after 1st April 2016 and does not hold an enhanced criminal record certificate, the governing body must apply for such a certificate in respect of that governor within 21 days after his or her appointment or election.”.

The changes therefore mean that Governing Bodies are:

- a) To require, from 1 April 2016, that all new governors of maintained schools are to undertake an enhanced DBS check before appointment or as soon as practical thereafter.
- b) To require that by 1 September 2016 all existing governors must have an enhanced DBS check.

In all cases the Enhanced check is without a Barred List check unless the Governor is engaging in a regulated activity as set out in Paragraph 5 above.

11. Governors of Academies/Independent and Free Schools

Before an individual becomes either the proprietor of an independent school or the chair of a body of people which is the proprietor of an independent school, the Secretary of State will carry out an enhanced DBS check and obtain a certificate for that person and their identity checked.

Where the Chair of an Academy trust that is converting from a maintained school has been DBS cleared by the Local Authority previously the requirement for a further check is not required.

The Chair of a body of people must ensure that enhanced DBS checks are undertaken where relevant for other members of the body and identity checks are completed before or as soon as practicable after an individual takes up their position.

In the case of an academy trust newly established to operate a free school, the DfE will ask the DBS to conduct checks on all members and directors of the new trust. Academy trusts, including those established to run a free school, have the same responsibilities as all independent schools in relation to requesting enhanced DBS certificates for permanent and supply staff. (Kcsie July 2015)

12. Volunteers

Under no circumstances should a volunteer in respect of whom no checks have been obtained be left unsupervised or be allowed to work in regulated activity.

Where the volunteer is carrying out an activity which provides the opportunity for contact with children the following advice is provided:

a) Supervised activity:

This is not a regulated activity and there is no legal requirement to obtain a DBS certificate but an enhanced DBS certificate may be obtained

b) Un-supervised activity:

This is a regulated activity and an enhanced DBS certificate with a barred list check must be obtained.

Where the volunteers work does not give the opportunity for contact with children this is not a regulated activity but an enhanced DBS check may be carried out.

The Keeping children safe in education statutory guidance for schools and colleges July 2015, paragraphs 83 – 89 provides further information about clearances for volunteers.

13. Part-time staff

Part-time staff may use the same DBS check for two or more posts as long as the posts are at a similar level and the school has satisfied itself about their appropriateness. This might include, for example, a teacher employed part time for planning, preparation and assessment (PPA) or supply cover in one school and as a teaching assistant in another.

14. DBS Certificate sent to Employee Only

Since June 2013 a copy of a DBS check is no longer provided to the employer. This means that Headteachers will have to obtain sight of the DBS certificate directly from the employee or applicant. Xentrall Services have issued a guidance note to Headteachers and Counter signatories regarding this and have in place a system to contact Headteachers regarding outstanding DBS Certificates. Details can be found at <http://xip/forms/hrformsstockton/>

Headteachers will need to be mindful of the confidentiality of information that may be contained within the DBS certificates. If there is an adverse disclosure the Headteacher must complete the risk assessment at **Appendix 1** to confirm continued suitability for the post. Advice must be sought from your HR Advisor.

15. DBS Online Update Service

An update service is available through the DBS. This is a subscription service that allows individuals to keep their DBS certificates up to date so they can take it with them when they move jobs or roles. This only applies to DBS checks submitted after the 17th June 2013.

Applicants and employees are responsible for registering for this service and there is an annual fee (currently £13), for maintaining this service. Employees and applicants are not required to subscribe to the update service.

Where an employee or applicant has subscribed, the Headteacher will carry out an online check to see if any new information has come to light since the last DBS Certificate was issued, this is called a "status check". However in order to carry out the check the Headteacher **MUST** follow the guidance shown below:

- Obtain the employee or applicant's consent either verbally or in writing;
- Have sight of the original certificate to check that it is the same type and level that is required for their current role; as this is all you are legally entitled to check;
- Check the person's identity;
- Check the name on the DBS Certificate matches the identity;
- Note the DBS Certificate reference number, the person's name and date of birth.

If a different type or level of check is required or if the status check indicates that there has been a change, a full Enhance DBS Disclosure check will be required.

There is no registration process or fee for employers to check a certificate but the employer must be legally entitled to carry out a check and have the workers permission.

The detailed guidance for employers and frequently asked questions can be found on the DBS web site:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454231/Update_service_employer_guide_v3_9.pdf

The outcome of a valid Status check will be one of the following:

- **This Certificate did not reveal any information and remains current as no further information has been identified since its issue.** This means that the individual's certificate contains no criminality or barring information and no new information is available.
- **This Certificate remains current as no further information has been identified since its issue.** This means that the individual's Certificate did contain criminality or barring information and no new information is available.
- **This Certificate is no longer current. Please apply for a new DBS check to get the most up to date information.** This means that the individual's Certificate should not be relied upon as new information is now available and you should request a new DBS check.

16. Adverse Disclosures

Having a conviction will not necessarily bar someone from employment with the school. The school will only take a criminal record into account when the conviction is relevant. Protection of the applicant's rights and interests must be weighed against the rights and interests of service users, employees and the public, including the Council's duties and responsibilities towards these or other groups. Stockton Borough Council's Policy Statement on the recruitment of ex-offenders is at **Appendix 3**.

If a DBS check reveals details of any convictions a risk assessment must be undertaken. Where convictions are revealed which may render the applicant or employee unsuitable for the post, advice must be sought from your HR Advisor and in either case the risk assessment pro-forma at Appendix 1 must be completed.

17. Fixed Penalty, Convictions and Cautions during Employment

If an employee receives a fixed penalty, caution or conviction during their employment which could have an impact on their suitability to perform their job role they must immediately disclose it to their Headteacher who should complete the risk assessment pro-forma at **Appendix 1**. HR advice must be sought in order to help determine continued suitability for the job role where there is a concern.

If an employee does not disclose receipt of a fixed penalty, caution or conviction to their Headteacher and at a later date the Headteacher becomes aware of this, an investigation may be undertaken in accordance with the school's Model Disciplinary Procedures.

If the employee is in a notifiable occupation; which is the case for all school jobs, the police will provide details to the Local Authority of any relevant cautions or convictions. This will usually result in an investigation being undertaken.

Where the school becomes aware of a fixed penalty, caution or conviction which could have an impact on the employee's suitability for a job role, consideration should also be given to suspension from the current post and/or alternative duties whilst an investigation is carried out.

18. Commencement of Employment Prior to Disclosure

A Disclosure should be obtained before an individual starts work. Where it is essential to engage an employee or volunteer prior to the receipt of a Disclosure a written risk assessment at **Appendix 2** must be completed. In all cases an Enhanced Disclosure must have been applied for and all other recruitment checks completed. Where there is no current DBS certificate, arrangements must be put in place to ensure the individual has no unsupervised contact with children or vulnerable adults until such time that the Disclosure is received.

19. Applicant's Right to Challenge Disclosure Content

Content of a DBS certificate can be challenged or disputed if it contains an error, or inaccurate or irrelevant information. Challenges and disputes should be made immediately by contacting the DBS and should be raised within 3 months of the date of issue on the certificate.

The applicant, or a person who has a legitimate interest in the accuracy of a certificate such as the counter signatory; employer; or licensing authority may raise the dispute after discussing the reasons for the dispute with the applicant.

If the disputed information could exclude an employee from their post they should be given an opportunity to dispute the information with the DBS. If appropriate it may be necessary to arrange alternative duties or suspension until this is resolved.

20. Referral to the DBS

Where an employee is dismissed or removed from regulated activity or resigns before any dismissal or removal because they have harmed or posed a risk of harm to a child or vulnerable adult, the employer has a legal duty to refer the person to the DBS.

The DBS can make barring decisions about people who are referred to it (usually following a disciplinary process) with the possible consequence of the person being barred from working or volunteering with children and/or vulnerable adults.

Consequently:

- the Hearing Officer in any disciplinary hearing must consider whether the conduct requires a DBS referral; or
- where there is a resignation prior to the conclusion of any disciplinary proceedings, the Headteacher must consider whether a DBS referral is required; or
- where an employee becomes aware of any conduct which could require a referral they must report it to their Headteacher. The Headteacher will then determine what action is required including whether a DBS referral is required;
- in the case of teachers, a referral to the National College for Teaching & Learning (NCTL) will also be considered

The Schools HR Advisory Service should be informed of any decision to make a DBS referral. A HR Advisor will complete the first draft of the DBS referral form as soon as possible and within 2 weeks of the decision to refer. The Headteacher will then complete and check the referral form particularly with reference to the reasons for concern and evidence base for the referral. The completed form must be returned to HR as soon as possible and within 2 weeks. On receipt of the completed form the HR Advisor will make the referral and inform the Headteacher of the date it is made.

HR will liaise with the Headteacher to ensure that the referral is made as soon as possible and within a maximum 4 week period.

If the school believes an employee or volunteer has committed a criminal offence, information may be passed to the police.

21. Gender Recognition Certificates

The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate. When a full gender certificate has been issued, the person is legally considered to be of the acquired gender.

If the person is required to undergo a DBS 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 to maintain confidentiality (email: sensitive@db.s.gsi.gov.uk or telephone 0151 6761452).

Gender confidentiality will be maintained where the individual has no criminal convictions and where there is no other information held by any Policy Authority, as a clear Disclosure certificate is the ultimate result. However, if they have convictions under their previous gender that were considered relevant to the 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.

22. Handling of DBS Certificate Information

The school and Stockton Borough Council on their behalf will comply with the requirements of the DBS in the secure storage, handling, use, retention and disposal of certificates and certificate information. Please see Appendix 5 for further information.

Signed:

Date: