



# Oak Trees Multi Academy Trust

## DBS Policy

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## **INTRODUCTION – THE POLICY**

With effect from 1 December 2012 the CRB and the ISA merged to become the Disclosure and Barring Service (DBS). Since then a number of changes have taken place in relation to process and advice.

1. This policy applies to all Academy employees within the Oak Trees Multi Academy Trust.
2. The intention of the policy is to safeguard and protect, as far as possible, all children and vulnerable persons within the Oak Trees Multi Academy Trust.
3. It is also the intention of the policy to ensure that the Academy meets existing national requirements relating to DBS checking and safeguarding.
4. The criteria for DBS checks follows the definitions of regulated activities in relation to Adults and Children. (See Appendix 1)
5. The policy must be applied fairly to all employees irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

## **PROCEDURE – NEW EMPLOYEES**

A DBS check is only requested after a thorough risk assessment has indicated that one is relevant to the job concerned.

6. All potential employees being recruited to posts assessed as needing a DBS (Disclosure and Barring Service) check because of access to children or vulnerable persons will undergo such a check at the enhanced level. The Chair of Trustees requires a DBS signed by the Secretary of State, whilst the CEO and CFO require portable a DBS as they will be working across the schools in the MAT. All Trustees will be DBS checked and Barred List checked as a matter of course.
7. Apprentices who are in areas of work where they may come into contact with children or vulnerable persons will require a DBS check before they start.
8. The DBS checks will be organised on behalf of the Academy by the individual academy admin staff.
9. No member of staff, whether permanent, temporary or casual should start work until the DBS check has been received and appropriately considered and all other pre-employment checks have been completed. Offers of employment must be made subject to satisfactory check results.
10. If for any reason a DBS check is delayed and there is an urgent need for an applicant to commence work, and all other checks are complete, the Headteacher will make appropriate decisions following a thorough risk assessment. This must be highlighted to the CEO. Continuation of contract will still be subject to acceptable DBS check.

## **DBS CHECK RESULTS**

11. When an acceptable DBS check has been received and all other processes have been completed (such as references, ID checks, barred list check etc.) the employee may start work.

The process followed in recruitment and selection, will be enclosed with the information sent to job applicants.

12. When a DBS check produces a history then that history needs to be considered in order to decide whether the employment may proceed. This consideration needs to take into account number, type, frequency and age of any convictions or warnings. Appendix 2 states the roles and responsibilities in DBS matters and the procedure to be followed. The Headteacher, with HR advice, will consider the history to decide whether employment can proceed. The decision made must be recorded. If there is doubt or dissent the matter should be referred to the Chair of Governors, Chair of Trustees and CEO for further consideration with the Head Teacher and HR.

## **REPEAT DBS CHECKS**

13. DBS checks for Academy employees will be repeated every 5 years and for relevant School Governors/Trustees every 5 years.

- Oak Trees accepts that the DBS checks of all employees are valid to work in their respective Oak Trees academy upon conversion date, and that they will then be repeated as part of the 5 year school cycle.

For other staff visiting the Academy the position is as follows: -

-Teacher training organisations and some other educational establishments which organise placements in schools repeat DBS checks every four years and this is acceptable to the Academy.

## **INFORMATION RECEIVED AFTER/BETWEEN DBS CHECKS**

14. If, following their initial employment an employee in a DBS post is convicted of any offence or receives a police warning then he/she is required to declare this.

15. As soon as the Headteacher becomes aware of a conviction or warning having been issued to an employee they need to consider this and can refer to HR for advice.

16. In some instances the Police will notify the Academy of investigations/convictions relating to staff employed at the Academy.

17. When information/concerns are notified these should be considered by the Headteacher as soon as possible with HR advice. In cases of doubt, dissent or difficulty the case should be referred to the Chair of Governors/Chair of Trustees/CEO for further and final consideration.

## **REHABILITATION OF OFFENDERS**

18. Under the requirements of the Rehabilitation of Offenders legislation there is a system for cautions and convictions, for both systems there is a list of exempt offences. This means that any caution or conviction for an offence on a particular list will not be filtered and others that will be. See Appendix 3 for further information.

## **CONTRACTORS**

19. All contractors are required to ensure that any person, be it employee or someone acting on behalf of the contractor who visit the Academy and have unsupervised contact with children or vulnerable people have DBS clearance to an enhanced level. The contracting organisation should provide the Academy with a list of staff and confirmation of the number and date of their DBS/CRB checks. Their employees should carry photo ID whilst on site. See Appendix 4

## **VISITORS TO SCHOOLS**

20. Employees of Wirral Borough Council and other organisations – unless they meet the definition of Regulated Activity will no longer require DBS checks. Should the Head Teacher have any concerns with regard to this they should contact HR for guidance. Further guidance is at Appendix 5. Wirral Borough Council employees should always wear their ID cards when visiting the Academy.

21. Visitors to the Academy who undertake work with children will require a DBS check and their employing organisation should provide the Academy with a list of names and confirmation of the number and the date of the enhanced DBS/CRB checks.

22. Visitors to the Academy who are simply attending a meeting with staff or using meeting facilities do not need DBS checks.

## **Appendix 1**

### **DBS – What is a Regulated Activity (Updated Oct 2012)**

Following the Protection of Freedoms Act there are new definitions for regulated activities, which were implemented from September 2012.

These definitions are separate and specific for Adults and for Children.

#### **Regulated Activity for Adults**

The new definition of Regulated Activity for adults defines the activities provided to any adult as those, which, if any adult requires them, will mean that the adult will be considered vulnerable at that particular time.

Adults will no longer be known as 'vulnerable' because of the setting in which the activity is received, nor because of the personal characteristics or circumstances of the adult being provided for by the activities.

The frequency test for Adults has been removed and an individual only needs to engage in a defined activity once to be carrying out a Regulated Activity.

There are six categories within the new definition of Regulated Activity:

1. Providing healthcare – provision by a healthcare professional or under the direction or supervision of one. This may include psychotherapy and counselling, first aid administered on behalf of an organisation established for the purposes of providing first aid. This does not include workplace first aiders, members of peer support groups or life coaching.
2. Providing personal care – physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of skin, nails or hair (but not where this involves only cutting hair) because of the adult's age, illness or disability. This also includes anyone who trains, instructs or provides advice on the provision of personal care or those who prompt and then supervise an adult to do one of the above.
3. Providing social work.
4. Assisting with general household matters –assistance with managing a person's cash, paying a person's bills or shopping on their behalf because of the adult's age, illness or disability.
5. Assisting in the conduct of people's own affairs.
6. Conveying adults to, from, or between places, where they receive healthcare, relevant personal care or social work because of their age, illness or disability. This includes hospital porters, patient transport service drivers and assistants, ambulance technicians and emergency care assistants but does not include taxi or licensed private hire drivers.

Certain elements of the original scope of Regulated Activity will not be changed:

- An adult is a person aged 18 years or over.
- A person whose role includes the day-to-day management or supervision of any person engaging in Regulated Activity is also in Regulated Activity.
- Regulated Activity for adults excludes activity carried out in the course of family relationships and personal, non-commercial relationships. Family relationships include close family (e.g. parents, siblings, grandparents) and the relationship between two people who live in the same household and treat each other as family. Personal, non-commercial relationships are arrangements where no money changes hands or if any money does change hands it is not part of a commercial relationship (e.g. giving a friend petrol money to drive you to the hospital), and the arrangement is made between friends or family friends.

### **Regulated Activity for Children**

The new definition of Regulated Activity relating to children is set out in three parts by The Protection of Freedoms Act.

A person can be in a Regulated Activity because of what they do (activities), where they work (establishments) or who they are (specified position).

The new definition of Regulated Activity covers:

- Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on wellbeing, moderate a public electronic interactive service or drive a vehicle only for children carried out on a frequent (once a week or more often), intensive (on 4 or more days in a 30 day period) or overnight basis.
  - An individual carrying out activities as above, under reasonable day-to-day supervision by another person who is also engaging in Regulated Activity is not undertaking Regulated Activity.
- Work for a limited range of establishments (schools, nursery schools, PRU's, childcare premises, children's homes, children's centres) with the opportunity for contact with children carried out on a frequent, intensive or overnight basis.
  - A volunteer carrying out supervised activities under reasonable day-to-day supervision by another person who is also engaging in Regulated Activity is not undertaking Regulated Activity, however a supervised paid employee working for a specified establishment does come under Regulated Activity.
- Activities by a person contracted (or volunteering) to provide occasional or temporary services (which are not teaching, training or supervision of children) is no longer undertaking a Regulated Activity (e.g. maintenance contractors) but please remember, as stated above, supervised paid employees in specified establishments are in a Regulated Activity.
- Providing healthcare – provision by a healthcare professional or under the direction or supervision of one. This may include psychotherapy and counselling, first-aid administered on behalf of an organisation established for the purposes of providing first aid. This does not include workplace first aiders, members of peer support groups or life coaching.

- Providing personal care – physical assistance (or prompting with supervision or training or providing advice or guidance) with eating or drinking because of illness or disability, physical assistance (or prompting with supervision or training or providing advice or guidance) with going to the toilet, washing or bathing or dressing because of age, illness or disability.
- Registered childminders and foster carers.
- Day-to-day management or supervision of individuals carrying out Regulated Activity relating to children.



## **Appendix 2**

### **Roles and Responsibilities - DBS Processes**

#### **Disclosures with information**

1. When a DBS Disclosure is complete the individual will receive a copy. The employer no longer receives a duplicate copy therefore the employee should be informed that as soon as they receive their copy they should bring this in to the Headteacher or SBM/DBS lead for information.
2. The Headteacher (or delegated person responsible) should monitor this process and should there be delays in the employee bringing in the disclosure then they should follow-up on a regular basis until this disclosure is seen.
3. Should the disclosure contain details of any cautions or convictions the Headteacher needs to meet with the employee to discuss the detail then taking into account the number, type, frequency and age of any cautions or convictions and their relevance. An assessment needs to be made by the Headteacher and they should contact a HR Advisor to discuss and seek advice with regard to the ongoing employment.
4. Where disclosures are completed by an Oak Trees academy, in the majority of cases the electronic process will be used. Where this process is used the individual school will receive an e-mail back from DBS to confirm the disclosure has been sent to the employee and whether or not there are any cautions and convictions applied. This will then be forwarded to the Headteacher who will then know that the employee has their copy and therefore ask for this to be brought in for discussion. On some occasions where the electronic system is not used, then the Headteacher must liaise with the employee on a regular basis until they can confirm and present their disclosure for checking/discussion.

#### **Referral to Manager**

5. When the employee presents the disclosure to the Headteacher and information contained causes concern, the Headteacher should determine the full facts before reaching a decision. It is recommended that the Headteacher should ask the individual to bring their copy of the Disclosure Form to that meeting and talk through the detail.
6. When the Disclosure form has been seen a further discussion should take place between the Headteacher and a HR Advisor taking account of the following questions:
  - Whether the conviction or other information received is relevant to the post and workplace in question.
  - The seriousness of any offence or other information received.
  - The length of time since the offence or other matter occurred.
  - Whether the applicant has a pattern of offending behaviour.
  - Whether the applicant's circumstances have changed since the offending behaviour.
  - The circumstances surrounding the offence(s) and the explanation offered by the individual.
  - Any other relevant matters

### **Options after consideration**

7. If the Headteacher wishes to proceed with the employment but there are still some concerns they should be referred to the Chair of Governors for further confirmation, before employment is confirmed.

8. There will also be occasions when, on the basis of the information received it is decided that the appointment should not be confirmed. In these instances the Headteacher should make arrangements to see the applicant, confirm the detail in the Disclosure and confirm the decision not to go ahead with the appointment. The Headteacher will also need to advise payroll that the appointment is not going ahead.

### **Record keeping**

9. A register of relevant Disclosure information received is maintained by the Headteacher.

### **Decision making**

10. Decisions on all DBS issues should be carefully considered by the Headteacher, which will encompass any precedents and the Academies usual approach.

## **Appendix 3**

### **DBS Filtering Process**

Filtering is the term that DBS are using to describe the process which will identify and remove from disclosure certificate convictions and cautions which should no longer be disclosed due to the changes in legislation.

For those 18 or over at the time of the offence:

An adult conviction will be removed from a DBS certificate if:

- 11 years have elapsed since the date of conviction

and

- it is the person's only offence

and

- it did not result in a custodial sentence

Even then, it will only be removed if it does not appear on the list of offences which will never be removed from a certificate. If a person has more than one offence, then details of all their convictions will always be included.

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

For those under 18 at the time of the offence:

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

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

Common Offences that are subject to filtering (subject to sentence and time)

1. Common assault
2. Drunk and disorderly conduct
3. Harassment
4. Theft (where no violence is involved)
5. Drugs offences that involve simple possession

Common Offences that are exempt (ie: always disclosed)

1. Many sexual offences
  - a. Indecent assault on female 16 or over
  - b. Possessing indecent photographs or pseudo-photographs of children
  - c. Sexual activity in a public lavatory

2. Offences that involve a certain degree of violence, for example

a. Affray

b. Assault occasioning actual bodily harm

c. Robbery or assault with intent to rob

d. Stalk a person causing fear or violence

3. Safeguarding offences

a. Wilfully abandoning young person under 16

b. Taking the child out of the United Kingdom without the appropriate consent

4. Drugs offences that involve supply, for example

a. Supplying controlled drug – Class C

## **Appendix 4**

### **Contractors**

#### **Disclosures with information**

1. The Contractor shall procure that in respect of all potential staff or persons performing any of the Services and before a named employee begins to attend any Academy to perform the services where the performance of the services may involve contact with vulnerable groups including children, they must have an acceptable Enhanced CRB/DBS check.
2. The Contractor shall ensure that no person who discloses any personal convictions, or who is found to have any relevant convictions following the results of a DBS check, is subsequently employed, engaged or permitted to remain employed or engaged by the Contractor or on the Contractor's behalf on the relevant contract without the Academy's prior written consent (such consent not to be unreasonably withheld or delayed). Such consent must be obtained from the relevant Headteacher.
3. Any disclosure or relevant conviction relating to any contractor or person working on the contractor's behalf during the period of the contract will require the contractor to notify the Headteacher.
4. Any person attending the Academy on behalf of the contractor must wear a photo ID badge to signify who they are and enable a check to be made against the list provided by the Contractor.

## **Appendix 5**

### **Organisations providing services to Academies**

Academies should ensure that the following standards are met for any external persons or organisation attending or using the premises. A clear record should be kept of safeguarding checks.

1. Enhanced CRB/DBS checks must be carried out for all adults who will have unsupervised contact with learners including provision within and beyond the Academy.

Note: Where the Academy provides a member of its own staff to supervise pupils throughout their time spent with an external learning provider this level of DBS checking may not be necessary.

2. Insurance must be in place to cover learners taking into account their age group and any special needs they might have.

3. Health and Safety risk assessments need to be completed for the provider's premises and the specific tasks to be undertaken.

4. Risk assessments need to be completed that are specific to each learner taking into account health, social and personal characteristics as well as age, experience and any special needs.

5. Supervision arrangements need to be secured, including breaks and lunchtime and any other non-task centred time, including the level of supervision and learning support to be provided by the home school.

6. Start and finish time arrangements need to be agreed by all parties.

7. Transport to and from providers' premises and/or the Academy including supervision and monitoring of suitability of transport arrangements must be secured.

8. Appropriate parent / carer permission and informed consent for off- site activities and transport arrangements must be secured.

9. Data and information sharing protocols and procedures between the Academy and the provider need to be in place e.g. attendance, behaviour, special needs, child protection policies etc.

10. Named contacts must be nominated for the activity both within the academy and the provider organisation with contact details available.