

Isle of Wight Council

DBS PROCEDURE

References to “The Council” in this policy shall apply to Medina House School.

References to “Elected Members” in this policy shall apply to Governors of Medina House School.

References to “senior managers/managers” in this policy shall apply, as appropriate, to the Headteacher, Assistant Headteacher and members of the SLT.

References to “policies/procedures” in this policy shall apply to policies and procedures approved by the governors of Medina House School.

February 2021

IWC Procedures - Adopted by Governors on

Signed Chair of Governors

Review February 2022

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2 PROCEDURE - Carrying out DBS checks

The Council are required to check whether their employees, prospective employees or volunteers are fit to work with children, young people or vulnerable adults. This occurs where the job is one which, by law, requires the employer to make such an inquiry.

The Disclosure and Barring Service have eligibility rules governing when an employer can apply for DBS disclosure and which level of check can be requested. The levels of checks that may be undertaken are dependent upon the nature of the job and its responsibilities.

2.1.1 Types of Check

You can request:

- a basic check, which shows unspent convictions and conditional cautions.
- a standard check, which shows spent and unspent convictions, cautions, reprimands and final warnings.
- an enhanced check, which shows the same as a standard check plus any information held by local police that's considered relevant to the role.
- an enhanced check with barred lists, which shows the same as an enhanced check plus whether the applicant is on the list of people barred from doing the role.

To confirm which level of check your employee will require, please use the government eligibility tool: <https://www.gov.uk/find-out-dbs-check>

Our registered umbrella company will challenge any disclosure applications sent to them that they believe do not fall within these eligibility rules. We will establish and agree the appropriate legal level of disclosure with the manager as soon as we identify possible ineligibility.

To apply legally for an enhanced level disclosure with adult's and/or children's barred list check(s), the duties must fall within the definition of "Regulated Activity" e.g. social workers, support workers, teachers and any other staff/volunteers working at children's' care/teaching establishments. More information regarding what is and is not regulated activity can be seen at: https://www.onlinecrbcheck.co.uk/docs/regulated_activity.pdf

2.1.2 Costs and timescales

The costs of undertaking a DBS check are as follows:

- Basic DBS check - £23 plus £6 admin fee
- Standard DBS check - £23 plus £6 admin fee
- Enhanced DBS check - £40 plus £6 admin fee

DBS Checks for volunteers are free, however there is an administration fee charge of £6 per check.

DBS state that an Enhanced Disclosure check can take up to 60 days. The council may find that the turnaround is much faster than this, but occasionally may experience more significant delays. Delays are often due to the need for DBS to check on multiple addresses and delays often occur when checks are required from local police services.

2.1.3 DBS Check Expiry

A DBS check has no official expiry date. Any information included will be accurate at the time the check was carried out.

Once disclosure has been obtained, it remains valid and is not routinely renewed unless:

- The post holder has a break in service exceeding 3 months
- The duties of the post holder change meaning the current level of check and/or barred list checks (or lack thereof) are insufficient
- The postholder works at Beaulieu House or for the Disabled Children's Intervention Team in which case the Director of Corporate Services has directed that their enhanced level disclosure with children's barred list check should be renewed every three years

Managers also apply for DBS checks for volunteers and the same expiry rules apply as for employees.

2.1.4 DBS Update Service

If an applicant has signed up to the DBS update service, HR can check their certificate online. To do this please provide the below to the HR Support team by emailing DBS@iow.gov.uk :

- A signed and verified copy of the applicant's disclosure certificate.
- Their written proof that we may check the status of their certificate.

HR will then check the status of the DBS check. The recruiting manager will then be informed as per the process detailed below, and a record of the applicant's certificate number and date of issue will be saved on SAP.

3 Requesting a DBS check:

Step 1:

The recruiting manager will need to complete the below table, collate three forms of identification (ensure these are signed and verified) and send via email to DBS@iow.gov.uk. A list of the acceptable identification for DBS purposes can be found here: <https://www.gov.uk/guidance/documents-the-applicant-must-provide>

Required Information:	Details:
Applicant Name:	
Applicant Job Title:	
Team Name:	
Are they an employee or volunteer?	
Is an Enhanced or Standard or Basic Check Required?	
Will they be working with vulnerable Adults, Children, or Both ?	
Are barred list checks required? (Only applicable for Enhanced Checks if their duties are Regulated Activity) https://www.onlinecrbcheck.co.uk/docs/regulated_activity.pdf	
How are their duties Regulated Activity for Children or Adults?	
Cost Code to be charged for this check:	
Applicant's Line Manager to receive Disclosure:	

Step 2:

The DBS Team will then email the recruiting manager with a link to an online application form which will then need to be sent on to the applicant for them to complete.

Once the online form is completed by the applicant, a member of the DBS Team will verify the information the applicant has provided using the signed and verified ID provided by the recruiting manager. For this reason, it is imperative that the ID is collated, signed and verified, and sent alongside the template to the DBS Team so that the DBS process can be performed efficiently.

After the DBS Team receive information regarding the applicant's disclosure from the intermediary company, they will email this information to the recruiting manager. If the disclosure is clear, this information will be confirmed, and the manager may recruit the applicant. If the disclosure is not clear, they will advise the manager to discuss the contents of the disclosure with the applicant directly and then inform the HR Support team of their decision regarding the recruitment of the applicant.

The applicant's certificate number and date of issue is recorded on SAP and the email to the recruiting manager is saved to their file. HR only keep a record of whether the disclosure was clear or not clear. HR are not privy to the details on the certificate if the results are not clear.

4 DBS Waivers

If the DBS check has not been received, then the new employee should not start work. Only by having a signed waiver from the HR Support Team Leader will an unchecked employee start working for the Council. Waivers will only be granted in exceptional circumstances. To receive a waiver the manager will need to complete the DBS Waiver Request – Risk Assessment form (Appendix 3) in full and send to DBS@iow.gov.uk.

Managers must be completely satisfied by the new employee that there are no significant issues that may be delaying the prompt return of the DBS declaration. Managers must make it clear to the new employee that if the information they have supplied is false or misleading in any way, it may automatically disqualify them from appointment or may render them liable to dismissal or frustrate the contract with immediate effect.

5 Related Documents

- Recruitment Policy
- Safeguarding Statement

6 Duty to refer guidance

The council has a legal duty to make a referral to the Disclosure and Barring Service (DBS) where permission has been withdrawn for a worker/employee to engage in regulated activity, because the person has either:

- harmed or poses a risk of harm to a child or vulnerable adult, or
- satisfied the harm test (explained below), or
- received a caution or conviction for a relevant offence.

In the above listed circumstances, the duty to refer also applies if the worker/employee has ceased to engage in regulated activity for the council; for example, if the employee has been re-deployed, resigned or retired.

The duty to refer applies regardless of whether another body has made a referral in relation to the same person or incident.

What is considered to be harm?

Harm is not defined in legislation, but is considered by the DBS to include:

- sexual harm
- physical harm
- financial harm
- neglect
- emotional harm
- psychological harm
- verbal harm

This is not a fully comprehensive list, as the DBS appreciate that harm can take many different forms.

What is the harm test?

A person satisfies the harm test if they may harm a child or vulnerable adult or put them at risk of harm. It is something a person may do to cause harm or pose a risk of harm to a child or vulnerable adult.

What is a referral?

A referral is information about a person. It informs the DBS of concerns that an individual may have harmed a child or vulnerable adult, or put a child or vulnerable adult at risk of harm.

When a person has been referred, DBS then consider if they need to be added to the barred list(s).

When to refer?

The DBS Referral Flow Chart (available on the below link) should be used to help you determine whether a referral should be made and at what stage, alongside the below guidance.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/502089/DBS_referral_flowchart.pdf

DBS referrals should only be made in circumstances of dismissal or suspension, where the person has been removed from regulated activity, and not for instances of first or final written warning.

Suspension

If there have been allegations of harm or risk of harm, resulting in suspension then you will need to consider making a referral to the DBS. The duty to make a referral may not be automatically triggered by temporary suspension. The point at which you make the referral, if necessary, will depend on the stage at which you have sufficient information to meet the referral duty criteria set out by the DBS.

When an allegation is made resulting in suspension, the disciplinary process should be followed, and an investigation undertaken. If following this process, the decision is made to let the person return to a position working in regulated activity with children or vulnerable adults then there may not be a legal duty to make a referral (please check this with your HR Adviser). Alternatively, if the decision is made to dismiss or remove the person from working in regulated activity; a referral should be made to the DBS at the point that the disciplinary appeal period expires.

If however, at the time of suspension, you have sufficient evidence to support a decision to make a referral, you should do so immediately.

Dismissal

If there is no suspension, referrals to DBS should be made after the disciplinary appeal period expires.

Following allegations of harm or risk of harm, the investigation and disciplinary process should be completed, even if the person has left council employment. If the decision would have been made to dismiss or remove the person from working in regulated activity should they have still been employed, you should make a referral to DBS.

Examples

The DBS provides the below scenarios when duty to refer would apply:

Scenario 1

A local authority investigation identified that a care worker employed by them has verbally and emotionally abused service users. The member of staff resigned shortly after allegations were

made. It was concluded that had the care worker not left they would have dismissed them from the role.

Scenario 2

Following an investigation by the local authority, it finds that a member of staff working at a local authority run residential home has stolen money from several service users. The member of staff was dismissed as a result.

Scenario 3

Following allegations of abuse at a children's home run by a local authority, it was identified that a member of staff established an inappropriate relationship with a child who was a resident of the home. The member of staff also took sexually explicit images of the child. The member of staff was arrested and prosecuted.

Who should refer?

If it is necessary to make a referral to the DBS, the referral should be made by the team manager or service manager. Clarification as to who should refer should be decided at the point of suspension/dismissal.

Failure to make a referral to the DBS in line with these guidelines will be treated as a disciplinary offence.

How to refer?

To make a referral you must complete the DBS referral form on the following link, and read the associated guidance.

<https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance>

The form guidance and referral form covers prescribed information and supporting documentation that you legally must provide.

Further assistance

For further help with DBS referrals please contact your HR Adviser, or alternatively you can contact the DBS directly on 01325 953 795, or email dbsdispatch@dbs.gsi.gov.uk.

Appendix 1 – Annual Recheck Declaration Declaration of Criminal Offences

As your role is exempt from the Rehabilitation of Offenders Act 1974 a Disclosure Barring Service (DBS) check was carried out when you commenced employment.

To ensure the information regarding your DBS is accurate and maintained, you are required to declare details of any criminal offences annually. All information will be kept confidential and only disclosed to those parties relevant to maintaining your personal information.

The disclosure of a criminal record will not necessarily lead to a disciplinary action unless you have failed to inform your manager prior to or at the time of the caution or conviction. Failure to disclose relevant information may render you liable to dismissal or frustrate the contract with immediate effect.

Please list all cautions, warnings, reprimands, bind overs and convictions. You may wish to include any pending charges or convictions and indicate that they are pending in the column 'Place & date of judgement(s)'. **If you have no warnings, reprimands, bind overs and convictions please write 'none' and sign the form.**

Details of offence	Nature of offence	Place & date of judgement	Sentence

I certify that the information on this form is true and accurate. I understand that if the information I have supplied is false or misleading in any way, it may automatically lead to disciplinary action being taken against me.

SIGNED: _____ NAME: (Please print) _____

DATE: _____ JOB TITLE: _____

PLEASE COMPLETE THIS FORM AND RETURN IT TO YOUR LINE MANAGER

Appendix 2 – Childcare Disqualification Staff Declaration Form

CHILDCARE DISQUALIFICATION STAFF DECLARATION FORM

Please read the information contained in Part 1 before completing Part 2 of this form

Part 1 – Information for staff

The Childcare Act 2006 and the Childcare (Disqualification) Regulations 2018 apply to any member of staff who works in a 'childcare' role.

Staff are considered as working in a 'childcare' role if they provide early years childcare or later years childcare. This is defined as:

- *Early years provision - staff who provide any care for a child up to and including reception age. This includes education in nursery and reception classes and/or any supervised activity (such as breakfast clubs, lunchtime supervision and after school care provided by the school) both during and outside of school hours for children in the early years age range; and*
- *Later years provision (for children under 8) - staff who are employed to work in childcare provided by the school outside of school hours for children who are above reception age but who have not attained the age of 8. This does not include education or supervised activity for children above reception age during school hours (including extended school hours for co-curricular learning activities, such as the school's choir or sports teams) but it does include before school settings, such as breakfast clubs, and after school provision.*

The statutory guidance refers to a 'member of staff' as any individual who is employed by a school or local authority, those undertaking training in schools (both salaried and unsalaried), casual workers and volunteers.

All 'staff' who work in the above settings, including those who are directly concerned in the management of such early or later years provision, are required to complete and sign Part 2 of this Declaration regarding their suitability to work with children in these settings.

There are a number of reasons that a person may be disqualified from working with children, under the Childcare Act 2006. You may be disqualified if:

- you are on the Disclosure & Barring Service Children's Barred List
- you have been found to have committed certain violent and sexual criminal offences against children (or adults);
- there are grounds relating to your care of children including where an order is made in respect of a child under your care;
- you have had registration refused or cancelled in relation to childcare or children's homes or been disqualified from private fostering;
- you have been found to have committed an offence overseas which would constitute an offence regarding disqualification under the 2018 Regulations if it had been done in any part of the United Kingdom.

Individuals who are disqualified are not permitted to continue to work in early or later years provision or be directly concerned in the management of that provision. They can, however, usually apply to Ofsted for a waiver of disqualification – details of how to apply for a waiver

are included in the DfE statutory guidance 'Disqualification under the Childcare Act 2006'. This guidance also provides further guidance about the circumstances that will disqualify an individual from working with young children.

Please read the statutory guidance before completing Part 2:

www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006

Full name:

DECLARATION:

(circle as appropriate)

1. I have read Part 1 of this Declaration and the DfE statutory guidance 'Disqualification under the Childcare Act 2006'

YES/NO

2. Are you disqualified from working in a relevant childcare setting as outlined in part 1 above and the statutory guidance?

YES/NO

If you believe you may be disqualified by any of the criteria above, please provide further information below (*this should include details (including the date) of any order, determination, conviction, or other ground for disqualification from registration under the Childcare (Disqualification) Regulations 2009; information about the body or court which made the order, determination or conviction, and the sentence (if any) imposed; and a certified copy of the relevant order (in relation to an order or conviction).*)

I certify that:

- The information I have given in this Declaration is true and accurate.
- I understand my responsibility to safeguard children and am aware that I must notify my line manager of anything that may affect my suitability to continue to work in this environment.
- I will ensure I notify my line manager of any convictions, cautions, court orders, reprimands or warnings I may receive in the future whilst still employed by the Isle of Wight Council in a childcare role.

Signed:.....Date:.....

Headteacher signature:.....Date:.....

Details of any follow-on action taken, where relevant:

Appendix 3 - DBS WAIVER REQUEST - RISK ASSESSMENT

Applicant/ Employee Information	
Full Name	
Job Title	
Department	
Directorate	
Line Manager	
Start Date	

Declaration- please ensure the following information has been sought and other measures put in place before submitting a waiver application	
a) Right to Work UK ID has been seen, signed and verified	Yes/No
b) Two good references have been received	Yes/No
c) No declaration of convictions has been made or where a declaration has been made it is not related and would not affect the application for this role	Yes/No
d) The employee will be shadowing a member of staff, who already has the appropriate level of check in place, at all times until the DBS clearance is received	Yes/No
e) The DBS process has already been started and you are awaiting a DBS disclosure	Yes/No

I certify that the information on this form is true and accurate. I understand that if the information I have supplied is false or misleading in any way, it may automatically disqualify me from appointment or may render me liable to dismissal or frustrate the contract with immediate effect.

Employee's Signature:

Date:

Details of reason waiver required	
Please briefly explain why a waiver is required	
What risks are present? (e.g. safeguarding)	
Briefly explain the risk management plan (i.e. how the risks above will be avoided)	

Approvals			
Manager's Name		Date	
HR Authoriser		Date	

Please note all waiver requests are recorded.

Email: dbs@iow.gov.uk Website: <http://www.iwight.com/council/OtherServices/>