



# Safeguarding, Disclosure and Barring Policy-HR

30 September 2019



## Version Control

Current version	Previous version	Summary of changes made
30 Sep 19	30 Sep 18	New section (14) on Disqualification under the Childcare Act. Appendix D letter and self-disclosure for staff, Appendix E FAQs.
30 Sep 18	17 Apr 18	Updates to Section 2.3, 4.3, 12 and Appendix D, E as school staff are no longer captured by the Disqualification by Association legislation. Sections and appendices renumbered.
17 Apr 18	08 Nov 17	Section 4 and Appendix E updated to clarify Section 128 Prohibition from Management of an independent school.
08 Nov 17	11 Nov 16	Appendix E updated to include all columns required on the Single Central Record.
11 Nov 16	30 Mar 15	Section 2 updated with school specific requirements. Paragraph 4.3 updated in line with Keeping Children Safe in Education 2016. Formatting of paragraphs, headings and appendices standardised.

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[Safer Recruitment Risk Assessment Form](#)

# 1 Introduction

- 1.1 This policy has been designed to deliver the council's commitment to safer recruitment of staff working with children and vulnerable adults.
- 1.2 It complements the corporate recruitment and selection code of practice and ensures that our recruitment and management practices comply with current safeguarding legislation and regulations including the Disclosure and Barring Service ('DBS').

## Statement of Intent

- 1.3 Bolton Council is committed to safeguarding and promoting the welfare of children, young persons and vulnerable adults and we expect all staff and volunteers to share that commitment. Fair and thorough recruitment, selection and interview processes are in place throughout the council.

## Overview of policy framework

- 1.4 To fulfil the council's commitment to safeguarding in recruitment and employment we will, under the terms of this policy;
  - i. Ensure all relevant pre-employment checks are completed for prospective new starters.
  - ii. Maintain a risk profile of posts in each department that involve working with children, young people or vulnerable adults and will therefore be subject to an enhanced disclosure.
  - iii. Ensure that, when a positive DBS check is received, the appointment decision is made by the Assistant Director (Staying Safe) or Assistant Director Care Management, with reference to the relevant Director.
  - iv. Ensure that the protection of children and vulnerable adults is a condition of awards or grants and service level agreements when planning the commissioning or contracting of services and that inspection mechanisms are inbuilt as part of normal contracting arrangements as a means of auditing compliance.
  - v. Ensure that prospective employees do not normally commence working for the council until full clearances of all relevant pre-employment checks have been received and verified. Any decision for employment to commence prior to receipt of full pre-employment checks can only be taken by the Assistant Director (Staying Safe) or Assistant Director Care Management with reference to the Director of Children's and Adult Services.
  - vi. Routinely renew 10% of DBS checks every year.
  - vii. Require staff that are identified as working in very high risk posts to join the Update Service and maintain membership for the duration of their employment in that post.
  - viii. Require staff to disclose any convictions, cautions, reprimands or warnings that arise during the course of employment, in order that we can put any appropriate safeguards in place, according to the nature of job they do.

## 2 Safer recruitment standards

- 2.1 This policy complements the corporate recruitment and selection code of practice and ensures that the council's recruitment practices comply with recognised safer recruitment standards.
- 2.2 The School Staffing (England) Regulations 2009 require governing bodies of maintained schools to ensure that at least one person on any appointment panel has undertaken safer recruitment training.
- 2.3 In summary, all recruitment to posts that involve working with children must require the successful applicant to;
- Complete a detailed application form for the post.
  - Provide at least two pieces of identification, one of which should be photographic, which should identify name, current address and date of birth. Normally for proof of identification the individual should present their photo driving license or passport.
  - Provide at least two written references, which will be followed up before a post is offered. One reference should be from the last substantive employer or from an organisation which has knowledge of the applicant's work or volunteering with vulnerable adults, children or young people if the last employer was from a different sector
  - Consent to an Enhanced DBS check and barred list check (where necessary)
  - Be aware that they have a responsibility to disclose any subsequent convictions, cautions etc.
  - Undergo an interview which assesses the applicant's suitability for the particular role, his/her attitude towards vulnerable adults and/or children and young people and their ability to perform the role.
- 2.4 Overseas staff should be checked in the same way as for all other staff but should additionally endeavour to provide a certificate of good conduct from their home police force or embassy, as well as from other countries where they have worked, where this is available. DBS disclosures do not detail offences committed abroad.

### **The applicant or employee's duty to disclose information**

- 2.5 A central plank of the Safeguarding, Disclosure and Barring Policy is that the council requires;
- all applicants to disclose any convictions, cautions, reprimands or final warnings that are not "protected" as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013) to the council within their application forms, and
  - existing employees to disclose any convictions, cautions, reprimands or final warnings that arise during the course of their employment, to their Manager or departmental HR adviser

- 2.6 Any failure to disclose relevant information will be regarded as a potentially serious breach of trust and confidence and may result in disciplinary action, potentially leading to dismissal of existing staff or non-appointment of applicants.
- 2.7 Any decision to appoint someone under these circumstances should be taken either by the Assistant Director (Staying Safe) or Assistant Director Care Management with reference to the relevant Director.

### **Safeguarding checks for agency or supply staff**

- 2.8 Staff engaged from recruitment Agencies including school supply agencies must have the relevant level of DBS clearance, if applicable, for the post.
- 2.9 Should a positive disclosure be returned the decision about whether to engage the individual is the responsibility of the Assistant Director (Staying Safe) or Assistant Director Care Management.
- 2.10 Recruitment Agencies are therefore obliged to refer details of positive disclosures to the council, through the recruiting manager, for decision.
- 2.11 It is important that schools ensure that agencies used apply best practice and that Head Teachers ensure safer recruitment requirements are complied with.

## **3 Retention of personal files**

- 3.1 All personal files of those staff who have worked with children, young people or vulnerable adults will be retained for 25 years following the termination of their employment with the authority, in line with the council's retention guidelines.

## **4 The single central record for school staff**

- 4.1 In schools, a single central record of safeguarding checks for those who work within the school on a paid or voluntary basis must be maintained.
- 4.2 The record, as prescribed by Department for Education ('DfE') guidance, should include details of all staff employed at the school, whether directly or through an agency.
- 4.3 This includes anyone else who is identified by the school as 'working or volunteering in regular contact with children'. The record should confirm;
  - proof of identity - confirmation that name, address and date of birth have been checked and verified
  - evidence of qualifications, where the qualification is a requirement of the job, i.e. posts where a person must have Qualified Teacher Status
  - evidence of permission to work in the UK for all staff, and for those who are not UK nationals, evidence that steps have been taken to check their suitability
  - the date of a Barred List check, if appropriate as a separate item where the person has started in post prior to a DBS check being completed

- the date and number of DBS enhanced disclosure for all those who require a check under the guidance and regulation applying at the time they were recruited
  - the date of a prohibition from teaching check (teachers only)
  - date of European Economic Area (EEA) teacher sanctions and restrictions check on teachers who have lived or worked outside the UK
  - Section 128 Prohibition from Management of an independent school check (applicable to Academy and Free Schools only).
- 4.4 A copy of all documents used to verify identity, right to work and qualifications held should be retained on the school's HR file.

## **5 Disclosure and Barring Service clearance**

- 5.1 Guidance about the posts that should be subject to clearance is provided by the DBS themselves and the Local Authority has limited discretion to vary this.
- 5.2 In order to ensure consistency of decision making across the Council, decisions relating to a number of aspects of the policy will be made either by the Assistant Director (Staying Safe) or Assistant Director Care Management, with reference to the relevant Director. In their absence, decisions can only be made by the Director of Children's and Adults Services.

### **Enhanced DBS checks**

- 5.3 In line with DBS guidance, enhanced DBS checks are required for posts that involve;
- Adults – an enhanced DBS with barred list check is only available for those providing social care, health care or transport to/from a place providing one of these.
  - Children's – an enhanced DBS with barred list check is only available for those undertaking unsupervised activities in a school, children's home or other childcare premises, including teaching, training, providing personal care or driving a vehicle solely for children; child-minders and foster carers.
- 5.4 Enhanced DBS checks contain details of all convictions, cautions, reprimands and warnings held on the police national computer that have not been 'filtered' out.
- 5.5 They also contain information from the DBS Children's Barred List and the DBS Adults Barred List, along with information held by the Department for Education under section 142 of the Education Act 2002, detailing those considered unsuitable or banned from working with children.
- 5.6 In addition, an enhanced check will show any local police force information considered relevant. This could include information relating to someone who is currently under investigation or previous unsubstantiated allegations, etc.
- 5.7 Should an individual move from a position in which no check or a standard check is required into a position for which an enhanced check is required, this enhanced check should be completed prior to the commencement of the post.

### **Standard DBS checks**

- 5.8 Standard DBS checks are typically required for posts that do not involve working directly with children, young people or vulnerable adults but may be required as part of a licence for accessing certain databases e.g. Department for Work and Pensions.
- 5.9 The standard DBS does not include a check of the DBS barred lists so, for this reason, would only be requested in a very small number of cases.
- 5.10 The council will also complete standard checks for positions which have access to data concerning vulnerable groups and are listed in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975.

## **Checks for ‘umbrella body’ organisations**

- 5.11 Where requested, Bolton Council may act as an ‘umbrella body’ to countersign applications and receive disclosure information on behalf of other employers or voluntary organisations. When acting as an umbrella body the Council makes a charge to cover administrative costs.
- 5.12 The appointment decision for staff in ‘umbrella organisations’, based on disclosure information received, is the responsibility of the relevant Chief Executive Officer of the organisation concerned and not Bolton Council unless the person is being recruited to work within Bolton Council.

## **6 Positive disclosures**

- 6.1 The term ‘positive disclosure’ refers to a disclosure containing information relating to convictions, cautions, reprimands and so on, plus ‘soft information’ relating to non-convictions but which the police deem as relevant.
- 6.2 Positive disclosures concerning either job applicants or employed staff will be referred to the Assistant Director (Staying Safe) or Assistant Director Care Management who will, with reference to the relevant Director, be responsible for making an assessment of whether the offence(s) listed are sufficiently serious to cause concern.
- 6.3 To aid the decision making process it may be appropriate for the recruiting manager to interview the applicant to verify the information received, prior to any judgements being made.
- 6.4 The assessment of the positive disclosure will be in accordance with the following checklist;
- the likely impact that the positive disclosure could have on the individual’s ability to carry out the job role;
  - the seriousness and nature of the offence(s);
  - the nature of the appointment;
  - the length of time since the offence(s) occurred;
  - the number and pattern of offences;
  - the applicant’s age at the time;
  - any explanation of the circumstances of the offence(s) that may already have been given

- concealment of the offence(s) at the application stage/non-disclosure of offences that occurred during employment
- 6.5 The decision taken, based on the disclosure information received, will be recorded on the individual's HR record.
- 6.6 The manager is responsible for fully completing and submitting a risk assessment detailing the information documented on the DBS certificate to their HR adviser for consideration in line with the guidance within this policy. The form is available on the Extranet [Safer Recruitment Risk Assessment Form](#).
- 6.7 Where appointment or continued employment of an individual with positive disclosures proceeds, the record of decision will be retained permanently on the individual's personnel file and the DBS disclosure information will be retained securely for six months from the decision being made, in accordance with DBS Policy.

## **7 Appointment without full DBS clearance**

- 7.1 Following an offer and acceptance of employment, employees should not normally commence working for the Council until full clearances of all relevant pre-employment checks, including DBS clearance, have been received and checked.
- 7.2 Any decision for employment to commence prior to receipt of full pre-employment checks can only be taken, following consideration of a completed [Safer Recruitment Risk Assessment Form](#) based on the nature of work, the level of exposure to children, young people or vulnerable adults and the information provided on the application form.
- 7.3 If offences have been disclosed, approval for employment to commence can only be given by the Assistant Director (Staying Safe) or Assistant Director Care Management, with reference to the relevant Director as appropriate. Should there be no disclosed offences, approval can be given by the HR Business Partner or Deputy HR Business partner.
- 7.4 The contract of any employee appointed prior to receiving clearance should remain subject to this condition being met. Until such time as the DBS clearance is received, the employee will remain subject to robust control measures of which they will be notified.
- 7.5 The line manager is responsible for monitoring the individual until clearance is received and ensuring progress on the DBS check is pursued at least every 14 days. The Assistant Director (Staying Safe) or Assistant Director Care Management remain accountable for this decision until the DBS clearance has been granted.
- 7.6 The Manager is responsible for fully completing and submitting a risk assessment to their HR Adviser for consideration in line with the guidance within this policy.

## **8 Portability**

- 8.1 The DBS Update Service will now allow portability, i.e. the re-use of a DBS disclosure obtained for a position in one organisation and later used for another position in another organisation. This will only be possible however where the individual has subscribed to the Update Service and gives consent for their status to be checked.
- 8.2 It is not council policy to routinely recheck staff with current DBS clearance if they move between positions within the authority, although an up to date check may be requested depending upon the requirements of the role.
- 8.3 Where employees with a positive disclosure move to a new role, a new risk assessment should be undertaken by the Assistant Director (Staying Safe) or Assistant Director Care Management, with reference to the relevant Director. A copy of the decision should be retained on the employee's personnel file.

## **9 Requirement to subscribe to the update service**

- 9.1 All persons in posts within Children's or Adults adoption, fostering, residential care or supported living settings will be required to subscribe to the Update Service and maintain their membership for the duration of their employment in that post, to ensure that their on-going employment in their position of trust is appropriate. The cost of subscription to the Update Service for staff in identified posts will be met fully by the council.
- 9.2 Staff are required to subscribe to the Update Service and give written consent for their status to be checked annually. Failure to maintain their annual subscription will result in the staff member being required to obtain a new DBS disclosure and re-subscribe to the Update Service, at their expense.

## **10 Random renewal of enhanced DBS checks**

- 10.1 The council will renew around 10% of checks each year on a random sample basis, and routine renewals may also be undertaken for other posts, subject to a risk assessment by the relevant Assistant Director in accordance with the policy template.
- 10.2 All staff in posts subject to enhanced DBS clearance will be reminded of their duty to disclose convictions in line with the provisions of this policy.

## **11 Records of disclosure information**

- 11.1 The council recognises its obligations in relation to the handling, safe keeping and disposal of disclosed information and is committed to complying fully with the DBS Code of Practice in relation to safeguarding information received. The Code of Practice states that disclosure certificates are to be retained for six months in a secure locked place or until the outcome of any recruitment decisions where there is positive information.

11.2 The following details of all DBS and vetting checks will be maintained for employed staff on Oracle;

- the date of issue of a Disclosure;
- the type of Disclosure requested;
- the position for which the Disclosure was requested, where the holder has more than one post;
- the reference number of the Disclosure

11.3 Should any school wish to conduct its own DBS and vetting checks and keep its own records, they are required by law to keep and maintain their own Single Central Record containing the information set down above.

11.4 The council as a monitoring body will then require the school to confirm in writing to the council that it wishes to hold its own records and that they will be held and disposed of in accordance with the requirements above.

## **12 Disclosure and Barring Service barring role**

12.1 Part of the Disclosure and Barring Service's role is to help prevent unsuitable people from working with children and vulnerable adults. Referrals are made to the DBS when an employer or organisation, such as a regulatory body, has concerns that a person has caused harm, or poses a future risk of harm, to children or vulnerable adults.

12.2 The DBS maintains the lists of people who are barred from working with children or vulnerable adults. This work was previously undertaken by the Independent Safeguarding Authority, prior to its merger with the Criminal Records Bureau ('CRB').

## **13 Referrals to the Disclosure and Barring Service**

13.1 The council is under a legal duty to refer relevant information to the Disclosure and Barring Service if;

- We withdraw permission for a person to work in regulated activity with children and/or adults either through dismissal or by moving the person to another area of work that is not regulated activity. This includes situations where we may have dismissed the person or moved them to other duties, if they had not resigned, retired, or otherwise left their work.
- We think the person has carried out one of the following;
  - i. been cautioned or convicted of a relevant (automatic barring) offence; or,
  - ii. engaged in relevant conduct in relation to children and/or adults (i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk or harm); or,
  - iii. satisfied the harm test in relation to children and/or vulnerable adults. (i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable still exists).

13.2 The council will advise an individual who is to be referred to the Disclosure and Barring Service of the referral in writing and suggest that they seek legal representation due to the possible outcome of the referral and the impact on their future employment.

## 14 Disqualification under the Childcare Act

14.1 People who have been convicted of certain offences are disqualified from providing childcare under the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018.

14.2 The disqualification criteria include:

- inclusion on the Disclosure and Barring Service (DBS) Children's Barred List
- being found to have committed certain violent and sexual criminal offences against children and adults which are referred to in regulation 4 and Schedules 2 and 3 of the 2018 regulations (note that regulation 4 also refers to offences that are listed in other pieces of legislation)
- certain orders made in relation to the care of children which are referred to in regulation 4 and listed at Schedule 1 of the 2018 regulations
- refusal or cancellation of registration relating to childcare (except if the refusal or cancellation of registration is in respect of registration with a child minder agency or the sole reason for refusal or cancellation is failure to pay a prescribed fee under the 2006 act (regulation 4(1) of the 2018 regulations)), or children's homes, or being prohibited from private fostering, as specified in paragraph 17 of Schedule 1 of the 2018 regulations
- living in the same household where another person who is disqualified lives or is employed (disqualification 'by association') as specified in regulation 9 of the 2018 regulations (note that regulation 9 only applies where childcare is provided in domestic settings, defined as 'premises which are used wholly or mainly as a private dwelling' in section 98 of the act, or under a domestic premises registration, including non-domestic premises up to 50% of the time)
- being found to have committed an offence overseas, which would constitute an offence regarding disqualification under the 2018 regulations if it had been committed in any part of the United Kingdom

The above list is only a summary of the criteria that lead to disqualification. Further details about the specific orders and offences, which will lead to disqualification, are set out in the 2018 regulations.

14.3 The regulations apply to staff who work in, or are directly concerned with managing:

- **Early Years provision – birth until 1 September following a child's fifth birthday**  
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 school hours.

- **Later Years provision – for children under 8)**

Covers staff who work in childcare provided by the school outside school hours for children under 8, including before-school settings such as breakfast clubs, and after-

school provision. This does not include education or supervision during school hours, or extended school hours for co-curricular learning activities, such as choir or sports teams.

The regulations also apply to volunteers and casual workers who regularly work in, or manage these settings, whether they're supervised or not. Self employed contractors, such as music teachers and sports coaches, and trainee teachers where they meet the criteria above.

14.4 The regulations do not apply to:

- Staff who only provide education, childcare or supervision for children above reception age during school hours
- Staff who only provide education, childcare or supervision out of school hours for children aged 8 or over.
- Staff who are not employed to directly provide childcare such as caretakers, cleaners, catering and office staff.
- Staff who are only occasionally deployed and not regularly required to work in relevant settings
- People involved in any form of health care provision

14.5 Previously staff could also be disqualified because they lived in a household where another person who was disqualified lives or works. This no longer applies to schools and you should not ask staff questions about people they live with.

14.6 Schools are responsible for ensuring that anyone who falls within the relevant categories of staff is made aware of the legislation. All staff covered by the regulations should be issued with the letter and FAQs in Appendix D. The declaration should then be returned to the headteacher. There is not requirement for staff to make an annual declaration, but the letter should be issued to all new staff prior to them commencing employment.

14.7 Schools should inform staff that when responding to questions about their cautions or convictions, they do not need to provide details about any convictions that are not relevant to the childcare disqualification legislation. Staff not in scope of the regulations cannot not be asked to complete a declaration.

14.8 If you find out a member of staff is disqualified, you should inform Ofsted and must not continue to employ the individual in the setting from which they are disqualified. Disqualified staff may be able to apply to Ofsted for a waiver.

14.9 Schools must keep a record of those staff who are employed to work in, or manage relevant childcare provision. They should record the date on which the information about disqualification was provided. Schools may choose to keep details of their checks as part of the single central record, or they may retain a separate record. Ofsted and the Independent School Inspectorates will check this as part of their routine school inspection process.

# Safeguarding, Disclosure and Barring Policy Declaration



NAME:.....

Class/Faculty:.....

EXTENSION:.....

I confirm that I have received and read the Safeguarding, Disclosure & Barring Policy.

I understand that failure to disclose criminal convictions, cautions, reprimands, bind-overs and any other police involvement that occurs during my employment with the school, both within and outside of working hours, may result in disciplinary action being taken and may ultimately lead to my dismissal.

**SIGNED** .....

**DATE:** .....

I confirm that I have not had any undisclosed criminal convictions, cautions, reprimands, bind-overs and any other police involvement within the past twelve months.

**SIGNED** .....

**DATE:** .....

**HEAD TEACHER'S SIGNATURE:**.....

**DATE:**.....

Please send your completed declaration to your head teacher.

# Safeguarding, Disclosure and Barring FAQ

## General FAQ's

### **What has changed?**

**From 29 May 2013** – a change in legislation means that certain old and minor convictions can be removed from the DBS certificate. Convictions that resulted in a custodial sentence will never be removed nor will certain serious convictions – more information can be found at <https://www.gov.uk/government/organisations/disclosure-and-barring-service> or within the School Model Safeguarding, Disclosure and Barring Policy.

### **From 17 June 2013 -**

**Update Service** - is now live so you can subscribe for a continuous update to your status – employers will be able to check this online without the need for a new application form to be completed

**Single Certificate** – the applicant will receive a certificate but not the registered body. It's up to you to ensure your manager and HR know immediately that you have received your certificate so that they can keep your HR records up to date

### **How much is it to subscribe to the Update Service?**

£13 per year.

### **Do I have to subscribe to the Update Service?**

It depends on your job role – a small number of roles are designated as requiring a renewal check and these will be deemed as mandatory for staff to subscribe. For anyone else, it's optional although if you work/volunteer in another role which requires a DBS, doing so could be beneficial to you.

### **How do I subscribe to the Update Service?**

- Please go to [www.gov.uk/dbs-update-service](http://www.gov.uk/dbs-update-service) and follow the subscription links
- You will need to enter either the form reference number of your DBS application before you send it off or the Certificate issue number providing its within 14 days of issue, along with certain personal details
- You will then need to pay the fee with a credit or debit card
- On completion of the reimbursement claim form, and verification of your subscription, subject to approval by your Head Teacher, reimbursement will be made in your next available salary

### **What if I don't have a credit/debit card?**

Please speak to your Schools Business Manager to see what other arrangements can be made.

### **Do I have to apply for a new DBS check?**

If you are in one of the designated roles for mandatory subscription you must subscribe to the Update Service and apply for a new DBS check at the same time. You need a DBS certificate issued after 17 June 2013 to allow you to subscribe to the Update Service. You will be contacted when it's time for you to do this.

### **Who will pay for the subscription to the Update Service?**

If you are in a role where subscription is mandatory, we will reimburse you. For all other roles, you will need to decide whether it is beneficial to you to subscribe to the Update Service and pay the applicable fee.

**Does this mean that DBS certificates are now portable?**

Not necessarily – if the person has subscribed to the Update Service then an online check can be made of their status. Otherwise, the guidance has not changed and we do not accept portability.

**What do I do when I receive my DBS certificate?**

On receipt, you must immediately inform your manager that you have received your certificate so that they can keep your records up to date. You will be required to show your Manager the certificate, and they will confirm the necessary details to HR.

**Do I still need to renew my DBS check every 3 years?**

It depends on the role – if you are working in one of the specified job roles in the Safeguarding, Disclosure and Barring Policy you must subscribe to the Update Service and consent to us undertaking an on-line check of your status at the appropriate time. Unless your status has changed, you will not have to undertake a new DBS application.

If your role is not one of the designated posts for renewal, you will not need to complete a renewal of your DBS check.

However the Council will be undertaking a random 10% sample of all other DBS ‘eligible posts’ on an annual basis. Routine renewals may also be undertaken for other posts, subject to a risk assessment by the relevant Assistant Director.

**Do I need to tell someone if I am involved with the Police?**

Yes – regardless of the role you are in. High standards of conduct are required from council officers and any member of staff in any role is required to notify their manager if they commit an offence which results in a caution, conviction, reprimand or warning from the police.

**Where can I find more information?**

By speaking to your nominated HR Adviser or HR Administrator.

Further information can be found on the HR Extranet and more detailed guidance documents on the DBS site: [www.gov.uk/dbs](http://www.gov.uk/dbs)

## **Schools Specific FAQ's**

*The following questions have been raised by schools in the past few weeks – these will be added to as and when further questions are raised;*

### **Would it be the council or School who would be able to check the status online, as the employer?**

The consent form – attached at Appendix C of the Schools Model Safeguarding, Disclosure and Barring Policy, provides both the Council and individual school the authority to check the online status of an employee.

### **Do all employees have to authorise for the employer to have access to view their online information?**

If your school wishes to use the online update service then all employees will be required to provide authorisation for the employer to have access to view their online information? (using the consent form – attached at Appendix C of the Schools Model Safeguarding, Disclosure and Barring Policy) Yes – all employees and volunteers.

### **Is there going to be a standard documentation to complete for employees to give consent?**

Yes – The standard form to be used to obtain consent to view details stored on the online update service is attached at Appendix C of the Schools Model Safeguarding, Disclosure and Barring Policy.

### **Can we insist that all employees sign up, if we are willing to reimburse them?**

This is a school by school decision and should be incorporated into your School Safeguarding Policy

### **What form do we use to reimburse staff expenses in respect of the update service fees?**

The form for staff to use to reclaim the £13 fee for the update service is contained at Appendix E of the Safeguarding, Disclosure and Barring Policy, entitled Claim for Reimbursement of Subsistence and Travelling Expenses – please complete the 'Other Expenses' Section of the form and ensure it is signed and dated before sending to your Payroll Provider.

### **How often should schools look on the update service to check for changes e.g. monthly, yearly or just as and when they have a concern?**

Once an employee has provided consent to view their online status, schools are free to decide how regularly they wish to view this to check if any changes have occurred. The Council will also be running a series of regular checks on all employees to highlight any changes in status which have occurred.

# Update Service Consent Form

In June 2013, the Disclosure & Barring Service introduced the Update Service which allows an employer to check an individual's DBS certificate is up to date, on-line via a secure log-in.

In order to be able to check your DBS status, I need to confirm that I have your consent to do so on the Disclosure and Barring Service system – the wording of the declaration is below for your information:

**I confirm I have the authority of the individual to which this DBS Certificate number relates to receive up-to-date information (within the meaning of section 116A of the Police Act 1997) in relation to their criminal record DBS Certificate for the purposes of asking an exempted question within the meaning of section 113A of the Police Act 1997; or in relation to their enhanced criminal record DBS Certificate for the purposes of asking an exempted question for a prescribed purpose within the meaning of section 113B of the Police Act 1997.**

Please therefore complete the declaration below, and return it to the School.

Name: \_\_\_\_\_

Date of birth: \_\_\_\_\_

DBS Issue date: \_\_\_\_\_

DBS Certificate number: \_\_\_\_\_

I consent to Bolton Council and {School Name} school making a check of my status on the DBS Update Service.

I understand that this consent document will be kept securely with other recruitment papers and held on my HR file for future reference and in accordance with the Data Protection Act.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX D

### Model letter and form for staff covered by the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018, plus FAQs

Dear

#### Childcare Disqualification Requirements

{School Name} undertake thorough safeguarding checks during the recruitment process as required under the Department for Education's statutory guidance on 'Keeping Children Safe in Education'. The Government has also issued supplementary guidance to this which includes a requirement for childcare disqualification checks to be carried out on certain groups of staff working in schools.

These arise from the Childcare (Disqualification) Regulations 2018 and the Education Act 2006. The Regulations prohibit anyone disqualified under the Regulations from working in a relevant setting.

As your post is covered by these Regulations, the school is legally required to ensure you are aware of these Regulations and seek to gather sufficient information about whether you are disqualified from working with children.

Under the legislation a person is disqualified if they are found to have committed an offence which is included in the 2018 regulations (a 'relevant' offence) this includes:

- Being convicted of a relevant offence
- On or after 6<sup>th</sup> April 2007, being given a caution for a relevant offence
- On or after 8<sup>th</sup> April 2013, being given a youth caution for a relevant offence

This letter, together with the FAQs ensures compliance with the first requirement above. In order to be fully compliant you are asked to advise the school (using the form attached) whether you have been disqualified from working with children. You are also required to inform the school should your circumstances under the legislation change.

The school will be under a duty to act should you confirm your disqualification – the details of this are included in the FAQs.

Please be assured the school understands this is a sensitive issue and will treat any information provided with due care and attention and in line with Data Protection policies.

Please complete and return the form below in a confidential envelope addressed to the Headteacher.

Yours sincerely

Headteacher

Encl: Childcare Disqualification Requirements FAQs

{School Name} **School**

Childcare Disqualification Requirements form for staff in scope of the regulations;

- Staff employed to work in Early Years (children under the age of 5)
- Staff employed in later years (wrap around care for children under the age of 8)

(to be issued with letter and FAQs)

Name: \_\_\_\_\_

Post: \_\_\_\_\_

School: \_\_\_\_\_

Date: \_\_\_\_\_

a)	Have you been disqualified from working with children?	YES / NO
b)	Have you received a conviction or caution for a 'relevant' offence as prescribed in the legislation?	YES / NO

Form to be returned to the Headteacher in an envelope marked as confidential.

# APPENDIX E

## **FAQs for staff in scope of the regulations**

### **1. Who is covered by these Regulations?**

The Regulations cover staff working in nursery, primary or secondary school settings if they are employed and/or provide early years childcare (this includes from birth until 1 September following a child's fifth birthday i.e. up to and including reception age) or later years childcare (this covers children above reception age but who have not attained the age of 8) or if they are directly concerned with the management of such childcare.

This includes:

- 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.
- 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 for children above reception age during school hours but it does include before school settings, such as breakfast clubs, and after school provision.
- Staff who are directly concerned in the management of the above settings – including headteacher, members of the leadership team, supervisor, leader or volunteer responsible for the day to day management of the provision.

### **2. Where are the disclosable offences set out?**

Full details of the relevant offences can be found:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/741597/APPENDICES-Disqualification\\_under\\_the\\_childcare\\_act\\_statguidance\\_4\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741597/APPENDICES-Disqualification_under_the_childcare_act_statguidance_4_.pdf)

### **3. What if a person is not sure whether they have a relevant offence?**

Cautions or convictions should only be provided if they are relevant to the childcare disqualification legislation.

If the person is unsure we would advise declaration of anything that they think may be relevant and schools can seek advice from the Schools HR Team - [HRschools@bolton.gov.uk](mailto:HRschools@bolton.gov.uk)

### **4. What happens if I fall within the disqualification criteria?**

A DBS risk assessment will be completed and you will be asked to complete a waiver that will be considered by Ofsted. Whilst a waiver application is under consideration schools will need to decide whether it is appropriate to redeploy you elsewhere in the school, or make adjustments to your role to avoid you from working in relevant childcare.

### **5. How long will it take to process an application for a disqualification waiver?**

It is a matter for OFSTED as they have the responsibility for granting a waiver or not. The time it will take to process a waiver application will undoubtedly vary from case-to case; whilst many should be straightforward, others will unfortunately be more complex and take time to resolve.

### **6. What constitutes childcare outside of the normal school day?**

Child care includes breakfast clubs, homework clubs, nursery and crèche provision provided by the school. Where activities are run by other providers on school premises but not managed by the school (e.g. lettings, football clubs etc ), these are not covered as they are not child care provision.

## **7. How these Regulations sit with the Data Protection Act and the school passing information to OFSTED?**

Schools must ensure that they handle information fairly and lawfully and take care not to breach the Data Protection Act 2018 and General Data Protection Regulations (GDPR).

The Childcare (Disqualification) Regulations 2018 require employers to pass information to OFSTED and such statutory duties are allowed under the Data Protection Act.

## **8. Further information**

Further guidance can be found in the Statutory Guidance Disqualification under the Childcare Act 2006.

<https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006/disqualification-under-the-childcare-act-2006>

