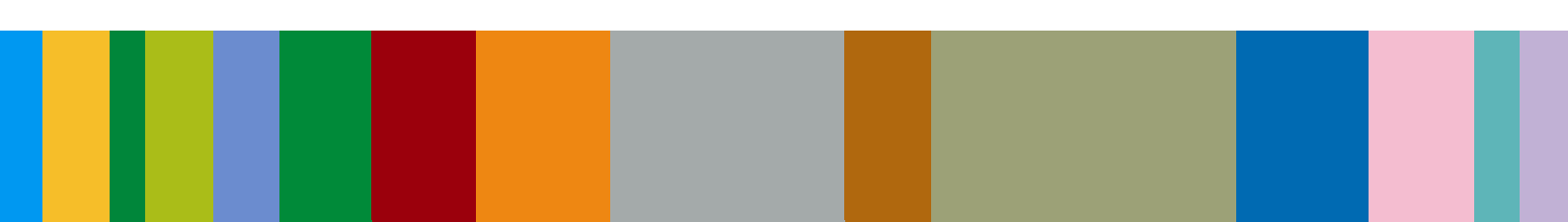




# **Safeguarding, Disclosure and Barring Policy**

01 October 2022

Bolton Council school model policy for safeguarding, disclosure and barring.



## Version Control

Current version	Previous version	Summary of changes made
1 <sup>st</sup> Oct 22	1 <sup>st</sup> Jan 22	Updated in line with Keeping Children Safe in Education Sep 2022. New section on Undertaking online checks on shortlisted candidates (2.8 - 2.13) Safeguarding checks for agency or supply staff updated.
1 <sup>st</sup> Jan 22	30 Sep 19	Updated in line with Keeping Children Safe in Education Sep 2021. New disclosure form for shortlisted candidates. DBS Filtering rules added.
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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# 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) 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) 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 theme of the Safeguarding, Disclosure and Barring Policy is that the council requires;
- Once shortlisted, 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, on the Safeguarding Disclosure form (Appendix G & H)
  - 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) with reference to the relevant Director.

## **Undertaking online checks on shortlisted candidates**

- 2.8 KCSIE states that, as part of the shortlisting process schools and colleges should consider carrying out an online search as part of their due diligence on the shortlisted candidates. This may help identify any incidents or issues that have happened and are publicly available online.
- 2.9 This does not include a general social media check, which can introduce discrimination and bias.
- 2.10 It is recommended that this check is carried out by someone who is not on the recruitment panel, who notifies the panel, in line with GDPR and Data Protection legislation.
- 2.11 Any information discovered should be compared with the candidate's application form, employment history and criminal / suitability self-disclosure and then discussed with the applicant at interview.
- 2.12 Applicants should be made aware on the application form that this check will be carried out.
- 2.13 It is not necessary to record this check on the Single Central Record.

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

- 2.14 Schools **must** obtain written notification from any agency, or third party organisation, that they have carried out the same checks as the school would otherwise perform on any individual who will be working at the school.
- 2.15 Maintained / VC / VA schools should see a copy of the certificate only if criminal information has been disclosed. The copy of certificate should be provided by the agency at contracting stage so that the HT can decide whether they are willing to accept the person being offered by the agency.
- 2.16 For independent schools / academies, the Independent School Regs 2014 require that the agency should provide a copy of the certificate to the school at contracting stage in all cases, even if it is clear. On no account should supply / agency staff be asked to bring their certificate with them for school staff to check on arrival.
- 2.17 School should ensure that they have either a statement or a copy of the relevant Safer Recruitment Policy, from the agency.
- 2.18 It is important that schools are confident that agencies they use 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 and volunteers.
- 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 evidenced 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 – from 1<sup>st</sup> January 2021, the EEA sanction can no longer be checked electronically, however teachers should be able to produce a letter from the relevant agency.
  - further checks on people 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), 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) 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 in Appendix I.
- 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 (Appendix I) 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), 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) remains 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), 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:**.....

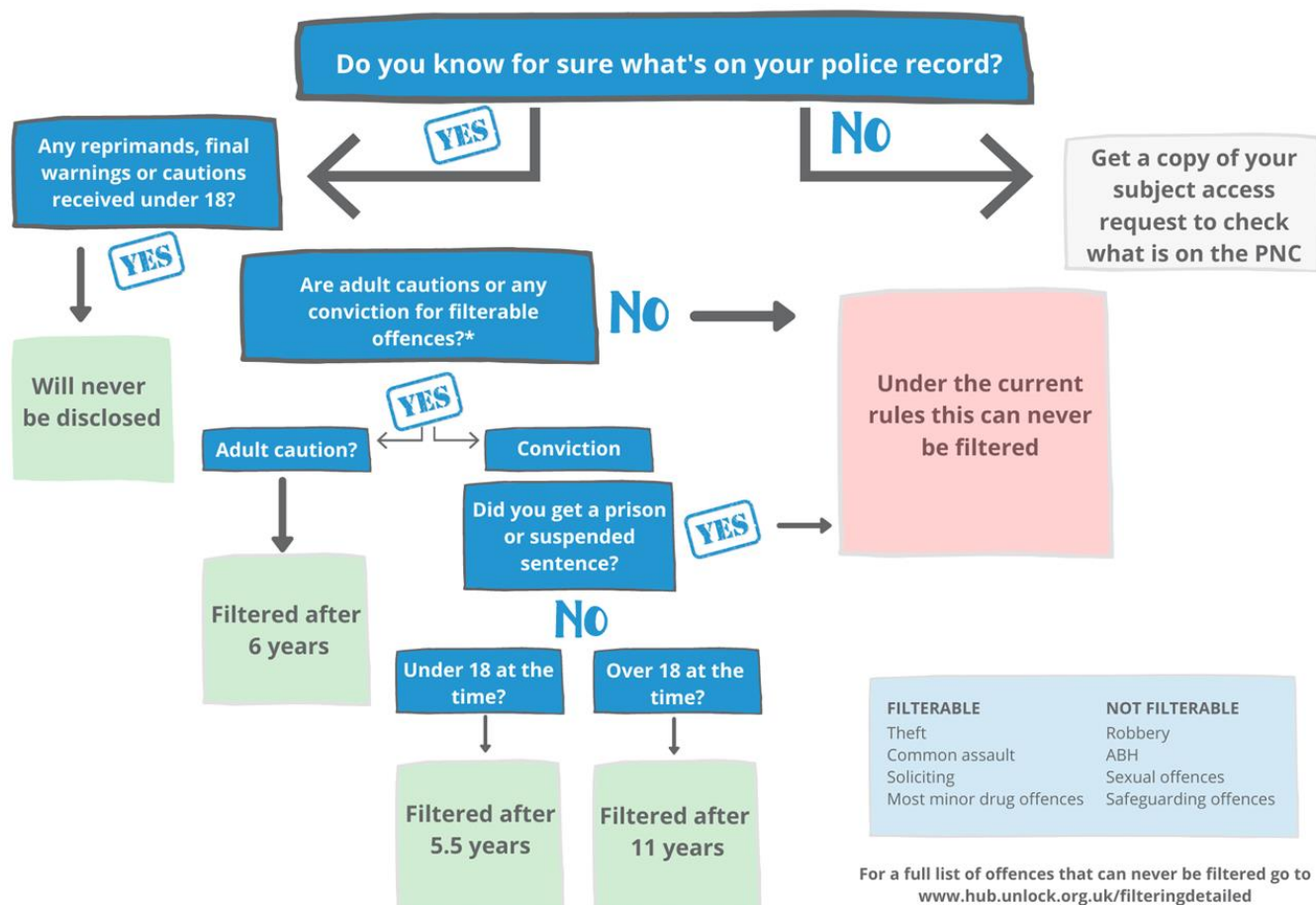
**DATE:**.....

Please send your completed declaration to your head teacher.

## DBS Filtering Rules

### What has changed?

**From 29 May 2013 (updated December 2020)** – 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>



### 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/db](http://www.gov.uk/db)



# 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**

Devonshire Road Primary School 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>

# APPENDIX F

## Single Central Record template



Identity					Position Held		Qualifications					Vetting Checks							Right to work in UK			Medical	References		Sign	
Name	Address	DOB	Date address ID seen	Date photo ID seen	Start date	Role or Job Title	Qualifications Required (yes / no)	If required, Qualifications Evidenced	If required, date Qualifications seen	If required, Teacher Registration Number	Date evidenced and checked	Date barred list checked	Date DBS evidenced and checked	If DBS Checked, DBS Disclosure Number	Date Teachers Prohibition Register evidenced and checked	Date S128 Prohibition from Management checked. *	Overseas Police check /Required (yes / no)	If required, EEA Overseas check completed (yes / no)	Disqualification check *	Date Passport / Visa / Work Permit evidenced for Right to Work in the UK	If Required, Date Visa or Work Permit Expires (earliest date)	If Required, Most Recent Date Work Permit or Visa Evidenced	Date Medical Clearance Received	Date Satisfactory Reference One Completed	Date Satisfactory Reference Two Completed	Evidence Checked By

\*Section 128 only applicable to Governors of maintained schools and Leadership of Academies.

\*Disqualification check only applicable to Primary Schools and Nurseries

## APPENDIX G

### Disclosure Form for Shortlisted Candidates – Children’s Workforce



Congratulations on being shortlisted. Please return this disclosure to the school **at least one day prior to interview**. If we have not received this, we reserve the right to withdraw the offer of interview.

POST APPLIED FOR:	SCHOOL:	DATE:
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Surname:		Previous name(s) (if any):	
Forename(s):		Preferred title:	Date of birth
National Insurance No:	Teacher Ref. No (if applicable):		Date of recognition as qualified teacher, QTS (if applicable):

***This post is exempt from the Rehabilitation of Offenders Act 1974; pre-employment checks will be carried out, references will be sought and successful candidates will be subject to an enhanced DBS check and other relevant checks with statutory bodies.***

The position you are applying for gives you privileged access to vulnerable groups, therefore you are required to disclose all spent convictions and cautions under the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 unless they are “protected” convictions/cautions.

This means that, under the amendments made to the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (in 2013 and 2020), you must disclose all spent and unspent convictions, other than those which are “protected” and are not subject to disclosure to employers. Any “protected” cautions or convictions disclosed in error, will not be taken into account.

Guidance and criteria on the filtering of these cautions and convictions, along with a full list of offences which will never be removed from a certificate can be found on the Disclosure and Barring Service website: <https://www.gov.uk/government/news/disclosure-and-barring-service-filtering>

Failure to disclose any disclosable criminal convictions could lead to your application being rejected. If it is subsequently discovered, following appointment, that you have failed to disclose any disclosable criminal convictions, this will be determined as an act of gross misconduct and you may be summarily dismissed. A referral to the Police will be made where appropriate.

**It is an offence to knowingly apply for, offer to do, accept, or do any work in a regulated position if you have been disqualified from working with children.**

**Any offer of employment will be subject to checks being carried out in order to ensure that you are not subject to a prohibition order or an interim prohibition order.**

Failure to complete this form may render your application invalid.

1. Do you have any convictions or adult cautions that are unspent under the Rehabilitation of Offenders Act 1974? Yes / No
2. Do you have any other cautions or convictions that would not be filtered? Yes / No
<p>If you answered yes to either of the above questions, please set out the following details:</p> <ul style="list-style-type: none"><li>• Date of each conviction / pending hearing / reprimand / warning;</li><li>• The offence;</li><li>• The sentence; and</li><li>• The Police Force / Court involved.</li></ul> <p><i>Continue on a separate sheet if necessary.</i></p>
3. As this post is working in regulated activity with children, please state whether you are included on the DBS children's barred list? Yes / No
If yes, please provide details here
4. (Teaching posts only) Are you, or have you ever been, prohibited from teaching by the TRA or sanctioned by the GTCE? Yes / No / Not applicable
If yes, please provide details here
5. *Management posts in independent schools / academies only Have you been prohibited from management of an independent school (s128)? Yes / No / Not applicable
If yes, please provide details here
6. Have you lived or worked outside the UK for more than 3 months in the last 5 years? Yes / No
If yes, please provide details here
7. Are you subject to any sanctions relating to work with children in any country outside the UK? Yes / No
If yes, please provide details here



**Please complete the declaration below:**

I declare that all the information I have provided in this disclosure is full and correct at the time of application and that I have not omitted anything that could be relevant to the appointment of someone who will work with children. I understand that the recruitment panel may be made aware of any relevant information that I have disclosed in order to discuss the matter(s) with me as part of the recruitment process and that, if my application is successful, a risk assessment of the disclosed information will be held securely on my personnel file. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role.

**Signed:**

**Date:**

**Please return this form in a sealed envelope to:**

Please note that, if you are unsuccessful, this disclosure form will be securely destroyed within 6 months of your application.

## APPENDIX H

### Disclosure Form for Shortlisted Candidates – Children’s and Adult’s Workforce



Congratulations on being shortlisted. Please return this disclosure to the school **at least one day prior to interview**. If we have not received this, we reserve the right to withdraw the offer of interview.

POST APPLIED FOR:	SCHOOL:	DATE:
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Surname:		Previous name(s) (if any):	
Forename(s):		Preferred title:	Date of birth
National Insurance No:	Teacher Ref. No (if applicable):	Date of recognition as qualified teacher, QTS (if applicable):	

***This post is exempt from the Rehabilitation of Offenders Act 1974; pre-employment checks will be carried out, references will be sought and successful candidates will be subject to an enhanced DBS check and other relevant checks with statutory bodies.***

The position you are applying for gives you privileged access to vulnerable groups, therefore you are required to disclose all spent convictions and cautions under the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 unless they are “protected” convictions/cautions.

This means that, under the amendments made to the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (in 2013 and 2020), you must disclose all spent and unspent convictions, other than those which are “protected” and are not subject to disclosure to employers. Any “protected” cautions or convictions disclosed in error, will not be taken into account.

Guidance and criteria on the filtering of these cautions and convictions, along with a full list of offences which will never be removed from a certificate can be found on the Disclosure and Barring Service website: <https://www.gov.uk/government/news/disclosure-and-barring-service-filtering>

Failure to disclose any disclosable criminal convictions could lead to your application being rejected. If it is subsequently discovered, following appointment, that you have failed to disclose any disclosable criminal convictions, this will be determined as an act of gross misconduct and you may be summarily dismissed. A referral to the Police will be made where appropriate.

**It is an offence to knowingly apply for, offer to do, accept, or do any work in a regulated position if you have been disqualified from working with children.**

**Any offer of employment will be subject to checks being carried out in order to ensure that you are not subject to a prohibition order or an interim prohibition order.**

Failure to complete this form may render your application invalid.

8. Do you have any convictions or adult cautions that are unspent under the Rehabilitation of Offenders Act 1974? Yes / No
9. Do you have any other cautions or convictions that would not be filtered? Yes / No
<p>If you answered yes to either of the above questions, please set out the following details:</p> <ul style="list-style-type: none"> <li>• Date of each conviction / pending hearing / reprimand / warning;</li> <li>• The offence;</li> <li>• The sentence; and</li> <li>• The Police Force / Court involved.</li> </ul> <p><i>Continue on a separate sheet if necessary.</i></p>
10. As this post is working in regulated activity with children, please state whether you included on the DBS children's barred list? Yes / No
If yes, please provide details here
11. As this post is working in regulated activity with vulnerable adults over the age of 18, please state whether you included on the DBS Adults Barred list? Yes / No
If yes, please provide details here
12. (Teaching posts only) Are you, or have you ever been, prohibited from teaching by the TRA or sanctioned by the GTCE? Yes / No / Not applicable
If yes, please provide details here
13. *Management posts in independent schools / academies only Have you been prohibited from management of an independent school (s128)? Yes / No / Not applicable
If yes, please provide details here
14. Have you lived or worked outside the UK for more than 3 months in the last 5 years? Yes / No

If yes, please provide details here
15. Are you subject to any sanctions relating to work with children in any country outside the UK? Yes / No
If yes, please provide details here

**Please complete the declaration below:**

I declare that all the information I have provided in this disclosure is full and correct at the time of application and that I have not omitted anything that could be relevant to the appointment of someone who will work with children. I understand that the recruitment panel may be made aware of any relevant information that I have disclosed in order to discuss the matter(s) with me as part of the recruitment process and that, if my application is successful, a risk assessment of the disclosed information will be held securely on my personnel file. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role.

**Signed:**

**Date:**

**Please return this form in a sealed envelope to:**

Please note that, if you are unsuccessful, this disclosure form will be securely destroyed within 6 months of your application.

# Appendix I

## SAFER RECRUITMENT RISK ASSESSMENT FORM

### Appendix A – Record of Safeguarding Risk Assessment – for pre-employment (A) and positive DBS checks (B).

<b>Full Name:</b>	<b>Date of Birth:</b>
<b>All Previous Names:</b>	<b>Department/School:</b>
<b>Job/ Position Applied for:</b>	<b>Manager/Head Teacher:</b>

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#### Section A. MANAGER/HEAD TEACHER TO COMPLETE

**Request for pre-employment start without DBS** (the individual must not undertake any work (paid or unpaid) until this risk assessment has been considered and approved)

Please explain why you need the person to commence work prior to all checks being received.	
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Question	Applicable (Please delete as appropriate)	Comments
Have at least two satisfactory written references been received?	Yes / No If 'No' state reason	
Has the application form been checked for gaps/anomalies?	Yes / No Give details	
Has medical clearance been obtained for a new starter?	Yes / No If 'No' state reason	
Will the person be supervised at all times until satisfactory DBS clearance is received?	Yes / No If 'No' state reason	
Has the individual disclosed any cautions, convictions, warnings, etc?	Yes / No If 'No' state reason	
If yes, at what stage were these disclosed?		
Further details: who was involved, when it occurred, what occurred, where incident/offence was committed, why it was committed. How does applicant now feel about incident or offence?		
Details of proposed measures to manage the 'risk' of this individual		

Question	Applicable (Please delete as appropriate)	Comments
commencing work prior to their DBS certificate being received. See 2.1.4 of policy for relevant criteria		

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## **Section B. MANAGER/HEAD TEACHER TO COMPLETE – POSITIVE**

**DISCLOSURE** (the individual must not undertake any work (paid or unpaid) until risk assessment considered and approved)

A DBS certificate has been returned and contains information which may be relevant to employment/ volunteering. This may not bar the individual from working with us; it will depend on the nature of the position applied for and circumstances at the time of the incidents or offences. We therefore require an explanation for these incidents or offences, as well as the circumstances around the individual at the time.

Please complete the following information with details from the original certificate, ensuring the individual is aware that to withhold information or to give false information may be regarded as an attempt to falsify records which constitutes gross misconduct and could lead to dismissal under relevant procedures.

DBS Certificate Issue date	
DBS Certificate Reference Number	

<b>Offence or Incident 1:</b>
<b>Date of Offence or Incident:</b>
<b>Sanction:</b>
<b>Who was involved, when did it occur, what occurred, where the incident or offence was committed and why it was committed. It is also necessary to explain how the applicant now feels about the incident or offence.</b>
<b>Offence or Incident 2:</b>
<b>Date of offence or incident:</b>
<b>Sanction:</b>
<b>Who was involved, when did it occur, what occurred, where the incident or offence was committed and why it was committed. It is also necessary to explain how the applicant now feels about the incident or offence.</b>
<b>Offence or Incident 3:</b>
<b>Date of offence or incident:</b>
<b>Sanction:</b>
<b>Who was involved, when did it occur, what occurred, where the incident or offence was committed and why it was committed. It is also necessary to explain how the applicant now feels about the incident or offence.</b>

### **Declaration by Applicant**

I certify that the information contained in this document is true and complete. I understand that to knowingly make a false statement or omit information will result in my job or volunteering application being unsuccessful or, if employed, in my facing possible dismissal or other disciplinary action. I understand that this information will only be seen by persons' responsible for making a recruitment decision and will be held securely.

<b>Signature:</b>	<b>Print:</b>
	<b>Date:</b>

### Section C. MANAGER/HEAD TEACHER TO COMPLETE IN ALL SITUATIONS

Question	Response (Please delete as appropriate)	Comments
Did the applicant declare all the matters on their application form?	Yes / No If 'No' state reason	
Does the individual agree the information detailed on the DBS Certificate is correct?	Yes / No If 'No' what do they think is incorrect and why?	
Were any offences work-related or committed within the context of a work setting?	Yes / No If 'Yes' give details	
Were any offences committed within the last 2 years?	Yes / No If 'Yes' explain context in of each offence e.g. where, how, why, details of victims.	
What is the individual's attitude to the offence/s now?	e.g. regret/remorse/ justified/denial	
Would they do anything differently now?	Yes / No If 'Yes' specify what	
Have the individual's circumstances changed since the conviction/s e.g. location/ friends/partner/education?	Yes / No If 'Yes' specify what	
Any mitigating circumstances e.g. immaturity, traumatic life event?	Yes / No If 'Yes' specify what	
Do the matters disclosed form any pattern e.g. repeat offences or repeat motivation (anger/financial/drugs/alcohol)	Yes / No If 'Yes' specify	
Can applicant demonstrate any efforts not to re-offend? e.g. Rehabilitation course, Anger Management course, help for alcohol/drug abuse.	Yes / No If 'Yes' specify (NB – completing Community Service is a punishment not a rehabilitation programme)	

Question	Response (Please delete as appropriate)	Comments
Does the post have any direct contact with the public and if so how vulnerable are they?	Yes / No If 'Yes' give details	
Can safeguards be implemented to reduce/remove any risk e.g. no unsupervised contact?	Yes / No If 'Yes' specify what	
What supervision is available and how readily?	Give details	
Are you satisfied with the individual's explanation of the circumstances of the offence/s? All positive disclosures must be discussed with the candidate. Note down their explanation of the circumstances.		

#### Any further information

Is there any other information relevant to this Risk Assessment regarding the candidate, the work itself or the location/environment where the activities will take place?

#### Level of Risk:

Please complete the level of risk posed by appointing/employing the individual in this job. Give reasons.

High Risk	
Medium Risk	
Low Risk	

Can protective measures be put in place to render the risk low? Yes / No

Outline of the protective measures e.g. curtailment of access to children/information; additional supervision; change of work location; diversion to low risk tasks or training.

Risk Assessment for name of individual completed by:

Signed (Manager)

Date:

Print Name (Manager)



## Section D. HR TEAM TO COMPLETE

Children's Barred List check completed against all known names? (to be requested from HR)	Yes / No If 'No' give details	
If yes, is Barred List check clear?	Yes / No If 'No' give details	
Name of person undertaking Barred List check		
For Teachers & Governors in maintained schools, prohibition orders checked?	Yes / No If 'No' give details	
If yes, is there a Prohibition Order in place?	Yes / No If 'Yes' give details	

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## Section E. AUTHORISATION

<b>Authorised by Assistant Director / Headteacher or Chair of Governors / School Business Manager</b>
Is this person suitable to start work based on the DBS information and risk assessment? Yes/No
Comments: (Reasons for decision)

Risk Assessment Authorised by:

Signed (Assistant Director / Head Teacher):

Date:

Print Name (Assistant Director / Head Teacher):

Disclosure information & documents relating to convictions should be retained by the Authorised signatory pending any appeal and for secure disposal thereafter. This form should be retained securely on the HR File for employees.

**This approval is isolated to this position only and the circumstances as judged by the authorised signatory. This judgment is not transferable to other recruitment decisions.**