



**Name of Policy:**

## **Safer Recruitment Policy**

<b>Reviewed Edition</b>	<b>April 2021</b>
<b>Next Review</b>	<b>April 2022</b>
<b>Person responsible for updating policy</b>	<b>SLT</b>

<b>Version number</b>	<b>Date</b>	<b>Author</b>
1.1	19/04/21	AEC
1.2	26/04/21	SC

# Contents

Introduction .....	3
Purpose .....	3
The Statutory Requirements:.....	3
The role of the Disclosure and Barring Service (DBS) .....	4
The nature of the offence .....	6
Frequency of the offence .....	7
The nature of the job role .....	7
When the offence occurred .....	7
Honesty and disclosure .....	7
Sexual Offences.....	7

# Safer Recruitment Policy (formerly CRB Policy)

## Introduction

Wallace Fields Junior School is committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and expects all staff and volunteers to share this commitment.

This policy document provides the underpinning framework for safer recruitment and continued monitoring based on statutory requirements and good practice.

The provision of further guidance, procedures and protocols is devolved to Strictly Education 4S HR. All published policy and guidance must be adhered to by managers and others recruiting and managing staff with access to vulnerable adults and children.

Following the deaths of Holly Wells and Jessica Chapman at Soham in 2002, the recruitment of staff who work with children and vulnerable adults was brought into sharp focus when their murderer, a college caretaker, was discovered to have been reported to police for alleged sexual abuse of young women at geographically diverse locations; however, as he had never been cautioned or convicted, the information was not disclosed in his CRB check to relevant prospective employers. The lack of a robust nationwide information system had contributed to his employers not being alerted to potential risks. There followed an enquiry by Sir Michael Bichard, who made a range of recommendations many of which came into effect in October 2009.

It is of paramount importance that all concerned remain vigilant and that managers make the best possible use of all sources of information available to them in an effort to ensure that the events of Soham, or similar, are never repeated.

## Purpose

The primary purpose of this policy document (and the Recruitment & Selection policy document) is to ensure that Wallace Fields Junior School provides a robust recruitment process; to try and identify those who would be unsuitable; to deter the small minority -who seek to sexually harm children or vulnerable adults; and, to select and maintain a safe workforce. In this way, Wallace Fields Junior School aims to ensure that the children and vulnerable adults for whom Wallace Fields Junior School provide services, enjoy the highest possible level of protection when receiving these services.

The secondary purpose of this policy document is to ensure that Wallace Fields Junior School and its staff meet their legal obligations, maintain adequate and auditable records, and that Wallace Fields Junior School is not vulnerable to legal challenge either directly or vicariously.

This document provides managers and staff with the instructions and information they require to ensure safer recruitment for safeguarding the vulnerable groups with whom they work. Further advice and guidance is provided by the Strictly Education 4S.

An equality impact assessment has been carried out as part of the review process.

This guide provides the following information. Use the links below to select the individual pages within the policy you require or if you would like to view/print the whole document click here.

## The Statutory Requirements:

It is a requirement that everyone working with children and/or vulnerable adults must have DBS disclosure at the enhanced level. DBS disclosure should include a check against List 99 and Children's Barred List.

Disclosure must be obtained prior to the individual commencing employment and must be re-checked at three yearly intervals or more frequently if there is cause for concern.

Wallace Fields Junior School will obtain checks on all potential employees and volunteers to be directly employed by the school from Strictly Education 4S. The school does not act as an umbrella body for other organisations.

### **Responsibilities:**

Wallace Fields Junior School has responsibility for ensuring that recruitment, selection, and retention decisions for posts working with children are safe, and that the school meets its social and statutory obligations.

The management and monitoring of this responsibility is devolved to the Headteacher and Strictly Education 4S. However, the Deputy Head of HR and Organisational Development at Surrey County Council will work closely with Strictly Education 4S to develop their knowledge and to promulgate good practice procedures and protocols.

### **For clarity, devolved responsibility requires the following:**

- Decisions as to which posts require DBS vetting
- Decisions as to whether posts require standard or enhanced DBS disclosure
- Monitoring policy compliance and ensuring consistency of application
- Acting as lead Counter signatory and managing the list of counter signatories
- Being the primary point of contact for DBS
- Providing procedures, protocols, advice and guidance to managers where risk assessment and discretionary decisions are required including advice regarding creation of audit trails
- Monitoring the application of the DBS Code of Practice and data protection as it relates to DBS documentation
- Financial management of the safeguarding processes

## **The role of the Disclosure and Barring Service (DBS)**

The Disclosure and Barring Service (**DBS**) helps employers in England, Wales and Northern Ireland make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. The **DBS** decides whether it is suitable for a person to be placed on or removed from a barred list.

### **There are three levels of disclosure:**

**Basic:** As the name suggests, a basic check is the least detailed type of disclosure. It's also the only type of criminal records check which you can request on yourself. Anyone can pay for a basic DBS check at any time. A basic DBS certificate shows your current, unspent criminal record only. The idea of "spent" refers to rehabilitation law, which allows people to discount some criminal offences after a set period of time. The length of time will depend on how old the person was at the time of the offence. Very serious crimes are never spent, whereas very minor convictions or cautions as a teenager disappear off your record in as little as a year. There's lots of information online to help you work out what's current and what is "forgotten".

**Standard:** DBS checks can only be requested if you are applying for a job that requires it. The government draws up a list of the types of jobs that need checks, and it's against the law for an employer to ask you for a disclosure if the job doesn't require it. A standard DBS check is more detailed than the basic in that it will look into spent convictions as well as unspent ones. As most of the people asking for standard disclosures are going into jobs in the court system, financial services or other positions of responsibility, a long record from years ago may still be relevant. When preparing the certificate, the police go through a filtering process to look at the person's criminal record and assess the type of information against the role they will be doing.

**Enhanced:** This level of disclosure is the one which gets most attention. Enhanced disclosures are needed when working with children or vulnerable adults. It is also the most detailed level of check and shows not only all the relevant convictions and cautions on the police computer but also police intelligence too. For example, if someone's name has repeatedly been mentioned in burglary cases, has been charged several times but never convicted through lack of evidence, this might be disclosed if they are thinking of working as a locksmith.

Most enhanced disclosures also involve a search of the barred lists. These are registers of people who are legally blocked from working in certain fields. Individuals might be barred from work with children, adults or both. Employers cannot ignore information on the barred lists, as it's a criminal offence to employ someone whose name appears.

Based on DBS Regulations and Wallace Fields Junior School policy, the manager must make the decision as to whether or not a post requires DBS disclosure at the time of advertising.

The DBS do not take decisions on behalf of the employer; it rather provides information on which the employer can take a decision. Services must consult with Strictly Education 4S where any such decisions are not clear-cut or a lack of consistency across the Service becomes apparent.

#### **Overseas workers and students:**

DBS cannot check criminal records from overseas. Applicants from overseas must obtain a disclosure from their country of origin, which should be verified by the Service prior to appointment.

Concerted efforts should be made to help candidates obtain overseas equivalent of DBS checks in order to avoid discrimination or perceptions of discrimination under Race Relations legislation. In most cases, it is for the candidate themselves to apply through the relevant channels but in some instances, it is for the receiving organisation to verify the applicant's request for disclosure.

It is a criminal offence under the Asylum & Immigration Act 1996, the Nationality, Immigration & Asylum Act 2002 and the Asylum & Immigration Act (A) 2004 to employ anyone who does not have leave to be in the UK or to work in the UK. Recruiting managers must ensure that any necessary permissions to work in the UK are in place and current. DBS checks will not establish the presence or currency of work permits. The Border and Immigration Agency operate a Helpline and Employer Checking Service. Failure to comply with this requirement will be referred to the Code of Discipline.

#### **Work Placement Students:**

DBS disclosures must be carried out on work placement students who will have frequent and/or intensive access to children and/or vulnerable adults.

#### **Who should obtain DBS disclosure?**

The School Business Manager is responsible for obtaining DBS disclosure.

Wallace Fields Junior School's policy is that new DBS disclosure must be obtained at recruitment or redeployment for any position or role defined as "regulated activity".

Services and recruiting managers must not accept a previous disclosure obtained for that person by another organisation, irrespective of how recent it is. Wallace Fields Junior School does not regard DBS disclosures as portable between organisations unless registered with the update service; in particular DBS checks are only valid on the day of issue.

**Agency Staff:** It is the responsibility of any supplying agency to ensure that staff provided to Wallace Fields Junior School have received appropriate DBS clearance. However, managers must ensure that supplied staff have the requisite registration and clearance, which meets the requirements of the post and this policy document and that evidence of such checking, is retained for audit purposes.

**Wallace Fields Junior School Policy on the recruitment of ex-offenders:** the Headteacher must ensure all employees and applicants for employment are aware of and apply this policy.

Job applicants are not obliged to reveal spent convictions unless the post is exempt from the Rehabilitation of Offenders Act 1974, which should be clearly indicated on the application form.

Nature of Conviction	Period until conviction is 'spent' (Rehabilitation period)
Conditional discharge or bind-over to keep the	One year
A fine or sentence subject to rehabilitation or a probationary sentence	Five years (2.5 if convicted under the age of 18)
Imprisonment for up to 6 months	Seven years (3.5 if convicted under the age of 18)
Imprisonment for more than 6 months but less than 30 months	Ten years (5 if convicted under the age of 18)

The presence of a previous conviction does not necessarily bar an individual, provided it does not lead to automatic List 99, Children or Adults barring.

If a conviction is revealed, a risk assessment must be carried out as part of the decision making process in collaboration with the Deputy Head of HR and Organisational Development or Strictly Education 4S.

Section 4 (2) of the Rehabilitation of Offenders Act provides that if a question is put to a rehabilitated person about previous convictions it can be treated as though it does not refer to spent convictions. Therefore, although it is quite legitimate for an employer to ask about an employee's previous convictions, the employee does not have to disclose any that are spent.

During the rehabilitation period the individual must disclose his/her convictions when asked to do so by a potential employer and it would be legitimate to refuse employment on the basis of that conviction.

Certain posts are exempt from the Rehabilitation of Offenders Act. That is, there is always an obligation to reveal a conviction and it is not illegal to refuse or end employment solely on the grounds of that conviction. It is important to stress, however, that the obligation to reveal convictions only arises if the question is asked.

As an additional safeguarding procedure, and in addition to DBS checks, where a professional qualification is mandatory for the post, managers must confirm professional registration with awarding bodies or professional registers and a record of that confirmation kept on file.

**Applying discretion:** There is no opportunity to apply discretion where the applicant or employee is on the Children's Barred List and Adult's Barred List.

DBS disclosure might reveal cautions or convictions for offences, which in themselves do not cause an individual to be barred, but which may give cause for concern in respect of a specific job role, for example a drugs related offence. In such cases, managers should refer to any procedures or protocols published by Wallace Fields Junior School and a decision must be sought from Strictly Education 4S as appropriate. An audit trail should be retained detailing the risk assessment and decision-making process.

Managers may find the following, but non-exhaustive, list helpful:

### **The nature of the offence**

In relation to **drug offences**, the type and volume of drugs involved and, if hard drugs were involved, medical evidence must be obtained to ensure the individual is no longer a user.

Whilst any **violent crime** would be a contra-indicator, a distinction would need to be made between the various levels of violence such as:

- carrying offensive weapons
- common assault
- actual bodily harm (ABH)
- grievous bodily harm (GBH)

The impact of **fraud offences** would need to be considered in relation to working with children or vulnerable adults in their daily living situation.

### **Frequency of the offence**

A series of offences is obviously of greater concern than an isolated minor offence.

### **The nature of the job role**

Drinking and driving offences would be relevant in situations involving the transportation of children.

Drinking offences may impact on any caring role. Consideration needs to be given to the impact of the offence on the applicant's/employee's ability to discharge their duties without compromising the safety of the vulnerable people.

Where the individual is already an employee of Wallace Fields Junior School, managers should refer to the Wallace Fields Junior School Drugs & Alcohol policy as part of the decision making process.

### **When the offence occurred**

Offences that took place many years ago may have less relevance than recent offences. Similarly, the age of the individual at the time of the offence may be relevant. There is a consensus that soft drug offences when under 20, if not repeated, would not be an automatic bar. Serious violent, drug or sexual offences would be a major cause for concern, as would any prison sentence. Care should be taken to avoid contravention of Article 13 of the Treaty of Amsterdam.

### **Honesty and disclosure**

If an applicant discloses, gives a full account, and/or there are extenuating circumstances, this can impact positively on discretion particularly in cases involving minor offences and/or when an individual can show that there has been a learning opportunity. Instances of disclosing one offence, but being a serial offender, and/or only disclosing less concerning offences but not disclosing serious ones should be viewed with caution. Failure to disclose where English is not the first language must be looked at in relation to the applicant's ability to understand the guidance.

### **Sexual Offences**

The majority of sexual offences will automatically bar an individual from working with children. However, prior to the Sexual Offences Act 1967 consensual homosexual activity was a criminal offence and there remain a small number of men with a criminal record for activity that has not been unlawful for over 40 years. Care should be taken not to infringe Article 13 of the Treaty of Amsterdam that makes it unlawful to discriminate on the grounds of sexual orientation.

Where non-convicted sexual abuse allegations are disclosed on enhanced DBS checks, Strictly Education 4S must be consulted for advice.