

DBS Disclosure Policy

MARINE ACADEMY PRIMARY POLICIES

VERSION CONTROL SHEET

POLICY NAME: DBS Disclosure Policy

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Document date	Filename	Meeting submitted	Summary of changes required
09-05-13	MAP2 DBS Disclosure Policy	TBC	New policy

1 INTRODUCTION

The policy provides guidance to managers on how to manage the Disclosure and Barring Service (DBS) checks (previously CRB checks) process (to include employees and volunteers) to positions where they will typically have access to children and vulnerable adults.

Marine Academy Primary has a duty of care to protect the well-being of the people who use the campus.

The Academy will take every step to ensure that those of its employees, volunteers and contractors who work with or otherwise come into contact with students are suitable to undertake the work.

This policy will apply equally to internal candidates (i.e. those currently employed by the Academy) and external candidates being considered for employment or volunteer positions. It will also apply where external agencies recruit and employ staff to carry out contract work on behalf of the college or where external agencies supply staff to work within the Academy. As a responsible employer, the Academy will ask successful candidates to undertake a Disclosure and Barring Service check when applying for positions which are included in the Exceptions Order 1975 to the Rehabilitation of Offenders Act 1974.

The Academy will only apply for Disclosures in respect of posts that are included in the Exceptions Order to the Rehabilitation of Offenders Act 1974. It may be an offence under section 123 (2) of the Police Act 1997 to apply for a Disclosure in respect of a post not covered by the Exceptions Order 1975.

2 LEGISLATION

This policy has been written with regard to the following legislation:

- § Human Rights Act
- § Data Protection Act 1998
- § The Police Act 1997
- § The Safeguarding Vulnerable Groups Act 2006
- § The DBS Code of Practice 2012
- § The Rehabilitation of Offenders Act (ROA) 1974
- § The Criminal Justice and Court Services Act 2000

3 **SECURE HANDLING OF INFORMATION**

The Academy has a policy statement regarding the storage, handling, use, retention and disposal of DBS disclosures and disclosure information available on the intranet.

4 **RECRUITMENT**

Whenever a vacancy arises for a position that will be subject to a DBS check, the following will always be observed:

- § A suitably qualified and trained appointing officer will be designated to be responsible for the recruitment process.
- § The job advertisement and any supporting information sent to prospective candidates will clearly state that the post is subject to a DBS check.
- § Only the successful candidate will be required to apply for a DBS check.
- § An offer of employment can be made subject to relevant pre-employment checks including a DBS check.
- § If the DBS check contains a trace, or additional information is received by the police, the disclosure of offences procedure must be followed.

5 **RECRUITMENT OF EX-OFFENDERS**

As an organisation using the DBS check service to assess candidates' suitability for positions of trust, the Academy complies fully with the DBS code of practice and undertakes to treat all candidates for positions fairly. It undertakes not to discriminate unfairly against any subject of a disclosure on the basis of conviction or other information revealed.

The Academy is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.

We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.

A disclosure is only requested for posts that are eligible as per the Exceptions Order of the Rehabilitation of Offenders Act 1974. For those positions where a disclosure is required, all application forms, job adverts and recruitment briefs will contain a statement that a disclosure will be requested in the event of the individual being offered the position.

Where a disclosure is to form part of the recruitment process, we encourage all candidates called for interview to provide details of their criminal record at an early stage

in the application process. The appointing officer will pose this question to candidates during the interview process.

Unless the nature of the position allows the Academy to ask questions about a candidate's entire criminal record we only ask about unspent convictions as defined in the Rehabilitation of Offenders Act 1974.

All appointing officers as part of the Academy recruitment process have access to guidance and expertise from suitably trained officers to identify and assess the relevance and circumstances of offences. As part of the Academy's disclosure of offences procedure, the interview panel seek approval from a senior manager regarding the final decision on suitability.

Having a criminal record is not necessarily a bar to working with the Academy. This will depend on the nature of the position and the circumstances and background of the offences.

6 **INDEPENDENT SAFEGUARDING AUTHORITY**

From November 2012 The Criminal Record Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged into the Disclosure and Barring Service (DBS). The Independent Safeguarding Authority (ISA) created two barring lists; the ISA Children's Barred List (containing details of those individuals barred from working with children). This list replaces List 99, the POCA list and disqualification orders. It also created the ISA Adult's Barred List which contains details of those individuals barred from working with vulnerable adults (replacing the POVA list). When recruiting to posts which undertake "regulated activities" with one or both vulnerable groups, the Academy will request checks to be made against the relevant barred list(s) as part of the DBS check. It is a criminal offence for individuals barred by the ISA to work or apply to work with children or vulnerable adults in a wide range of posts including most social care posts, those in education, childcare, NHS and post in the Prison Service. Employers also commit a criminal offence if they knowingly employ a barred individual in such posts.

7 **RE-CHECKING EXISTING EMPLOYEES**

Each disclosure will contain the date the disclosure was printed. Disclosures do not carry a pre-determined period of validity because a conviction or other matter could be recorded against the subject of a disclosure at any time after it is issued.

The Academy's Governing Body has confirmed that Marine Academy Primary employees, who have previously undertaken a CRB/DBS disclosure relevant to their current post, will be required to undertake a self-declaration on a yearly basis. The self-declaration will prompt the disclosure of any convictions, cautions, warnings or reprimands that may have arisen post appointment. Although the requirement to disclose such information is

highlighted in employees' principal statements, the requirement to complete a self-declaration provides a clear reminder of the importance of disclosure.

All employees will be expected to comply and any employee refusing to comply with the request for a disclosure will be advised that their deliberate and unreasonable refusal to carry out lawful and safe instructions issued and/or to comply with a contractual agreement, will lead to the employee being subject to a disciplinary investigation.

In addition to the requirement to complete a self-declaration, Marine Academy Primary reserves the right to ask existing employees in relevant positions to apply for a disclosure if their actions or activities give cause for concern. The grounds for this could include failure to complete a self-declaration, allegations of suspicious or inappropriate behaviour made to a child or vulnerable adult, or a colleague, parent, carer or member of the public. In such instances a full investigation will be conducted and the Academy may ask for a new disclosure to be carried out in accordance with legal advice.

If as part of the re-checking process, a DBS check is deemed unsatisfactory, a full investigation will be undertaken which may result in a member of staff being dismissed.

8 EMPLOYING PEOPLE WITH CRIMINAL RECORDS

Possessing a criminal record is not necessarily a bar to working for the Academy, but it may preclude working in certain positions. This will depend on the nature of the position and the circumstances and background of the offences committed.

An application to the DBS for disclosure will be requested only where this is considered relevant to the post and is permitted under the Exceptions order to the Rehabilitation of Offenders Act 1974.

As Marine Academy Primary is a school establishment all staff will be subject to an enhanced disclosure.

For all members of staff or individuals with an offer of employment, in the event of a disclosure return from the DBS highlighting either a disclosed or undisclosed conviction or other causes for concern, the Director of Operations will inform the Headteacher who in turn may inform the Governing Body. The Headteacher/Governing Body will decide if employment is to be offered.

9 RISK MANAGEMENT

Assessing and managing the risk of employing a person with a criminal record, or about whom positive information has been revealed following a disclosure, means comparing the candidate's skills, experience and conviction circumstances against the risk criteria

identified for the job and deciding on the relevance of the conviction or other information.

Having a criminal record will not necessarily bar someone from employment with the Academy, this will depend on the background to the offence(s) and the nature of the position being sought.

9.1 Considerations

Addressing issues relating to criminal offences needs an objective common sense approach which takes account of the following:

- § The employer's duties in law
- § The nature of the crime
- § When it happened
- § The circumstances involved
- § The sentence
- § Patterns of offending
- § Efforts to avoid re-offending
- § Job requirements
- § Safeguards against offending at work
- § Possible reactions of employees, customers etc, objectively assessed.

9.2 Candidate awareness

Applicants should be forewarned that enhanced disclosures might include non-conviction information such as details of cautions, reprimands, warnings and may include police intelligence relating to on-going investigations and relationships with any known or suspected criminals.

Failure to reveal criminal history could lead to withdrawal of the conditional offer of employment however since having a criminal record will not necessarily lead to a bar in employment with the Academy (see recruitment of ex-offenders above), a separate interview will be made to discuss the nature of the criminal record with the applicant who has disclosed they have a criminal record.

During the interview, the applicant should be able to give a full account of the circumstances of the offence(s), any extenuating circumstances and of their efforts to avoid re-offending.

Where assessment against the risk criteria indicates that the applicant could be employed on a conditional basis provided that extra safeguards are put into place, the appointing officer should discuss these with the applicant and explain the reasons for them.

10 OVERSEAS CANDIDATES

All persons appointed to a post, or seeking to volunteer with children and/or vulnerable adults who have lived outside the United Kingdom must undergo a DBS check regardless of their length of stay in the UK. They will also be required to provide a Certificate of Good Conduct.

Although it may be of limited value to ask a person who has little or no previous residence in the UK to apply for a disclosure, if that person seeks to work in the regulated childcare sector, the employer is required to check the ISA Children's Barred List through the disclosure process and similarly, if a person seeks to work with vulnerable adults, the employer is required to check the ISA Adults Barred List.

11 VOLUNTEERS AND STUDENTS

11.1 Volunteers

The Academy will ensure DBS checks are applied for where volunteers work in positions that are eligible for a DBS check. This DBS check will normally be free, however, not all people who work free of charge are classed as a volunteer with the DBS.

To qualify for a free DBS check the role must meet the DBS's definition of a volunteer which is 'a person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than, or in addition to, a close relative'.

Therefore students gaining credits towards qualifications, people on work experience, foster parents/carers etc must pay for their checks.

11.2 Student Placements

The Academy requires new DBS checks to be undertaken for all students prior to the student starting placement.

12 ACCEPTING AN EXISTING DBS CHECK

The Academy has guidance on the portability of DBS disclosures. This guidance can be found in the DBS Disclosure Portability Procedure.

13 AGENCY AND CONTRACTORS

Those responsible for hiring agency or contract workers on behalf of the Academy must ensure that the requirement for such individuals to have completed appropriate levels of

DBS checks (and that such disclosures are satisfactory) forms part of any contractual agreement.

14 **MONITORING AND REVIEWING**

The Academy will monitor and review this policy on a regular basis in order to ensure ongoing compliance with legislation and effective operational practice.

The Academy reserves the right to alter and amend this policy in accordance with any recommendations, changes in law or other related legislation following consultation with relevant parties.