



New Forest Small School

Disclosure and Barring Service (DBS) Checks Policy

Member of Staff Responsible	Headteacher and Designated Safeguard Lead
Regularity of Review	Annually

1. Introduction

This policy sets out the requirements for obtaining Disclosure and Barring Service (DBS) checks to enable us to access relevant information in order to protect children at the New Forest Small School. In this policy 'Regulated Activity' means the activities listed in the HM Government factual note on Regulated Activity in relation to Children which can be found at www.gov.uk.

Usually a job applicant has no legal obligation to reveal spent convictions and it is illegal for an employer to ask whether an applicant has any spent convictions. However certain areas of employment are exempt from this rule under the Rehabilitation of Offenders Act 1974 (Exceptions 1975) Order. This includes employment in a 'Regulated Activity', i.e. employment which involves contact with children or vulnerable adults. This exemption therefore applies to positions within the New Forest Small School.

We use the Disclosure and Barring Service (DBS) to undertake checks on the people who work or volunteer for us, as detailed in this policy. There are three levels of DBS check:

- A Standard DBS Disclosure contains details of spent and unspent convictions, cautions, reprimands and warnings held on the Police National Computer. Certain old and minor cautions and convictions may be removed from disclosure.
- An Enhanced Disclosure contains the details of the individual's convictions (spent and unspent), cautions (spent and unspent), police reprimands and warnings as well as relevant police information.
- An Enhanced Disclosure with Barred List Checks (sometimes known as an enhanced check for regulated activity) contains the same information as the Enhanced Disclosure, but additionally information held on the barred lists. The DBS manages two barred lists; one list holds information on individuals who are unsuitable for working with children, the other on those who are unsuitable for working with vulnerable adults. Individuals placed on either list are not allowed to work with the relevant group. An individual can be on both lists.

Prohibition orders prevent a person from carrying out teaching work in schools, sixth form colleges, 16 to 19 academies, relevant youth accommodation and children's homes in England. A person who is prohibited from teaching must not be appointed to work as a teacher in such a setting. Employer Access Online is a free service which can be used to check prohibition orders.

Since all of our staff and volunteers have some involvement in working with children and young people, all posts within NFSS have been assessed as requiring an Enhanced Check with Lists Check Disclosure, which, for the avoidance of doubt, shall include (but will not be limited to) permanent and temporary employees, non-staff members acting as invigilators for examinations, and other individuals where considered appropriate, e.g. volunteers and consultants.

We also reserve the right to request that third party contractors who provide services or work at NFSS undertake DBS checks on request and comply with all reasonable instructions to our satisfaction with regard to safeguarding and recruitment of staff. Contractors engaging in regulated activity will require an Enhanced DBS Certificate with Lists Check Disclosure. All other contractors who are not engaging in regulated activity, but whose work provides them with an opportunity for regular contact with children, will require an Enhanced DBS Check (not including barred list information).

2. Policy Statement

We are committed to ensuring, as far as possible, that the staff employed by NFSS, in either a paid or unpaid capacity, pose no threat to children, young people or vulnerable adults.

All staff recruited to positions involving contact with children under 18, and to positions which give access to information about these individuals, will be required to complete an Enhanced DBS with Lists Check Disclosure check prior to initial appointment and as often as considered appropriate by NFSS thereafter, as part of the conditions of their employment. Please see section 7 of this policy regarding the specific circumstances when a recheck would be required.

Any convictions disclosed will be considered fairly in line with the NFSS Equalities and Cohesion Policy, taking into account the nature and circumstances of the offence and its relevance to the post. We undertake not to discriminate unfairly against any subject of a DBS check on the basis of a conviction or other information revealed and we are committed to the fair treatment of our staff, potential staff or users of our services, regardless of offending background, age, disability, gender reassignment, marriage or civil partnership, pregnancy, maternity, religion or belief, race, sex, or sexual orientation.

We undertake to comply fully with the relevant sections relating to pre-employment vetting and retention of recruitment records of the Employment Practices Code which is issued by the Information Commissioner and the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. NFSS will also comply fully with its obligations under the General Data Protection Regulations 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.

We acknowledge that information about the commission, or alleged commission, of criminal offences is sensitive personal data for the purposes of the General Data Protection Regulations 2018, and as such, is subject to additional protections.

3. Recruitment procedures

Where a DBS disclosure is required for an advertised post, the job advertisement and job description should include a statement indicating that offers of employment will be made subject to a satisfactory Enhanced DBS check with Lists Check Disclosure.

Candidates will be asked to disclose any previous convictions on the application form. We will ask that this information is sent under separate, confidential cover, to the Designated Safeguarding Lead within NFSS and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.

The school will avoid asking for information that is not relevant, such as medical records, details about unrelated or spent convictions of household members, DBS certificates from third parties, or copies of a person's criminal record.

Failure to disclose a conviction or to provide truthful information which subsequently comes to our attention may lead to disciplinary action against the individual including dismissal. In addition, a failure to answer a question about previous convictions during the recruitment process will be a valid reason to withhold employment or to dismiss the individual.

Once an offer of employment has been accepted, the successful candidate will be asked to complete a DBS application form and to provide the necessary evidence for verification of identity (original certificates are required). The person verifying the application must complete their section of the form using the evidence of identification presented by candidates, taking care to ensure vigilance in checking these and accuracy in completion. Once the identity check has been completed, the completed form will be sent to DBS for processing.

As DBS certificates are issued to the individual on whom the check was carried out (not directly to NFSS), NFSS will need to ask the applicant for sight of their DBS certificate. This information will be kept in line with the school's Data Protection Policy.

Where a recruitment agency is used, NFSS must receive written notification from the agency to confirm that they have carried out all the appropriate checks on the individual (see section 8), including the dates on which the checks were performed, together with a copy of the candidate's Enhanced DBS Certificate with Lists Check Disclosure. This provision must be included in any contract or other agreement that NFSS makes with recruitment agencies for the supply of staff.

Before a person offered for supply by a recruitment agency begins work at the school, the Head Teacher will check the person's identity (irrespective of any such check carried out by the recruitment agency before the person was offered for supply).

We reserve the right to include a continuing disclosure obligation in our employment contracts.

NFSS will keep a single central register of recruitment and vetting checks in accordance with the Education (Independent School Standards) (England) Regulations 2014.

3.1. Ensuring the authenticity of DBS certificates

As part of the decision-making process, the Designated Safeguarding Lead must ensure that they see an original DBS certificate. Copies or digital photographs are not acceptable and must be rejected.

A DBS certificate contains the DBS logo on the front face and contains a number of security features which can be used to verify whether it has been counterfeited or altered.

The areas to be aware of and examined are as follows:

- an original DBS certificate has printing on both sides; the paper size is 209mm width x 404mm length which is larger than A4
- the personal information print colour on the certificate is purple
- a 'crown seal' watermark repeated down the right-hand side of the certificate is visible both on the surface and when holding the certificate up to the light
- a background design with the word 'Disclosure' appears in a wave-like pattern across both sides of the document – on the front of the certificate this pattern is green and on the rear of the document this is purple

If NFSS staff members are unsure whether a DBS certificate is genuine, or suspect that it may have been altered, they should contact the DBS immediately at FDIT@dbs.gov.uk.

4. Start date

An Enhanced DBS check with Lists Disclosure should be sought immediately once an offer of employment is accepted, so that NFSS can review the contents of the disclosure before the individual commences employment. Candidates should be encouraged to provide a copy of the Enhanced DBS certificate to the Designated Safeguarding Lead or her Deputy as soon as possible in order to avoid delays with the recruitment process.

Where possible, the start date should be set to allow sufficient time for the return and clearance of the DBS disclosure. If it is not possible to delay the start date, or if there is any delay in receiving the disclosure, the successful candidate may start employment; subject to a satisfactory medical clearance and a second written reference, where at least one written reference has been received provided that the individual does not engage in a Regulated Activity.

No unsupervised access to children or young people can be allowed prior to satisfactory disclosure. It is the responsibility of the Head Teacher to establish appropriate supervision arrangements and/or adjustment to the individual's duties until a satisfactory DBS check is received. If appropriate supervision arrangements cannot be put in place, the individual must not start work until the checks are received by NFSS.

Two written employment references from previous employers are also required by NFSS before appointment is confirmed.

5. What to do if a criminal record is revealed on a Disclosure

Past convictions will not necessarily be a bar to obtaining a position. Consideration must be given to the nature and circumstances of the offence and its relevance to the post applied for, and NFSS will carry out a risk assessment which is relevant to this DBS Policy, the position and situation. Where there is a potential concern, the candidate will be requested to bring a copy of their disclosure to a meeting with the Head Teacher and Designated Safeguarding Lead to discuss the concern. The Head Teacher and Designated Safeguarding Lead will jointly decide whether the individual should be appointed.

Any matters revealed by disclosure that will affect a recruitment decision will be discussed with the candidate prior to a decision being made.

Under the Rehabilitations of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013, certain protected convictions and cautions will not be required to be disclosed in a DBS and NFSS will not be entitled to ask questions about them or to rely on them to refuse employment or dismiss an employee. This includes, for example:

- a) a conviction received by a person aged under 18 at the time of the offence resulting in a non-custodial sentence after five and a half years has lapsed (unless it related to an offence specified as never being eligible for filtering); and
- b) a caution administered to a person aged under 18 at the time of the offence after two years has lapsed (unless it related to an offence specified as never being eligible for filtering).

NFSS will notify the DBS if it dismisses a person for harming a child or putting a child at risk of harm (or if it would have dismissed that person, had the person not left their employment) as it is a criminal offence not to do so.

6. DBS Update Service

The DBS Update Service allows applicants to keep their DBS certificate up to date online and to take it with them from role to role if the applicant pays an online fee. It also allows employers to check a certificate online.

There is currently no registration process or fee for employers to check a certificate online, but employers:

- a. must be legally entitled to carry out a check
- b. must have the worker's written permission.

NFSS reserves the right to use the DBS update service to check that an individual's DBS certificate is still current, subject to the requirements above.

7. Rechecks

No further checks are required for any staff unless the person has a break in service of more than three months. Please note that extended sickness or maternity leave does not

constitute a break of service. However, NFSS may request an enhanced DBS check with barred list information should there be concerns, and bearing in mind the duty schools are under not to allow a barred person to work in regulated activity.

8. Single Central Record

NFSS will keep a fully up-to-date Single Central Record containing details of whether or not the following checks have been carried out or certificates obtained, and the date on which the checks were completed:

- an identity check
- an Enhanced DBS Check with Lists Disclosure
- a Prohibition Orders check, including interim prohibition orders, any direction made under section 128 of the Education and Skills Act 2008 or section 142 of the Education Act 2002, or any disqualification, prohibition or restriction which takes effect as if contained in either such direction
- a Disqualification by Association form, if required under section 75 of the Childcare Act 2006 (see below)
- in the case of any person for whom, by reason of that person living or having lived outside the United Kingdom, obtaining an Enhanced DBS with Lists Disclosure certificate is not sufficient to establish the person's suitability to work in a school, such further checks as the Head Teacher considers appropriate, having regard to guidance issued by the Secretary of State
- a check of professional qualifications, where appropriate
- a check to establish the person's right to work in the UK
- a check to establish the person's medical fitness for work

9. Disqualification by Association

NFSS will ask staff to complete a Disqualification by Association form if required under section 75 of the Childcare Act 2006 (see below). This is to provide relevant information about a person who lives or works in the same household as an NFSS staff member and guards against an individual working with children who may be under the influence of someone who lives with them who may pose a risk to children, i.e. 'by association'. A person is automatically disqualified if they live in the same household as a disqualified person or in a household where a disqualified person is employed.

The term 'disqualified person' in this context refers to a person who is included in the DBS Children's Barred List or otherwise disqualified from working in childcare.

The Disqualification by Association form will need to be completed by all staff who:

- work in the early years provision (including teaching staff and support staff working in school nursery and reception classes)
- work in later years childcare provision, i.e. provision outside school hours for children who have not reached the age of eight, including before-school settings such as breakfast clubs and after-school provision (but not including extended hours for school activities, such as choirs or sports clubs), if applicable
- are directly concerned with the management of such early or later years provision.

In order to identify cases where a staff member working in relevant childcare settings may be disqualified by association, NFSS will ask only those staff to provide, to the best of their knowledge, information about someone who lives or is employed in their household. It is important that where information is obtained about third parties that the individual to whom the information relates is clearly informed about how, and for what purpose, the school will use their information.

NFSS will take care to ensure that the information provided is adequate, accurate and relevant to their enquiries. Where information is provided in error, or is not relevant, e.g. unspent caution or conviction which is not listed as a relevant offence, it should be destroyed. NFSS will ensure that staff and applicants are not required to breach the General Data Protection Regulations 2018 or the Rehabilitation of Offenders Act 1974.

NFSS will not employ an individual who is disqualified by association in connection with early or later years childcare provision, nor allow them to be directly concerned in the management of such provision, unless they have received a waiver from Ofsted (see below) which covers the role that they wish to undertake. Such individuals will not, however, be subject to any other restrictions or discrimination in respect of their work at the school.

10. Application for an Ofsted waiver of disqualification by association

Where NFSS is satisfied that an individual working in a relevant setting falls within one of the disqualification criteria in the 2009 Regulations they will inform Ofsted (using disqualification@ofsted.gov.uk). The school will tell the relevant individual that Ofsted has been informed and explain the implications of disqualification to the individual, including whether they can apply to Ofsted for a waiver of Disqualification by Association, and make clear what information the individual will need to share with Ofsted. This process will be led by the Designated Safeguarding Lead.

The school will explain to the individual that details about how to make an application for a waiver, and a copy of the form, can be found in the Ofsted fact sheet "Applying to waive disqualification: early years and childcare providers", and that Ofsted will need the individual to complete the waiver application accurately and fully and will need information about the individual, or about any person who lives or is employed in their household who satisfies the disqualification criteria.

10. Monitoring and Review

This policy will be monitored by the Designated Safeguarding Lead and reviewed by NFSS in September every year, or earlier if relevant regulations and official guidelines change.

Related Policies:

Safer Recruitment Policy

Safeguarding Policy

Child Protection Policy

Data Protection Policy

Legal context

Section 157 (Independent Schools and academies) of the Education Act 2002, and the resulting Education (Independent School Standards) Regulations 2014

Section 3(2) of the Safeguarding Vulnerable Groups Act 2006

Section 128 of the Education and Skills Act 2008

Section 142 of the Education Act 2002

The Childcare Act 2006

The General Data Protection Regulations 2018

Appendix 1: Secure handling of disclosures and disclosure information

As an independent school using the Disclosure and Barring Service (DBS) to help assess the suitability of applicants for positions of trust, NFSS complies fully with the Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information.

This appendix is subject to NFSS's obligations to keep a single central register of recruitment and vetting checks in accordance with the Education (Independent School Standards) (England) Regulations 2014. This may be an electronic register, provided that the information so recorded is capable of being reproduced in legible form.

Storage and Access

Any Disclosure information will be kept securely in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with section 124 of the Police Act 1997, disclosure information is only passed to those who are authorised to receive it in the course of their duties. It is recognised that it is a criminal offence to pass this information to anyone who is not entitled to receive it. NFSS may retain the disclosure until the next Ofsted inspection and then ensure it is destroyed in accordance with the Code of Practice.

Disposal

Once the retention period has elapsed, which is a maximum of six months, Disclosure information will be immediately destroyed by secure means. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). Photocopies or any other copy or representation of the contents of a Disclosure will not be kept.

However, notwithstanding the above, we may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken.

Usage

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Retention

Once a recruitment or other relevant decision has been made, Disclosure information is not kept for any longer than is absolutely necessary. This is generally for a period of up to six months unless a dispute is raised, to allow for the consideration and resolution of any appeal or complaint. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, the DBS will be consulted about this and full consideration will be given to the Data Protection Act 1998 and the human rights of the

individual before doing so. Throughout this time, the usual conditions regarding safe storage and strictly controlled access will prevail.