



ST BRENDAN'S
SIXTH FORM COLLEGE

Faith in Learning

DISCLOSURE AND BARRING SERVICE POLICY

Revision number	1
Review date	01/03/2022
Next review date	01/03/2025
Launch date	01/04/2022

1. Introduction

We are committed to safeguarding our students and ensuring that during their time with us they are accessing a safe and secure environment. To achieve this, we have a number of processes and procedures in place to ensure unsuitable people are prevented from working in education and gaining access to young adults and vulnerable groups.

A Disclosure and Barring Service (DBS) check is just one of the pre-employment checks that we carry out and all relevant employees and individuals who carry out work on our behalf are to have undertaken a DBS check, in line with current legislation, the Code of Practice for DBS Registered Persons. Although a criminal conviction does not preclude anyone from working with us, certain offences may indicate an applicant's unsuitability for employment within the college.

2. Purpose

This policy has been designed to embed safer recruitment practices into our process and to support the creation of a safer culture by reinforcing the safeguarding and wellbeing of our students. This policy sets out the requirements of the college in carrying out criminal records checks and ensures that we are:

- ✓ Deterring, identifying and rejecting prospective applicants who are unsuitable for work with children or young people;
- ✓ Compliant with all relevant legislation, recommendations and guidance including statutory guidance;
- ✓ Meeting our commitment to safeguarding and promoting the welfare of children and young people by carrying out all necessary pre-employment checks;
- ✓ Giving proper and due consideration if we receive a positive disclosure regarding criminal records.

This Policy is not contractual and does not form part of your terms and conditions of employment. It sets out the process we will normally follow when carrying out DBS checks, although we reserve the right, at our discretion, to vary, replace or terminate the procedure at any stage. All staff, volunteers, agency staff and individuals who undertake work on our behalf are required to follow the principles of this policy during employment/engagement with the College.

3. Roles and responsibilities

3.1 The College Leadership Team

Is responsible for ensuring the college has effective policies and procedures in place to keep children safe, that meet legal requirements and to monitor compliance with them.

3.2 All staff, managers, prospective staff and volunteers

All staff, manager, prospective staff and volunteers must:

- ✓ Cooperate fully with the checking procedure and comply with this policy;
- ✓ Alert their manager or HR, if they receive a new conviction, caution, reprimand and/or final warning during their employment with us;
- ✓ Complete the self-declaration question each year as part of their annual performance review;
- ✓ Respond to any request by the college to carry out a new DBS check in a timely manner;
- ✓ Inform HR of any visitors, volunteers or contractors you have arranged to attend site.

3.3 HR Team

The HR Team will:

- ✓ Prevent people who pose a risk of harm from working with children/young adults by adhering to statutory responsibilities to check staff who work with children, taking proportionate decisions on whether to ask for any checks beyond what is required;
- ✓ Monitor contractors' and employment agencies' compliance with this document;
- ✓ Provide advice and guidance to managers in the implementation of the policy;
- ✓ Assist managers in dealing with positive disclosures of criminal convictions;
- ✓ Process checks for existing staff who are required to be rechecked;
- ✓ Ensure the Single Central Record is accurate and up to date.

4. Guiding Principles

4.1 The Equality Act

We are committed to a policy which embraces the Equality Act 2010. This policy adheres to the principles of equality and diversity and has been assessed to ensure that no person will be treated less favourably on the basis of age, disability, gender reassignment, race, religion or belief, pregnancy, marital status, sex and sexual orientation.

4.2 Linked policies and processes

We have a number of policies and processes in place to ensure the safety and security of our students. This policy references and may be used in conjunction with the following:

- ✓ Safer Recruitment and Selection Policy;
- ✓ Temporary Staffing Policy;
- ✓ Single Central Record standard operating procedure.

4.3 Disclosure and Barring Service (DBS) and Children's Barred List checks

Due to the nature of our work we meet the requirement to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders Act (ROA) 1974 Exceptions Order 1975 and we require an Enhanced disclosure from the DBS in respect of all prospective staff members, contractors, supply teachers, self-employed workers and volunteers who engage in 'regulated activity'.

The enhanced DBS checks required by us normally contains information on whether the individual is on the Children's Barred List.

5. Process for obtaining a DBS check

5.1 DBS checks for applicants

We require an Enhanced disclosure from the DBS in respect of all individuals who are employed or engaged directly by the college and this must be in place when they join the college. This includes (but not limited to):

- ✓ Employees;
- ✓ Governors;
- ✓ Volunteers;
- ✓ Casual Workers;
- ✓ Peripatetic Staff.

We will not discriminate unfairly against applicants who possess a criminal record and will not necessarily bar an applicant from employment due to an unspent conviction. In cases where a conviction is disclosed the nature of the conviction and its relevance to the post will be considered.

Any issues arising from a DBS check will be discussed between the Recruiting Manager and HR and a mutual decision will be made as to whether we continue with the appointment with final sign off being confirmed by the Principal. The Rehabilitation of Offenders Act will be taken into consideration when making a final decision.

No individual is permitted to commence employment until a DBS check has been carried out. In very exceptional circumstances, we can make a risk-based decision to appoint applicants before the receipt of a DBS check is received, however this must only be where there is an urgent need to appoint because of an identified risk to safety or where there is a business critical need. In such cases a risk assessment must be carried out and authorised by HR and a member of the Principalship.

5.2 DBS checks for agency workers

Temporary workers supplied by an agency, are required to have had a DBS check and we will obtain written assurances from the agency upon placement that an appropriate check has been carried out within the last 12 months.

The agency will be responsible for undertaking the DBS check and they must notify us immediately if they become aware of any criminal proceedings or the agency worker is barred from working with vulnerable adults or children.

If we discover an agency worker has a criminal record that was not previously disclosed or the individual is currently being investigated for a criminal offence or placement on one of the barred lists, the engagement with the worker will be terminated immediately, and the Agency will be notified.

6. Criminal Record Information

6.1 Declared Criminal Record Information

Having a criminal record does not automatically make an applicant unsuitable for employment. 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, experience and attitude.

Where applicants or existing Self-Disclosure Form, Annual Statement of Declaration or if criminal record information is identified from a DBS Check, the Recruiting/Line Manager must strike a balance between the need to provide a safe environment and to ensure unfair discrimination against rehabilitated ex-offenders does not take place when those individuals may potentially possess the right attributes to perform the role. HR will be available to offer advice and guidance in making this decision to ensure that this process is compliant with the Rehabilitation of Offenders Act 1974.

The Recruiting/Line Manager, in conjunction with HR, must take into account:

- ✓ Any legal or regulatory requirements for the role;
- ✓ The nature of the offence;
- ✓ The length and type of sentence issued;
- ✓ The date that it was committed;
- ✓ Its relevance to the post in question;
- ✓ Whether the applicant/employee has a pattern of offending behaviour;
- ✓ Whether the applicant/employee's circumstances have changed since the offending behaviour;
- ✓ The circumstances surrounding the offending behaviour and the explanation offered by the individual;
- ✓ Whether the applicant/employee has declared the information previously (e.g. on an Application Form, Self-Disclosure Form, DBS Application Form etc.).

Before a decision is made to withdraw a conditional offer of employment or to remove an individual from their post and decide on the relevant action to be taken, the Recruiting/Line Manager must have had an open discussion with the individual regarding their DBS Disclosure. This could be at interview or in separate meeting.

6.2 Children's and/or Vulnerable Adults' Barred Lists

It is illegal for any person who is barred from working with children and/or vulnerable adults to apply for, or engage in, regulated activity with that vulnerable group. It is also an offence for an employer to 'knowingly' offer such a person this type of work or to allow them to engage in regulated activity.

By law, the College must also immediately remove any existing member of staff from regulated activity where they are working or volunteering with children and/or vulnerable adults, if they discover that they are included on the barred lists.

6.3 Revealed Disclosures (previously undisclosed)

If an Annual Statement of Declaration or a repeated DBS check reveals any convictions, cautions, reprimands or final warnings that have not otherwise been disclosed, their line manager (in conjunction with HR) will discuss and agree appropriate action to take.

Firstly, the line manager and HR should review whether the employee is safe and suitable to continue in their current post based on the details of the conviction. Secondly, the employee's lack of compliance with this policy by not declaring criminal record information should be managed as a conduct issue. Action will vary depending on the nature of the conviction and the circumstances of the case but could include action up to and including dismissal.

7. Referrals to the DBS

We have a legal duty to refer to the DBS a person employed or engaged to work or volunteer in a regulated activity. This includes where the worker has been supplied by a third-party staffing provider, for example, an agency or contractor. The DBS sets out two conditions which both need to be met for there to be a legal duty to refer:

Condition 1:	The College withdraws permission for a person to engage in regulated activity with children and/or vulnerable groups, or moves the person to another area of work that isn't regulated activity. This includes situations when you would have taken this action but the person was redeployed, resigned, retired or left
Condition 2:	The College believes the person has carried out one of the following: <ul style="list-style-type: none"> ✓ An action which satisfies the harm test in relation to children and/or vulnerable groups. A person meets the harm test if they cause someone to be harmed, put them at risk of harm, attempt to harm or incite another to harm. ✓ They have engaged in relevant conduct. This is conduct which endangers or is likely to endanger a child or someone from a vulnerable group, may endanger if repeated again, involves sexual material relating to children, or conduct of a sexual nature. ✓ They have been cautioned or convicted of a relevant offence.

Where a decision is made to refer to the DBS the individual being referred will be informed.

8. Storage, retention and disposal of records

DBS disclosure certificates contain sensitive personal data and we therefore must comply with the Data Protection Act 2018, the General Data Protection Regulation (GDPR) and the DBS code of practice.

The code is designed to ensure that any criminal record information released is used fairly and is handled and stored appropriately. Criminal record information must only be used for the specific purpose it was requested for and with the applicant's explicit consent.

We will record and retain the following information:

- ✓ The issue date of the disclosure certificate;
- ✓ The level of check requested;
- ✓ The position it was requested for;
- ✓ Any checks against one or both barred lists;
- ✓ The unique reference number of the certificate;
- ✓ The decision to offer/withdraw the appointment.

Details from disclosure certificates, self-declaration forms and positive disclosure meetings will be stored on the applicant's personal digital file where access is strictly controlled and secure.

The storage of this information will be kept in line with the DBS code of practice and data protection laws.

9. Review of this Policy

This Policy will be reviewed every three years but can be reviewed at any time if we deem it necessary to do so or a review is requested by the Staff Forum. We reserve the right to amend this Policy as necessary, without individual consultation, to meet any changing requirements.

Appendix I – Process for dealing with a positive disclosure

Introduction

This guidance has been produced to support making recruitment decisions and should be read in conjunction with the Disclosure and Barring Service Policy.

Having a criminal record does not automatically mean that an individual cannot work at the college. We will need to make a fair, non-discriminatory assessment based on the individual's skills, experience and suitability for the post. The decision always rests with the Principal as to whether to allow a person whose criminal record check reveals a conviction, caution or other information to be appointed into a position.

The information obtained should be carefully considered and judged on a case-by-case basis. Where the disclosure indicates that the DBS has made a barring decision against one or both of the barred lists, it is illegal for an employer to allow that person to engage in a regulated activity from which they are barred. It is also a criminal offence for a barred person to apply for work or to engage in a regulated activity.

When considering disclosure information managers must be mindful of:

- ✓ Any legal or regulatory requirements (i.e. in relation to regulated activity);
- ✓ The seriousness of the offence;
- ✓ The length and type of sentence issued;
- ✓ Whether the applicant declared the disclosure on the application form;
- ✓ Whether the applicant has a pattern of offending behaviour. If there are multiple offences, regardless of their seriousness or whether they are spent or unspent, these will always be included in a DBS disclosure. People who have a pattern of offending right up to the present date have clearly not put their offending behind them;
- ✓ The age of the individual at the time of the incident;
- ✓ How long ago the incident took place;
- ✓ The circumstances surrounding the offending behaviour and the explanation offered by the individual.

Where a positive disclosure has been made the following steps will be taken

Appendix 2 – Positive DBS Disclosure Risk Assessment Form

Strictly private and confidential

About the candidate	
Name:	
Post applied for:	
Recruiting manager:	

Risk Assessment		
Question	Response	Comments
<p>Do the DBS Listings bar the appointment? If the answer is yes then the appointment is automatically unlawful and the person must not be appointed to the post. Do not continue with this decision sheet</p>	Choose an item.	
<p>Are you satisfied with the individual's explanation of the circumstances of the offence? All positive disclosures should be discussed with the candidate. Note down their explanation of the circumstances</p>	Choose an item.	
<p>How serious do you consider the offence to be?</p>	Choose an item.	
<p>Did the offence occur recently? For example, minor offences that occurred a long time ago may be less relevant than ones that are very recent.</p>	Choose an item.	
<p>At what age were the offences committed? Was the offence committed as an adult, or as a child or adolescent? Offences that took place years ago may have less relevance now with the exception of serious violent or sexual offences.</p>		
<p>What age is the applicant now?</p>		
<p>Does the disclosure show a pattern of behaviour, or was the offence a one-off? Repeated offences may indicate that the individual has not been able to change his/her offending behaviour, and may be more likely to re-offend.</p>	Choose an item.	
<p>Have the circumstances that contributed to the applicant committing the offence or behave in such a manner changed for the better? Look at all the circumstances, including the employment pattern and the individual's own explanation.</p>	Choose an item.	
<p>Did the individual disclose the incident(s) as part of the recruitment process? Note that a failure to disclose a relevant offence, without a satisfactory reason, will be a breach of contract and render any employment offer void</p>	Choose an item.	

Are there any concerns in regard to the employee's motivations for working with children?	Choose an item.	
Were any gaps in employment identified and were these cause for concern?	Choose an item.	
Were both employer references satisfactory?	Choose an item.	
Does the role allow the opportunity to re-offend?	Choose an item.	
How much interaction with students will be expected within the role?	Choose an item.	
What level of management supervision will the person receive?	Choose an item.	
Additional comments / Overall summary:		

Decision	
Outcome:	Choose an item.
Date:	
Manager	
Head of HR:	
Principal:	