



The Bishop Konstant Catholic Academy Trust

Learning Communities, Inspired by Faith

Trust DBS (Disclosure & Barring Service) Policy 2022



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POLICY DOCUMENT	Trust DBS (Disclosure & Barring Service) Policy
Legislation/Category: Academy Schools	Legally Required
Lead Member of Staff:	Head of HR
Approved by:	Trust Board
Date Approved:	July 2022
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Review Frequency:	Annual

Mission Statement

All policies are written in line with our Trust Mission statement:

With Jesus Christ at the centre of the life of the Trust, we seek to provide learning communities offering the highest possible standards of education. We are committed to working in partnership and trust for the common good. We strive to encourage and empower children and young people to recognise and realise their God-given potential and to discern their vocation in life. As learning communities inspired by faith, we celebrate achievement, offering each other challenge and support, as together we follow Christ in self-giving love and service.



Contents

Section Number	Title	Page
1.	Introduction	2
2.	Scope – Who does the policy apply to	2
3.	Data Protection	3
4.	Aims of the Policy	3
5.	The Disclosure and Barring Service	4
6.	Principles	5
7.	Relevant Legislation	9
8.	Associated Documents	9
Appendix 1	Version History	10

Introduction

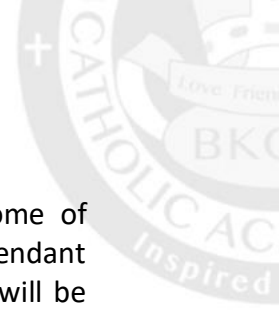
1. Introduction

The Bishop Konstant Catholic Academy Trust and the Academies within the Trust, are committed to safeguarding both our pupils, and other vulnerable members of the community, in accordance with our statutory duty of care under the Safeguarding Vulnerable Groups Act (2006), Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Orders 2013 and 2014, and the statutory guidance for academies and colleges, Keeping Children Safe in Education 2014 (updated 2021 and September 2022). However, it is also important to understand that only relevant information about an individual should be requested. Provisions set out in the Protection of Freedoms Act 2012, the Data Protection Act 2018, the DBS Code of Practice and the Human Rights Act 1998 aim to protect an individual's civil liberties.

2. Scope – who does the policy apply to

This policy will apply to;

- all persons employed or seeking paid work in the Trust and the Academies within the Trust who will be, as such, undertaking 'regulated activity' as defined in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012.
- work experience placements and other activities undertaken by pupils outside of the Academy, may also fall within the definition of a 'regulated activity'



- volunteers, contractors, exam invigilators and academy governors, some of whom may also be deemed to be undertaking regulated activity (dependant upon the level of direct contact they have with children) whilst others will be subject to an enhanced DBS check (without a barred list check) as a condition of them being in a role which is included within the Rehabilitation of Offenders Act Exemption Orders.

3. Data Protection

The Trust and the Academies within the Trust process personal information/data collected in the application of this DBS Policy in accordance with our legal obligations set out in the Data Protection Act 2018 and the General Data Protection Regulations 2016, which are confirmed within the Trust's Data Protection Policy.

Information/data specifically obtained to address issues raised under this DBS Policy is held securely and accessed by, and disclosed to, individuals only for the purposes of addressing these issues. Inappropriate access or disclosure of an employee's personal information/data constitutes a data breach and should be reported in accordance with the Trust's Data Protection Policy immediately. It may also constitute a matter which will be considered in accordance with the Trust's Disciplinary Policy.

4. Aims of the Policy

The aims of this policy are:

- To ensure that the Trust and the Academies within the Trust, comply fully with the DBS referral guidance, the Safeguarding of Vulnerable Groups Act 2006 and the Rehabilitation of Offenders Exemption Orders.
- To prevent unsuitable persons from obtaining employment in the Trust and the Academies within the Trust, thus supporting our ethos of placing the safety of its pupils as its first priority.
- To provide a mechanism for individuals who will come into contact with children, to be checked by the DBS, in order to identify an activity which is either unlawful or of concern to the police with regard to the safety of children.
- To undertake searches of police records and, where appropriate, barred list information for individuals identified as working (or intending to work) in roles where it is appropriate for a check to be made.



5. The Disclosure and Barring Service

The Disclosure and Barring Service (DBS) was established under the Protection of Freedoms Act 2012, and undertakes the functions previously carried out by the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA). Working in accordance with its Code of Practice, the DBS *'helps employers make safer recruitment decisions and prevent unsuitable people from working with children and vulnerable adults'*.

The DBS is responsible for searching police records and, in relevant cases, barred list information. Once a check is complete they will issue a DBS certificate to the applicant. They also decide if a person should be placed on or removed from the barred lists and will add or take off any individuals, depending on the outcome.

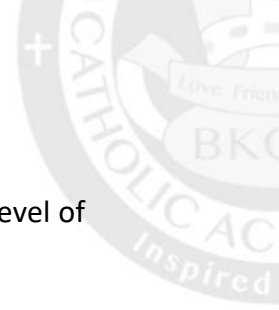
The Protection of Freedoms Act 2012 resulted in a differentiation between positions which are only subject to an enhanced DBS check and those which can also legally be checked against the children's barred lists (an enhanced check for 'regulated activity'). The definition of 'regulated activity' was changed on 10th September 2012.

The Trust and the Academies within the Trust, will comply fully with the DBS Code of Practice and it will undertake to treat all applicants fairly and not to discriminate unfairly against anybody on the basis of a conviction or other information being disclosed. Having a criminal record will not necessarily prevent an individual from being employed by the Trust and the Academies within the Trust, (paid or as a volunteer). This will depend on the nature of the role and the circumstances and nature of the offence(s).

The DBS has the following responsibilities;

- To maintain a list of individuals barred from engaging in regulated activity with children.
- To maintain a list of individuals barred from engaging in regulated activity with adults.
- To make well informed and considered decisions about whether an individual should be included in one or both barred lists.
- To reach decisions as to whether to remove an individual from a barred list.

The Protection of Freedoms Act 2012 reinforced the different levels of check required depending upon the role (or intended role) of the person being checked. It is illegal for a



check to be initiated where a person does not meet the eligibility criteria for that level of check. The different levels of check are as follows:

Enhanced Check for Regulated Activity (Children)

This check can only be made when someone is undertaking 'regulated activity' relating to children. Enhanced checks reveal details of spent and unspent convictions, cautions, reprimands and final warnings as well as any other information held by the Police about the person which they feel is reasonably relevant to the post or role, and a check of the Children's Barred List.

Enhanced DBS Check

This check should be made when someone meets the pre September 2012 definition of 'regulated activity'. Enhanced checks reveal details of spent and unspent convictions, cautions, reprimands and final warnings as well as any other information held by the Police about the person which they feel is reasonably relevant to the post or role.

It is an offence to employ an individual (or for individuals to apply for positions) who are on a Barred List where the role meets the current definition of 'regulated activity'. Should this situation occur, the Trust and the Academies within the Trust, must report the individual to the relevant authorities. However, if individuals are on a Barred List they can apply for positions that fall under the pre-September 2012 definition of 'regulated activity' as long as they do not fall within the parameters of the current definition.

Once a check is complete the DBS will issue a certificate to the applicant, who in turn is required to share the information it contains with the Trust or the Academies within the Trust to which they have applied, where there is a positive disclosure or where the applicant has had to complete a paper application form.

6. Principles

The Trust and the Academies within the Trust, must apply the DBS procedure in all cases to ensure that no unsuitable appointments are made which may result in risk of harm to any children.



The key principles addressed by the implementation of the DBS procedure are as follows:

Recruitment of New Employees/Volunteers – Regulated Activity

- All applicants for paid employment, and volunteers, undertaking 'regulated activity' will be subject to an 'enhanced check for regulated activity' which will include a check of the children's barred list.
- Volunteers who work unsupervised with children on a regular basis¹ will also be subject to an enhanced check for regulated activity. Volunteers who are supervised working with children on a regular basis will be eligible for an enhanced DBS check however this will not include a barred list check.
- All applicants for paid employment, and volunteers, engaged in a role identified within the Rehabilitation of Offenders Act (Exceptions) Order, including those where 'regulated activity' is being undertaken, are also required to report any previous convictions as part of the DBS application process.
- Appointments to posts undertaking a 'regulated activity' should not be confirmed until the Academy has received formal notification that the DBS check is 'clear' or until the recruiting manager has completed a Risk Assessment where a positive disclosure has been made.
- If there is an urgent need to expedite an appointment before the DBS disclosure certificate has been seen then, as a minimum requirement, a check must be made to ensure that the applicant is not on the appropriate Barred List for the workforce they will be working with and a Risk Assessment has been completed.
- If an employee is appointed in these circumstances they must not work alone undertaking regulated activity until the DBS disclosure certificate has been received and its contents assessed, i.e. they must be appropriately supervised.
- Decisions to allow an employee to start working without the recruiting manager having an awareness of the content of the DBS disclosure certificate must not be made without consultation with the Headteacher and advice from HR.

Rechecking Employees, Casual Workers and Volunteers

- The Trust/the Academies within the Trust, will not automatically recheck employee's after 3 years. Further checks will only take place if there is a substantial change in an employee's job role/responsibilities.

¹ Person carrying out the activity more than 3 days in any period of 30 days.



- Employees who take a break in employments of greater than 12 weeks will be required to have an appropriate level of DBS check upon their return. Where a break between 6 and 12 weeks and they are returning to a similar role, then just a barred list check will be undertaken. These provisions apply to career breaks and sabbaticals but they do not apply to maternity/paternity or adoption leave.
- The Trust/the Academies within the Trust will also undertake an enhanced DBS checks (without a barred list check) where guidelines under the Rehabilitation of Offenders Exceptions Orders recommend such checks should be made on (prospective) volunteers who are working in close proximity to children but are not subject to an 'enhanced check for regulated activity'.
- As part of the Code of Conduct, employees should declare any relevant cautions or convictions as soon as they occur. This could result in an immediate recheck.
- Casual workers and volunteers will receive an annual reminder of the need to disclose any cautions or convictions as soon as they occur to enable a decision to be made as to whether their services should be retained.

Positive Disclosures

- If the Trust/the Academies within the Trust receive a positive disclosure the recruiting manager must undertake a full risk assessment (with advice from HR) to determine whether it will be appropriate to confirm the appointment.
- Similarly where current employees and volunteers have a positive disclosure on re-check then the Trust/the Academies within the Trust will also undertake a risk assessment before allowing the individual to continue in their role. If the risk assessment determines that it is not appropriate for an employee to remain in their role, the matter will be dealt with by the academies appropriately according to the circumstances of the case, which could result in the offer of alternative employment or termination of the employee's contract of employment.
- Any risk assessments completed should be securely retained by the recruiting manager or the Headteacher.

Agency Worker

- If an agency worker/contractor is being deployed to undertake a 'regulated activity' the manager must ensure they have received written confirmation from the agency that the worker has been subject to a DBS check which includes the appropriate barred list check. The same level of risk assessment should be undertaken for agency



workers with a DBS disclosure as would apply to a prospective Trust/Academies employee.

Handling DBS Certificates

- The Trust/the Academies within the Trust will comply fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information and should be aware of the data protection principles.
- They will undertake to treat all applicants fairly and not to discriminate against anybody on the basis of a conviction or other information being disclosed. Having a criminal record will not necessarily prevent an individual from being employed by the Trust/the Academies within the Trust (or as a volunteer). This will depend on the nature of the role and the circumstances and nature of the offence(s).

Referrals to the DBS and Professional Bodies

- The Trust/the Academies within the Trust have a legal responsibility as an employer to refer any person to the DBS where consideration needs to be given, as to whether they should be placed on the Barred Lists for working with children and/or adults.

This can occur under the following circumstances:

- As a result of a member of staff being dismissed or removed from working with children or vulnerable adults following a management investigation undertaken as a consequence of safeguarding concerns.
- The Academy has evidence that any employee has been cautioned or convicted of a relevant offence.
- Or that any employee has satisfied the 'harm test' in relation to children and/or vulnerable adults. Harm is defined in its widest context and includes physical, sexual, financial harm, neglect, emotional or verbal psychological harm.
- The Academy will also report allegations of serious misconduct to the appropriate professional and statutory bodies (e.g. Social Work England, HCPC, National College for Teaching and Leadership etc.) where that employee is dismissed (or action is taken as an alternative to dismissal) under the Disciplinary Policy and Procedure, or would have been had they not resigned first.



Please refer to the DBS Procedure for detailed information regarding the application of these principles.

7. Relevant Legislation

The Trust/the Academies within the Trust need to balance any legislation requirements carefully. This will ensure an applicant's rights are observed, whilst keeping within the legal framework and allowing the safeguarding of our internal and external community.

The key legislation to reference is as follows:-

- Education and Skills Act 2008
- Teachers' Disciplinary (England) Regulations 2012
- Education Act 2002
- Safeguarding Vulnerable Groups Act (2006)
- Disqualification Under the Childcare Act July 2018
- Police Act 1997 (Criminal Records) Regulations 2002
- Rehabilitation of Offenders Act (1974)
- Exceptions order to the Rehabilitation of Offenders Act (1975)
- Amendment Order to the Rehabilitation of Offenders Act (2013)
- Amendment Order to the Rehabilitation of Offenders Act (2014)
- Amendment Order to the Rehabilitation of Offenders Act (2020)
- Protection of Freedom Act (2012)
- Data Protection Act (2018)
- DBS Code of Practice (2009)
- Human Rights Act (1998)
- Working Together to Safeguard Children Sept 2018
- Keeping Children Safe in Education Sept 2019 (revised 2021 and September 2022)

8. Associated Documents

- DBS Procedure
- Safer Recruitment Policy
- Code of Conduct



Appendix 1

Version History

Version: 1.0

Author: Bishop Konstant Catholic Academy Trust

Date Approved:

Approved by:

Date Issued:

Version Control (most recent first):

Version	Date Issued	Reason for Review	Key Amendments	Date Comp. Impact Assessment was Reviewed
1.0				

Review date:

Monitoring and Review of this Policy

The Trust shall be responsible for reviewing this policy from time to time to ensure that it meets legal requirements and reflects best practice.

The Bishop Konstant Catholic Academy Trust is an exempt charity regulated by the Secretary of State for Education. It is a company limited by guarantee registered in England and Wales, company number 08253770, whose registered office is at St Wilfrid's Catholic High School & Sixth Form College, Cutsyke Road, Featherstone, WF7 6BD