



DISCLOSURE AND BARRING SERVICE (DBS) PROCEDURE

Approved by: TCAT Trust Board **Date:** 17 October 2024

Last reviewed on: October 2024

Next review due by: October 2027

1. Policy Statement

- 1.1 Tyne Coast Academy Trust (the Trust) is committed to safeguarding and promoting the welfare of children and young people and to be rigorous in the implementation of Disclosure and Barring Service (DBS) procedures, guidelines and arrangements, Department for Education advice and guidance and Ofsted requirements. This policy must be read in conjunction with the Trust's Recruitment and Selection and Safer Recruitment policies.
- 1.2 The Trust will ensure, through the appropriate use of DBS checks, that it does not employ or make use of the services of any person who has a criminal conviction or record of conduct that could present a risk to the safety and well-being of Trust pupils and/or employees or any person who is barred from working with children and young people.
- 1.3 The Trust has robust recruitment and selection processes in place and DBS checks form part of that process, alongside barred list checks, prohibition checks, references and carefully designed selection processes to ensure all of its decisions are well considered and evidence based.
- 1.4 Whilst a DBS check will only be undertaken after a thorough risk assessment has indicated that one is both proportionate and relevant to the post it concerns, it is likely that most appointments will require an enhanced DBS certificate, which includes barred list information as most roles within Trust academies engage in regulated activity. For those positions where a DBS check is required recruitment documentation will contain a statement that a DBS check will be required in the event of the individual being offered the position.
- 1.5 Where a DBS forms part of the recruitment process, all shortlisted applicants will be asked to provide details of their criminal record as part of their application. This information will be managed by HR and will only be seen by those who need to see it as part of the recruitment process.
- 1.6 The Trust will ensure that staff involved in the recruitment process are suitably trained and HR will work with senior managers, governors and trustees to identify and assess the relevance and circumstances of offences. Offences will be discussed in an open, measured way with the individual. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment. Should any employee be convicted of an offence during the period of their employment, it is their duty to declare this to the Chief Operating Officer in order for the risk to be assessed (see Appendix 1). Failure to do so may result in an investigation being undertaken which may lead to disciplinary action being taken.
- 1.7 The Trust undertakes to discuss any matter revealed in a DBS check with the individual alongside a thorough risk assessment prior to any action (such as the withdrawal of a conditional offer of employment).

- 1.8 This policy is inclusive of and compliant with the Trust's obligations under the Rehabilitation of Offenders Act 1974.
- 1.9 As an organisation using the DBS checking service the Trust complies fully with the code of practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. The Trust also complies fully with its obligations under the General Data Protection Regulations (GDPR), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, storage, retention and disposal of certificate information.

2. Background

- 2.1 The Disclosure and Barring Service (DBS) was introduced in 2012 to replace the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA). It provides a 'one stop' service for access to criminal record checks for employment purposes.
- 2.2 There are three types of DBS checks:
Standard Check – Provides information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC), regardless or not of whether they are spent under the Rehabilitation of Offenders Act 1974. The law allows for certain old and minor matters to be filtered out.
Enhanced Check – Provides the same information as a standard check, plus any approved information held by the police which a chief officer reasonably believes to be relevant and considers ought to be disclosed.
Enhanced with Barred List Check – Where people are working or seek to work in regulated activity with children, this allows an additional check to be made as to whether the person appears on the children's barred list.
- 2.3 As all staff employed by the Trust have access to pupils under the age of 18, all staff will be subject to an enhanced check and if they are working in regulated activity an enhanced DBS with barred list check will be obtained.
- 2.4 It will be a condition of all offers of appointment made by the Trust that a satisfactory DBS disclosure is obtained. Should any prospective employee refuse to complete a DBS Disclosure Application within a reasonable timeframe (i.e. two weeks of the offer date) this will result in the withdrawal of the conditional offer.
- 2.5 All casual, voluntary and agency employees will be required to have a satisfactory enhanced DBS disclosure.
- 2.6 All contractors will be assessed to determine the level of access to Trust pupils and level of supervision on site before DBS disclosure requirements are specified in the contract.

3. The Rehabilitation of Offenders Act 1974 (ROA)

- 3.1 The main purpose of the ROA is to ensure that a person who has been convicted of a criminal offence in the past and who has not re-offended in a specified period is, so far as possible, treated as if the offence and the conviction for it had never occurred. The ROA achieves this by enabling some convictions to become 'spent', or ignored, after a period of time, so that the offender does not have to declare the conviction when applying for a job. In some instances, however, exemptions are made from the ROA, allowing the employer to ask candidates to declare all convictions, cautions, warnings and so on. Work in a school where the normal duties of that work involve regular contact with children aged under 18 is exempted from the ROA.
- 3.2 Applicants are requested to confirm whether or not they have a criminal record on their application form and all shortlisted candidates are required to provide information about any criminal records so that any issues raised can be dealt with at the interview stage (or shortly after) and a decision can be made on that basis, subject to the DBS check. The application form includes a statement to candidates that their appointment is subject to satisfactory DBS check, and that a criminal record will not necessarily prevent an offer of employment.

4. Roles & Responsibilities

4.1 Trustees

Responsible for ensuring that this policy is applied fairly and consistently across the Trust and that the Trust is meeting its legal and statutory responsibilities.

4.2 Chief Executive Officer

Responsible for ensuring candidates and employees are treated fairly and consistently across the Trust. Can approve or refuse any request made to commence employment of a new member of staff prior to receipt of a DBS clearance.

4.3 Local Governing Bodies and Headteachers

Responsible for monitoring the application of this policy within their respective schools.

4.4 Chief Operating Officer

Responsible for overseeing the introduction, implementation, monitoring and review of this policy and reporting to the CEO, Trust Board and Local Governing Bodies as required. The Chief Operating Officer and HR staff will provide advice, guidance and support in the implementation of this policy and procedure, acting as a point of contact for managers. The Chief Operating Officer will ensure that relevant employment legislation and statutory guidance is adhered to.

4.5 Headteachers/Principals and Managers

Responsible for ensuring they are familiar with the Trust's Recruitment and Selection Policy, the Trust's Safeguarding Policies including Safer Recruitment and this DBS policy. They must ensure that they deal with any disclosure made by staff, candidates, visitors, contractors, agency staff or

volunteers with discretion, sensitively and objectivity, ensuring that the DBS Policy is followed. Managers must seek advice from HR when a disclosure is made. Managers procuring services must also ensure that the provider of that contract undertakes appropriate safer recruitment checks on staff that are going to work at Trust premises and/or on behalf of the Trust, which will include DBS checks for those staff that meet the criteria. Where agency workers, contractors, sub-contractors, visitors and volunteers do not meet the criteria for a DBS check, the responsible manager must undertake a thorough risk assessment ensuring appropriate supervision is in place at all times.

5. Regulated Activity Children

This definition is taken from The Protection of Freedoms Act 2012

- 5.1 Teaching, training or instruction of children, carried out by the same person frequently (one a week or more often), or on 4 or more days in a 30 day period, or overnight.
- 5.2 Day to day management or supervision on a regular basis of a person providing this activity which would be regulated if unsupervised.
- 5.3 Care or supervision of children if carried out by the same person frequently (one a week or more often), or 4 or more days in a 30 day period or overnight. See below re types of care. Particular types of care apply to any child, even if done only once:

Relevant Personal Care

(a) Physical help in connection with eating or drinking, for reasons of illness or disability

(b) Physical help for reasons of age, illness or disability in connection with:

- Toileting (including re menstruation)
- Washing, bathing or dressing

Prompting with supervision, in relation to (a)-(b), where the child is otherwise unable to decide.

Other training or advice in relation to (a)-(b).

- 5.4 All forms of health care relating to physical or mental health including palliative care and procedures similar to medical or surgical care.
- 5.5 Advice or guidance provided wholly or mainly for children relating to their physical, emotional or educational well-being if carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period or overnight.
- 5.6 **Definition of Overnight**
In relation to teaching, training or instruction; care or supervision; or advice or guidance, it is also regulated activity if carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period or overnight.

- 5.7 Moderating a public electronic interactive communication service likely to be used wholly or mainly by children, carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period.
- 5.8 Driving a vehicle being used only for conveying children and carers or supervisors under arrangements as prescribed, carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period.

6. Scope

- 6.1 This policy applies to all employees and candidates as well as contractors/agency staff, visitors, volunteers, and trainee teachers. Further details are provided regarding the levels of checks required in the Safer Recruitment Procedure.

7. Procedure

- 7.1 Once a conditional offer of employment has been made, the HR Team will issue the necessary guidance to enable the online DBS application to be completed and advise of the acceptable proof of ID required in line with the DBS guidance to enable the application to be countersigned.
- 7.2 The Trust will only accept valid, current and original documentation and will validate the identity information for the applicant's name, date of birth and address when initiating the online DBS application.
- 7.3 The Trust will receive notification from the on-line system that the check has been completed. If there are no recorded items the system will provide the issue date and certificate number and this will be recorded on the Single Central Record. In accordance with Keeping Children Safe in Education the Trust must have sight of the DBS certificate prior to or on the start date.
- 7.4 If the disclosure certificate contains information, the Trust will be notified of this and advised to contact the applicant to discuss the certificate. In this case the HR team will notify the recruiting manager and a meeting will be arranged with the candidate who will be advised to bring their DBS certificate to the meeting. Under no circumstances will an appointment be made if a person is on the Barred List for the area of work which has been checked.
- 7.5 The following will be taken into account when reaching a decision about employing an individual with a criminal conviction or caution.
- Whether the conviction or other matter is relevant to the position
 - The seriousness of the offence or other matter
 - The length of time since the offence or other matter occurred
 - Whether the applicant has a pattern of offending or other relevant behaviour
 - Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters
 - Has the candidate been upfront and honest in their application form/interview

- The circumstances surrounding the offence and the explanation(s) offered by the individual via a safer recruitment interview, which is carried out by the Headteacher/Principal or Trust Manager with a member of the HR team.

7.6 Where the decision is taken to employ an individual with a criminal conviction or caution, the Chief Operating Officer will prepare a record of the risk assessment using the above criteria for their personal file. No appointment of an individual with criminal convictions or cautions relating to children or vulnerable adults can be confirmed without the agreement from the CEO.

7.7 Where a decision is taken not to appoint an applicant because of the information on their disclosure, the Chief Operating Officer will produce a written risk assessment using the criteria stated in 7.5. No conditional offer of appointment can be withdrawn without the agreement of the CEO.

8. Discussing Criminal Records

8.1 If an applicant has given details of their criminal record at the interview, it may be appropriate to discuss at this stage.

8.2 Where an applicant's criminal record was disclosed in their application prior to interview and they are provisionally offered employment, HR will need to discuss this with the applicant prior to them commencing.

8.3 Where an applicant's criminal record is not made available prior to interview and there are issues revealed through the DBS Disclosure, the Headteacher/Principal or Trust Manager will meet with the applicant supported by HR. Such a discussion will also be necessary when the disclosure contradicts what the applicant has declared. It may be that they have, for example misunderstood what is meant by a spent conviction or were unaware that cautions would be included in the Disclosure. Following any discussion, the provisions outlined in 7.6 and 7.7 apply.

8.4 If an applicant disputes the information contained on a Disclosure they can appeal to the DBS. If a mistake has been made a fresh Disclosure will be issued to the applicant. However, the Trust maintains the right to withdraw a job offer on the basis of the information provided by the DBS at the time.

8.5 The Trust cannot accept responsibility where a job offer has been withdrawn due to entry errors on the DBS certificate.

9. Transferring a DBS Check

9.1 A DBS certificate only contains information from a DBS check on a certain date and for a particular purpose.

9.2 Keeping Children Safe in Education sets out that there is no legal requirement to obtain an enhanced DBS check if, in the three months prior to beginning work in their new appointment the applicant has worked in a school in England in a post which brought them into regular contact with children or the

applicant worked in a post in a school to which they were appointed on or after 12 May 2006 and which did not bring the applicant regularly into contact with children or young people or the applicant has worked in an institution within the further education sector in England or in a 16 – 19 academy in a position which involved the provision of education which brought the applicant regularly into contact with children or young people.

- 9.3 The Trust is under a duty not to allow a barred person to work in regulated activity so will therefore always request an enhanced DBS check with barred list information for new staff.

10. Update Service

- 10.1 Where an individual has subscribed to the DBS Update Service the Trust can, with the individual's permission, go online for free and instantly check to find out whether the individual's certificate is up-to-date.
- 10.2 Upon carrying out an online status check there will be one of two results. A result of 'no status change' means that the certificate remains valid and up-to-date, whereas a result of 'status change' means that the certificate is out of date and the Trust will be required to apply for a new certificate to see the new information.
- 10.3 If a status check shows that there has been a change in status since the last DBS Certificate was issued and the applicant has not produced their new certificate within 28 days of its issue, the Trust will apply for a copy of their certificate.

11. DBS Renewals

- 11.1 There is no requirement under Keeping Children Safe in Education for the Trust to undertake DBS renewals on existing staff unless there are any concerns relating to a member of staff.**
- 11.2 As a DBS certificate only contains information from a DBS check on a certain date and for a particular purpose, the Trust has taken the decision that in order to enhance its safeguarding procedures DBS renewals will be carried out on a five yearly rolling programme for existing staff.**

12. Commencement of Employment Pending DBS Clearance

- 12.1 Ideally, DBS clearances for new starters are received prior to their commencement in post. In exceptional circumstances where an employee or volunteer is urgently required to start work prior to the receipt of a DBS clearance, a robust risk assessment will be undertaken by the Headteacher/Principal or Trust Manager with the Chief Operating Officer with the decision sitting with the CEO. This will only be authorised subject to the following conditions:
- Where the individual has no declared convictions or cautions in the application process, which may cause concern.

- Where the individual is not on the barred list (the Trust is able to carry out a separate Children’s Barred List check).
- Written assurance to the Chief Operating Officer from the Headteacher/Principal or Trust Manager, that the individual will be appropriately supervised pending the receipt of the satisfactory DBS Disclosure and that this will be monitored.
- Good reference(s) from current/previous employer, which confirm no safeguarding issues.

12.2 A Trust risk assessment must be completed in these circumstances and signed by the CEO.

13. Referring Someone to the DBS

13.1 The Trust has a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult. An assessment must be undertaken regarding the following considerations:

- Anyone who has harmed or poses a risk of harm to a child or vulnerable adult
 - Where the harm test is satisfied in respect of that individual
 - Where the individual has received a caution or conviction for a relevant offence
 - If there is reason to believe that the individual has committed a listed relevant offence
 - That the individual has been removed from working (paid or unpaid) in regulated activity or would have been removed had they not left.
- In addition, where a teacher is dismissed (or could have been dismissed had they not left) because of serious misconduct the CEO and the Chief Operating Officer must consider whether or not the Teaching Regulation Authority (TRA), acting on behalf of the Secretary of State for Education, should be notified. The TRA is responsible for investigating allegations of serious misconduct against teachers and headteachers in schools in England. If appropriate, the TRA can prohibit a teacher from teaching in schools, relevant youth accommodation, sixth form colleges and children’s homes in England.

13.2 Where it is determined that a referral is required, the Chief Operating Officer will make the referral which will be signed by the CEO.

14. Storage, Use and Disposal of DBS Information

14.1 Disclosure information is kept securely, it is retained electronically with access strictly controlled and limited to those who are entitled to see it as part of their duties.

14.2 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 a criminal offence to pass this information to anyone who is not entitled to receive it.

- 14.3 Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 14.4 The Trust will not keep any photocopy or other image of the DBS certificate or any copy or representation of the contents of the certificate. However, notwithstanding the above, we will 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 on the certificate and the details of the recruitment decision taken. This information will be stored securely on an employee's personal file and on the Single Central Record.
- 14.5 For applicants where there is information contained on the certificate, once a recruitment decision has been made, we do not keep the certificate information for any longer than is necessary. This retention will allow for the consideration and resolution of any disputes or complaints. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.
- 14.6 Once the retention period has elapsed, the trust will ensure that any DBS certificate information is immediately securely destroyed/deleted and whilst awaiting destruction, certificate information will be kept secure.

15. Monitoring and Review of the Policy

- 15.1 The effectiveness of this policy will be monitored annually and reviewed every three years in light of experience and best practice. This mechanism recognises that changes as a result of experience and/or to employment legislation or safeguarding legislation or guidance may prompt a review of the policy before the end of the three year period.
- 15.2 On considering the effectiveness of this policy, consultation will be undertaken with recognised Trade Unions and professional associations.

TCAT Disclosure and Barring Service (DBS) Checks**APPROVED/NOT APPROVED****Risk Assessment Form**

Name: _____ School/Team: _____ Start Date: _____

Does the applicant have a previous DBS certificate YES/NO Level of Certificate (Enhanced/Standard)

Certificate Number _____ Date of Issues of Certificate _____

Clearing Organisation Details _____

Is the DBS clear of any convictions? YES/NO

Items to Discuss	Risk Identified THIS REQUIRES A FREQUENCY AND LIKELIHOOD SCALE	Outcomes/Actions
Job Role/Level of contact with pupils		
Impact on the business needs of delaying start date		
What is the offence?		
What is the candidate's explanation of the circumstances of the offence? Please include the date and time of the meetings with candidate, continue on a separate sheet if necessary.		
Did the individual tell the Trust about the offences when they applied for the job and was their information accurate?		

Is the conviction spent? <i>Please seek guidance if you are unsure.</i>		
How old was the individual at the time?		
How long ago was the most recent offence?		
Did the offence include possession and selling of drugs, burglary or theft of other issues that may carry risk to the Trust?		
Was the offence violent or sexual? <i>If relating to under 18's or vulnerable adults, seek guidance from HR..</i>		

Signed: Headteacher/Trust Manager

Signature

Date

Signed COO

Signature

Date

Signed CEO

Signature

Date

Guidance Notes for Completion

A risk assessment will only be used in exceptional circumstances, so as not to cause disruption to critical business needs.

All Trust employees are subject to DBS enhanced disclosures in line with the Trust Recruitment and Selection and DBS policies.

Employment prior to obtaining a DBS will only be considered in EXCEPTIONAL circumstances.

The Trust will only consider DBS certificates if they are less than 12 months old.

The Headteacher/Principal or Trust Manager must have sight of the original DBS certificate and take a copy of both sides of the certificate to attach to the completed risk assessment form.

The Headteacher/Principal or Trust Manager must with HR support complete the risk assessment outlining any potential risks they can envisage.

In some circumstances it may be relevant for these forms to be considered by the COO and CEO.

The Chief Operating Officer will confirm whether approval has/has not been given to either proceed with appointment where offences are included on the DBS certificate or for an employee to commence employment pending receipt of DBS.

Please be advised all other employment checks must be in place, e.g. qualifications, references before employment can commence,