



Greenshaw Learning Trust

Disclosure & Barring Service (DBS) Policy and Procedures

This Greenshaw Learning Trust (GLT) Policy applies to the Greenshaw Learning Trust as a whole and to all the schools and service units in the Trust, in accordance with and pursuant to the Human Resources Policy of the Greenshaw Learning Trust.

The Greenshaw Learning Trust is the single employer of all members of staff within the Trust's schools and in the Trust central service.

It is the responsibility of the local governing body and Headteacher of each school in the Trust, and of the Board and the CEO for Trust central services, to ensure that this Policy and associated Procedures are adhered to.

In implementing this Policy and associated Procedures the local governing body, Headteacher and school and Trust central service staff must take account of any advice given to them by the GLT Head of HR, the CEO and Board of Trustees. If there is any question or doubt about their interpretation or implementation, the GLT Head of HR should be consulted.

Approval and review:

The responsible officer is the GLT Head of HR.

This Policy was agreed by the Board of Trustees on 16th October 2019

This Policy will be reviewed annually.

The Greenshaw Learning Trust is a charitable company limited by guarantee registered in England & Wales, company number 7633694, registered at Greenshaw Learning Trust, Grennell Road, Sutton, Surrey, SM1 3DY.

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1. Introduction

The Greenshaw Learning Trust is committed to the welfare of all staff, students, children and stakeholders. Ensuring the safety of our community is of paramount importance to us and this policy reflects our dedication to creating a safe environment where our students and children are cared for appropriately and safeguarded from harm.

Disclosure and Barring Service (DBS) checks replaced Criminal Record and Background (CRB) checks in 2012. DBS checks enable the Trust to check if there is any history of activity which may render an individual unsuitable to work with children.

This policy has been created to inform staff and stakeholders of the measures taken by the Trust to ensure all employees, students and children within our schools are safe and cared for.

In addition, it outlines our commitment to meeting legislative requirements, DfE standards, data protection responsibilities and Ofsted guidance as outlined in the Policy.

All staff recruited to positions involving contact with children (under 18's) or vulnerable adults and to positions which give access to information about these individuals, will be required to complete an Enhanced DBS including a barred list check prior to initial appointment and as often as considered appropriate by the Trust thereafter, as part of the conditions of their employment.

Any convictions disclosed will be considered fairly in line with Trust's Equality 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 race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.

We undertake to comply fully with the relevant sections relating to pre-employment vetting, data retention and disposal of Disclosure information in accordance with the Data Protection Act 2018, DBS Code of Practice and the Information Commissioners Office (ICO).

2. Review and approval

This Policy and associated procedures will be reviewed regularly in line with changes to legislation.

Before implementing changes in employment policies and procedures and working and organisational arrangements the Trust will, where appropriate, undertake consultation and negotiation with Trade union representatives through the JCNC.

3. Responsible persons

The person responsible for this policy is the GLT Head of HR:

- **Jenny Cain. Email: jcain@greenshaw.co.uk; telephone: 020 8715 1078.**

The following people will provide guidance and advice on all procedures outlined within this policy:

- **GLT HR Advisors: Stone King**
Email: lisasaggers@stoneking.co.uk; telephone: 020 7324 3327.

Each school in the Trust will designate a School HR Manager who will be the primary point of contact for candidates and staff within the school raising HR matters and for liaison with the GLT Head of HR with regard to HR matters in the school. For the Shared Service Team, the GLT HR Systems Manager will act as the HR Manager.

Responsibility for the implementation of this Policy in a school in the Trust has been delegated to the Headteacher of the school. Responsibility for the implementation of this Policy in the Trust central service has been delegated to the GLT CEO. (Subject to the GLT Scheme of Delegation and any specific Scheme or alteration or restriction to the Scheme placed on the school or service.)

4. Associated Policies, Procedures and Legislation

This Policy is a constituent part of the GLT Recruitment and Selection Policy, and thereby of the GLT Human Resources Policy.

The following Trust policies and procedures are directly related to and complement this Policy:

- GLT Equalities Policy
- GLT Data Protection Policy
- GLT Data Retention Procedure.
- GLT Safeguarding Policy

This Policy was also written, in compliance with:

- The Equality Act 2010.
- section 142 of the Education Act 2002
- Rehabilitation of Offenders Act 1974
- Data Protection Act 2018.
- Immigration, Asylum and Nationality Act 2006
- Police Act 1997 (criminal records) Regulations
- DBS Code of Practice
- Keeping Children Safe in Education
- Safeguarding Vulnerable Groups Act 2006,

5. Levels of Disclosure

There are three levels of Disclosure:

- **Standard Disclosure** Is available for any position or licensing application listed in the Rehabilitation of Offenders Act 1974, (Exceptions) Order 1975. Standard DBS checks show details of both spent (old) and unspent (current) convictions including cautions, reprimands and warnings held on the Police National Computer.
- **Enhanced Disclosure (excluding the barred list check)** An enhanced disclosure contains the same information as a standard disclosure but also includes any non-conviction

information held by local police, where they consider it to be relevant to the post and where this is thought necessary in the interests of preventing or detecting crime. This will be addressed separately to the employer only.

The employer's version of the disclosure certificate will indicate additional information is being provided under separate cover. The applicant's copy will not refer to this information and the employer must not disclose this additional information to the applicant or any other person who is not directly involved in the recruitment process. This information must be handled, stored and retained in the same way as all other disclosure information. An Enhanced Disclosure is available to anyone who works in what is known as a "prescribed position". These are the positions which are in the Rehabilitation of Offenders Act and have also been named in Police Act Regulations. Regulated Activity with Children or Adults and certain Judicial Appointments are examples of prescribed positions.

- **Enhanced Disclosure (including the barred list check)** If the person is to carry out regulated activity (see below) the enhanced disclosure will include any information held on the Independent Safeguarding Authority's (ISA) barred lists (Disclosure and Barring Service from December 2012).
- **Barred Lists** There are two barred lists administered by the Independent Safeguarding Authority (ISA) (the Children's List and the Adults List). Checks against these lists apply to any regulated activity (as defined above) that involves the individual working or volunteering with children or adults. From December 2012 the lists will be administered by the Disclosure and Barring Service (DBS).

6. Regulated Activity (children) supervision of an activity with children which is regulated activity when unsupervised.

The Trust has a responsibility to ensure that anyone deemed not to be in regulated activity will:

- Be supervised by a person who is in regulated activity
- The supervision must be regular and day to day
- The supervision must 'be reasonable in all circumstances to ensure the protection of children'

This is in line with guidance from the Secretary of State and provides line managers with the flexibility to determine what is reasonable in individual circumstances (if in doubt the GLT Head of HR should be consulted). The precise level of supervision will vary from case to case, but the main legal points to consider are:

- Supervisors must be in regulated activity and therefore have an enhanced DBS check including a barred list check.
- Supervision must be regular and take place on a regular basis. Line Managers must ensure that supervision does not tail off as a result of familiarity with the individual
- The level of supervision must be reasonable in the circumstances
- The age of the children/students
- The number of children the individual is working with
- Whether or not any other people are helping to supervise the children/students

- The nature of the individuals work
- How vulnerable the children/students are
- How many workers may be supervised by each supervisor

In accordance with the law, the Trust will not carry out a barred list check on any individual who, because they are supervised, is not in regulated activity.

7. Recruitment procedures

Where a DBS disclosure is required for the post, the job advertisement and job description will 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 information relating to any convictions relevant to the Childcare disqualification legislation on the application form. This information should be sent under separate, confidential cover, to a designated person within the Trust and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.

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 relevant 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.

Where a recruitment agency is used, the Trust will ensure that the agency has carried out the appropriate checks on the individual before they start work.

As DBS certificates are issued to the individual on whom the check was carried out, (not directly to Trust), the Trust, or the School where relevant, will need to ask the applicant for sight of their DBS certificate.

The shared services team and all schools are required to keep a single central register of recruitment and vetting checks in accordance with the Education (Independent School Standards) (England) Regulations 2010.

8. Start date

An Enhanced DBS check and barred list check should be sought immediately once an offer of employment is accepted, so that Trust 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 relevant contact at the School or Trust 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 full risk assessment being carried out. (Appendix A).

Schools should seek advice of the GLT Head of HR on these occasions.

It is the responsibility of the Headteacher of the relevant school 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.

9. Positive Disclosures

Since June 2013 only the applicant will receive a copy of the Disclosure as it will be sent to their home address. This was introduced so that the applicant has the chance to challenge any information that is not factually correct. It is, therefore, vital that the original DBS Disclosure Certificate is sighted by the relevant HR personnel as quickly as possible.

The term "positive disclosure" refers to a disclosure containing information relating to convictions, cautions, reprimands etc., together with any "soft" information relating to non-convictions that the police deem relevant.

- Only those authorised to receive Disclosure information under section 124 of the Rehabilitation of Offenders Act (1974) will be permitted access to it. Specifically, disclosure information will only be made available to those who are directly involved in the appointment process and those who require such information for safeguarding purposes.
- All disclosure information will always be held securely by the relevant parties.

- The following considerations will be taken in relation to positive DBS disclosures:
- The relevance of the disclosure in relation to the position applied for.
- The nature of the offence or other matters revealed.
- The length of time since the offence or other matters occurred.
- Whether there is a pattern of offending behaviour.
- Whether the candidate's circumstances have changed since the offending behaviour or other matters occurred.
- Any extenuating circumstances surrounding the offence and explanations offered.
- In exceptional circumstances, if an offer is made following a positive disclosure, an employment risk assessment may be completed.

- A record of all recruitment decisions following positive DBS disclosures will be kept on file using the form provided in **Appendix B**.
- Depending on the circumstances of each case, the GLT Head of HR/Chief Executive Officer may be asked to countersign the form.

The Trust 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.

10. Checks on agency and supply staff

The Trust requires an Enhanced DBS and barred list check to be carried out in respect of agency and or supply staff, instructors and other education support professionals. Supply teachers must bring proof of identity on their first day of work at the School. Supply teacher agencies are required to confirm that supplied staff members have relevant, clear and current enhanced DBS checks for regulated activity.

11. The recruitment of ex-offenders

Under the Protection of Children Act 1999 and the Criminal Justice and Courts Service Act 2000, the Trust cannot employ persons who may have regular contact with children who are:

- Included on the barred list (a list maintained by the Secretary of State for Health of people judged to be unsuitable to work with children).
- Subject to a disqualifying order made on being convicted or charged with the following offences against children: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm and/or other serious acts of violence.

The Trust also consider it high risk to employ persons, who may have regular contact with Students / children if they have been convicted of or charged with any of the offences above or serious drug related offences.

The School is required to send each applicant its Policy on the Recruitment of Ex-offenders (**Appendix C**).

12. DBS Update Service

The DBS update service allows applicants to keep their DBS certificates up to date online and to take them 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) have the worker's written consent The Trust reserves the right to use the DBS update service to check that an individual's DBS check is still current, subject to the requirements above.

Casual staff and any other stakeholders who work with the Trust on a voluntary or ad-hoc basis are required to register with the DBS Update Service so that the Trust can ensure that DBS checks are kept up to date.

A Copy of the Consent Form is available at Appendix F

13. Routine checks

The DBS certificate does not recommend a specific renewal interval for DBS checks. Ofsted also guides that routine checks for staff go beyond legal requirements, represent poor use of resources and are considered excessive. Therefore, there is no requirement for members of staff to be re-checked on an interval basis unless a person has a break in service of more than three months.

It is however the responsibility of all staff to inform the Trust, if at any time during their period of employment with the Trust, they are subject to any criminal record, cautions, warnings or bind over's, or any changes to their existing DBS or clearance status, including any police investigations which could reasonably impact on their suitability to carry out their role or their relationship with the Trust, work colleagues, children and students.

All candidates when recruited are given information stating if they make a false statement about convictions during the recruitment process this will be considered gross misconduct and could justify dismissal. If it appears that an employee has withheld information, an investigation in accordance with the Disciplinary Policy may be deemed necessary.

14. Single Central Record (SCR)

In accordance with the original publication of **“Safeguarding Children and Safer Recruitment in Education 2007”** and more recently updated in the DfE's September 2018 statutory guidance for schools titled **Keeping Children Safe in Education**, the Trust central service and all schools in the Trust maintain a comprehensive Single Central Record (SCR)

Responsibilities

- The Headteacher, or GLT Head of HR for the Shared Service, will determine who is responsible for maintaining the SCR, but it is recommended that the Headteacher takes the overall responsibility, delegating the actual process of maintaining the record to the School HR Lead.
- The Headteacher and the LGB in individual schools are responsible for ensuring that they have robust processes in place to carry out and record all vetting checks for staff, volunteers, contractors, Governors and anyone else who has regulated activity.
- The GLT Head of HR is responsible for ensuring that the Trust central service has robust processes in place to carry out and record all vetting checks for staff, Trustees, Members and contractors that are in regulated activity.

The SCR must show:

- all staff (including supply staff) who work at the school
- all others who are in regulated activity, this includes volunteers and contractors
- all members of the Local Governing Body, Trust Members and Trustees

based on this definition it is for the Headteacher, or GLT Head of HR for the Trust central service, to determine who to include or not to include on the SCR.

The relevant checks are:

- an Identity check
- a barred list check
- an enhanced DBS check
- a prohibition from teaching check (please see guidance below)
(please note this is not the same as a barred list check)
 - a prohibition check must be made for anyone undertaking ‘teaching work’ (with or without qualified teacher status)
 - whilst not statutory, a prohibition from teaching check may be made for teaching assistants to ensure they are not a prohibited teacher.
- further checks on people living or working outside the UK, including any restrictions placed on teachers from the European Economic Area (EEA)
- a check of professional qualifications
- a check to establish the employees right to work in the UK
- a section 128 check for people in management positions.

For guidance on how to carry out these checks see Appendix D

Under each of these heading you should record:

- What has been seen
- Date it was seen

An example SCR is available Appendix E

15. Disqualification by Association and Disqualification Under the Childcare Act

Under the regulations updated in September 2018, Disqualification by Association will only apply on domestic premises. However, Disqualification under the Childcare Act still applies to staff themselves. Definition of Disqualification under the Childcare Act can be found below.

There is no longer a requirement for schools to ask about the cautions or convictions of someone living or working in their household.

In accordance with the Disqualification under the Childcare Act, the Trust will:

- Identify and record which members of staff are covered by the Act
- Ask the relevant staff to self-declare that they are not disqualified (a form is not necessary) An enhanced DBS certificate will confirm this information for new staff but not for existing staff.
- Remind staff about the expectation to inform the Trust where relationships and associations may have implications for the safeguarding of the children.
- Remind all staff of the need to inform the Trust of any relevant changes in circumstances.
- Record self-declarations on the SCR
- Destroy historic data in line with the data retention policy.

Disqualification under the Childcare Act

Who is covered by the guidance?

The 2018 regulations are made under section 75 of the Childcare Act 2006. They set out the circumstances in which an individual will be disqualified for purposes of section 75.

Any person who is disqualified under the 2018 regulations may not:

- Provide relevant childcare
- Be directly concerned in the management of such provision

Which staff are covered by the guidance?

Trust staff may be covered by this legislation if they are employed or engaged to provide early years childcare (age range from birth to 01 September following the child's 5th birthday, this is usually up to and including reception) or later years childcare (those children above reception age but who have not reached the age of 8) in nursery primary or secondary school settings. Or if they are directly concerned with the management of such childcare. Staff in secondary schools only come into scope if they provide childcare or manage the childcare provision for those children covered by these arrangements.

Early Years Provision

Staff who provide any care for a child up to and including reception. This includes education in nursery and reception classes or any supervised activity such as breakfast club, lunchtime supervision or after school club.

Later Years Provision

Staff who are employed to work in childcare provided by the school outside of the normal school day for the children who are above reception age but who have not reached the age of 8. This does not include education or supervised activity for children above reception age during school hours.

Staff who are directly concerned in the management of early or later years provision are covered by the legislation. Schools will need to use their judgement to determine who is covered, but this will include the Headteacher and may also include other members of the senior leadership team, or any other manager responsible for the day-to-day management of the provision.

The Trust will ensure that staff not directly employed by the Trust who hire or rent Trust facilities (private childcare, afterschool provider, sports coach) have appropriate policies and procedures in place.

These requirements also apply to trainee teachers working within the Trust.

Staff who are not employed to directly provide childcare are not covered by the legislation.

16. Record keeping

The Trust commits to following the guidance issued or supported by the DBS on the use of Disclosure information. In particular, the Trust will:

- Store Disclosure information and any other documents issued by DBS in a locked, non-portable storage unit with strictly controlled access.
- Only those entitled to see this information as part of their duties are permitted access.
- Not retain disclosure information or any associated correspondence for longer than is necessary.
- The Trust will complete a 'positive disclosure' risk assessment and will only keep on file for as long as is necessary
- Ensure that any disclosure information is destroyed by suitably secure means such as shredding and will prohibit scanning or photocopying without express permission of the individual to whom the disclosure relates.

Name of Prospective Employee:		Line Manager:	
Proposed Post Title:		Date of Risk Assessment:	

<u>Reasons for considering commencement of employment prior to receiving clearance:</u>	<u>Consequences (to service delivery) of waiting for clearance:</u>	<u>Level of access during "waiting period" (include level of access own with vulnerable clients):</u>
<u>Supervision arrangements during "waiting period" and any other monitoring arrangements/ control measures:</u>	<u>Pre-employment checklist:</u> Has the employee left employment? Y / N Medical clearance received? Y / N Asylum & Immigration check completed. Y / N DBS application form completed. Y / N Qualifications verified? Y / N Barred list check completed (if applicable) Y / N Two references satisfactory for our purposes Y / N Satisfied with general background & Employment history checks? Y / N Declared convictions spent & unspent on app form? Y / N	<u>Previous DBS clearance & positive disclosures:</u> Is a previous disclosure certificate available? Y / N If Yes: Has it been seen by you? Y / N What is its date? _____ Disclosure Number: _____ Which barred list was checked: _____ *Positive disclosure(s) on DBS certificate? Y / N *If Y is it relevant to post / pose risk of harm? Y / N (please seek advice from Head of HR)

Prospective Employee Declaration

The information I have provided during this risk assessment is a true and accurate record. In signing I am confirming that I have no reason to believe that any information, other than that already provided, will be disclosed on the disclosure certificate issued by the Disclosure and Barring Service:

Signed by Prospective Employee: _____ **Date:** _____

Assessment of Risk following control measures:

HIGH

MEDIUM

LOW

This prospective employee will not commence work prior to satisfactory clearances.
or
 Following risk assessment, I have determined that the above named may commence employment with the identified control measures. I undertake to personally review this situation at intervals of no less than every two weeks.

Signed by Line Manager: _____ **Date:** _____ **Review Dates:** _____

Signed by Head Teacher (Approval): _____ **Date:** _____

Record of Recruitment Decision – Positive Disclosure

All positive disclosures relevant to child protection, regardless of the seriousness of the offence(s) or other matter revealed, are subject to objective assessment. All sections of this form must be completed and retained on file.

Personal Details		
Date:		
Applicant's name:		
Position applied for:		
Assessment		
Does the applicant meet all the essential criteria for the role, including skills, knowledge and ability?	Yes	No
Is the nature of the offence(s) directly related to the role?	Yes	No
When did the offence(s) occur?	Less than 2 years ago	More than 2 years ago
Is there a pattern of related offences?	Yes	No
Is there a pattern of unrelated offences?	Yes	No
Is the context still relevant today?	Yes	No
Was the offence(s) committed at work?	Yes	No
What level of independence will the role entail?	Close supervision	Minimal supervision
Does the applicant show a determination not to re-offend?	Yes	No
Did the applicant reveal the offence(s)?	Yes	No
What response was given when questioned about the offence(s)?	Yes	No
Have two references been received?	Yes	No
What information did the referees provide on the candidate's suitability?	Yes	No
Does the applicant constitute a risk?	Yes	No
Recommendation		
Name:		

Declaration: I understand the **Greenshaw Learning Trust Policy** on the Recruitment of Ex-offenders and, having considered all relevant information, I believe the applicant does/does not* constitute a risk to children for the following reasons:

Therefore, the applicant should/should not* be offered this role.

*Delete as appropriate.

Signed:

Date:

If proposing to appoint a person convicted of a high-risk offence, the Chief Executive Officer / and Chair of the Board of Directors must countersign below. (The GLT Head of HR must be notified)

Signed:

Chief Executive Officer

Date:

Signed:

Chair of Board of Directors

Date:

Greenshaw Learning Trust - Policy on the Recruitment of Ex-offenders

A copy of this Policy should be included in the recruitment pack to all job applicants.

This policy is made available to all candidates at the outset of the recruitment process.

- Greenshaw Learning Trust fully complies with the DBS Code of Practice and will not discriminate unfairly against any subject of a disclosure on the basis of conviction or other information revealed.
- The Trust meets the requirements of exempted questions under the Rehabilitation of Offenders Act 1974; all applicants are subject to an Enhanced DBS check before the appointment is confirmed. This includes details of convictions, cautions and reprimands, as well as spent and unspent convictions. A positive disclosure will not necessarily prohibit a candidate from being offered a position.
- The Trust is committed to the fair treatment of all applicants, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical or mental disability or offending background.
- The Trust promotes equal opportunity and welcomes applicants from a wide range of backgrounds, including those with criminal records.
- Candidates are selected for interview based on their skills, qualifications and expertise.
- All application forms and recruitment notices will contain a statement that a disclosure will be requested if a position is offered.
- All applicants are encouraged to provide details of their criminal record at the earliest stage possible. This may be sent under separate and confidential cover.
- The Trust is committed to ensuring all disclosure information will only be seen by those who require access as part of their duties.
- At interview, or in a subsequent discussion, open and measured discussion will take place on the subject of the offences.
- Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of any offer made.
- Legal advice is available for all involved in the recruitment process to ensure they can identify and assess the relevance and circumstances of offences.
- All recruitment personnel have received appropriate training and guidance in the relevant legislation relating to the employment of ex-offenders.

In conclusion, having a criminal record will not necessarily prohibit you from working for our Trust. This will depend on the nature and severity of offences or other matters and their relevance to the position offered.

Guidance on Section 128 Checks for Academies

1. Introduction

The Education (Independent School Standards) Regulations 2014 which came into force on 5th January 2015 introduced a new requirement for independent schools (including academies and free schools) to undertake checks for the existence of a 'section 128' direction when making certain management appointments. This is in **addition** to all other normal pre-appointment checks.

Under this Act, the Secretary of State may bar individuals from taking part in the management of a school. The power to make such directions came into force on 8th September 2014 but a mechanism for schools to undertake checks was not immediately available. It is now possible for checks to be carried out through the NCTL (regardless of whether the person is a teacher or not).

Further to the 2015 changes, the revised Keeping Children Safe in Education statutory guidance, effective 3rd September 2018, now recommends that schools check if a person they propose to recruit as a governor is barred as a result of being subject to a section 128 direction.

This guidance note explains when and how these checks should be conducted and includes information provided by the DfE to academies in August 2015 and in the 2018 version of Keeping Children Safe in Education.

2. Which posts require a section128 check to be undertaken?

A management position as an employee; this will include:

- headteachers/principals
- any teaching positions on the senior leadership team
- any teaching positions which carry a department headship (but not other teaching posts with additional responsibilities)
- any support staff on the senior leadership team
- A trustee of an academy / free school trust
- A member of an academy/free school trust
- A governor on any governing body that retains or has been delegated any management responsibilities.

3. How should a check be undertaken?

There are two possible ways of conducting a check, depending on the nature of the post.

1) DBS check: where the individual is undertaking regulated activity (and therefore a barred list check will be made) the DBS check will show the existence of any s.128 direction. ***(Strictly Education are in the process of setting this up)***

2) TRA check: a standalone check can also be performed via the Secure Access portal. This route should be used for posts where the individual is not undertaking regulated activity (e.g. most governors / trustees) and therefore where the DBS check will not show the existence of a s.128 direction.

More on these two routes can be found below. To illustrate which route should be used see the following table:

Post	DBS Route	TRA Route
Teaching post, including headteacher / principal	Yes, but currently unavailable so please use TRA route.	Yes (as part of usual check on prohibitions etc)
Non-teaching staff or governor / trustee undertaking regulated activity	Yes	No, not required – though should be used if the DBS route cannot (see para 4 below)
Governor / trustee not undertaking regulated activity	No (because a barred list check cannot be carried out for persons not in regulated activity)	Yes

4. The DBS Check Route

This route will be available shortly. Please use the TRA route, until further notice.

5. The TRA Check Route

Details of any s.128 barring directions will be updated through the TRA and these will be visible immediately. Schools can check these by logging into Secure Access.

Once logged in it is possible to access three separate lists with details of teachers and support staff who have a current restriction against them. The three lists are as follows:

- teachers who have failed to successfully complete their induction or probation period
- teachers who may be the subject of a suspension or conditional order imposed by the General Teaching Council for England (prior to abolition) that is still current
- teachers or others who have been prohibited from teaching

For the purposes of checks for s.128 barring directions schools will only need to access the ‘prohibited’ list – the last of the three. Although this list is primarily designed to be of those prohibited from teaching, it will also show s.128 directions including those for support staff. A teacher reference number (TRN) is not required for this.

6. Do I need to undertake retrospective checks for existing staff and governors?

Academies do not need to undertake checks for existing staff who were in post **before** 5th January 2015, even if they are internally promoted in the future into a post where the section 128 requirement applies.

However, you would be advised to ensure that checks have been undertaken for any individual within scope who has joined the school/trust **since 5th January 2015**, if there is any doubt that these checks have been undertaken. This can be done by checking the TRA list via Secure Access and recording that the check has been conducted on the school’s single central record.

Example of a typical Single Central Record (SCR)

Appendix E

Establishment Name					School Number				
Single Central Record - Template									
Identification					Qualifications & registration		S128 Management Check	Prohibition from Teaching	Right to work
First name	Surname	Home address	DOB	Evidence seen and Date	Qualifications Req'd (Y & N)	Evidence seen and Date	Check completed (date)	Check completed (date)	Evidence seen (date)

Establishment Name				School Number					
Single Central Record - Template									
Children's Barred list	DBS			Update Service		Further Overseas checks			
Check completed (date)	DBS No	Registered body	DBS Seen (date)	Update service	Check completed (date)	Documentation evidenced	Date		

* For primary schools only

Disqualification under the Childcare Act	
Staff member covered by the Act (Y / N)	Self-disclosure on file (Y / N)



DBS CONSENT FORM

(TO BE COMPLETED BY CANDIDATES/VOLUNTEERS)

Applicant Name:

I acknowledge that in order to process my application to be employed / engaged by the Trust that an enhanced DBS check will be undertaken.

I confirm that if my DBS certificate contains any police or other information, I will produce the original DBS certificate to the Trust within 5 working days following my receipt of it, in order for the Trust to proceed with my application/engagement. I acknowledge that if I fail to produce my original DBS certificate within this timeframe, the Trust may not proceed with my application.

I understand that if I commence work before I receive my DBS certificate and/or produce it to the Trust that this will be on a conditional basis as set out in my conditional offer letter/conditional contract/volunteer agreement. If my DBS check is unsatisfactory to the Trust, I acknowledge that my employment/engagement will not be confirmed/will not continue.

I confirm that I give my consent for the Trust to take a copy or image of my original DBS certificate and hold the copy/image for as long as is necessary to complete the recruitment process. At the end of this period I acknowledge that the Trust will remove the copy from their records and destroy it.

I further acknowledge that the Trust may share the information contained on the DBS certificate with a third party for the purposes of seeking guidance on the recruitment decision, where appropriate.

The Trust confirms that it will comply with the DBS Code of Practice at all times. A copy of the Trusts policy on the recruitment of ex-offenders can found in the GLT Recruitment & Selection Policy which is available on the website www.greenshawlearningtrust.co.uk

Signed.....

Print name.....

Date.....

Additional section to be completed by applicants who have a subscription to the DBS online update service:

By signing this section of the form, you confirm that you are registered with the DBS update service and you give permission for the Trust to carry out a status check with the DBS online update service.

You confirm you will produce to the Trust, your current DBS certificate and any further information required to carry out a DBS status check.

You acknowledge that the Trust may require a new DBS check to be obtained if the certificate you have presented is not at an appropriate level or for an equivalent role. A new check may also be required if the online status check indicates that your certificate is no longer current.

Signed.....

Print name.....

Date.....