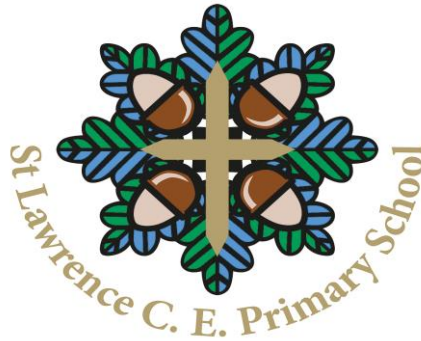


St Lawrence CE Primary School



Criminal Record Checks Policy

Revised: September 2020

Consultation with staff and Governors

and adoption of policy: Autumn Term 2019

Review date: Autumn Term 2021

Introduction

St Lawrence Primary School is committed to the fair treatment of its staff and pupils and no individual will be unjustifiably discriminated against on the basis of race, colour, nationality, ethnic origin, gender, sexual orientation, marital or parental status, age, disability, political or religious or socio-economic class.

As an organisation using the Disclosure and Barring Service, St Lawrence Primary School complies fully with the DBS Code of Practice.

1. Disclosure and Barring Service Update

From 28 May 2012, the Disclosure and Barring Service (DBS), formerly known as the Criminal Records Bureau (CRB), introduced new identity (ID) checking guidelines. These new guidelines will apply to all applications for a DBS check.

This enhancement has been introduced so that the DBS's identity checking process is strengthened to improve public protection. In particular, the changes will make it more difficult for individuals to conceal previous criminal records by changing their name. These changes are part of an on-going improvement process that will enable easier detection of undeclared changes of name in the future.

With effect from 1 December 2012 the Criminal Record Bureau (CRB) merged with the Independent Safeguarding Authority (ISA) to become the Disclosure and Barring Service (DBS). Following a review the Government has announced the following changes:

- a large reduction in the number of positions requiring checks to just those who work most closely and regularly with children and vulnerable adults;
- portability of criminal record checks between jobs to cut down on bureaucracy;
- an end to a requirement for those working or volunteering with vulnerable groups to register with the Vetting and Barring Scheme and to be continuously monitored by the Independent Safeguarding Authority;
- stopping employers who knowingly request criminal record checks on individuals who are not entitled to them.

There is no official expiry date for a DBS check. Each DBS check carries the date on which it was printed. DBS checks continue to cover staff until the school carries out a new check. The governors of St Lawrence School have agreed that all school staff, governors and regular volunteers will have renewed DBS checks every 3 years.

From June 2013, applicants and employers can use the DBS Update Service to keep a certificate up-to-date or to carry out checks on a potential employee's certificate. The photocopying of any DBS disclosure is strictly forbidden.

2. Staff/Volunteers

2.1. Newly Appointed Staff

The Department for Education regulations for schools contain a statutory duty that schools must obtain a barred list check with an enhanced DBS check for newly appointed staff. The DBS check is only for staff who, within the three months before their appointment, have not worked in:

- A school in England in a post which brought them into regular contact with children or any post they were appointed to since 12 May 2006; or
- An FE college in England in a position which involved the provision of education and regularly caring for, training, supervising or being in sole charge of children or young people under the age of 18.

A school must NOT request a barred list check on a worker who is not in regulated activity as such a check would be unlawful.

2.2. Existing Staff

If a school has concerns about the suitability of an existing staff member to work with children, or a person moves to work in regulated activity and for their previous work they were not checked, then the school should carry out all relevant checks as if the person was a new member of staff.

2.3. Checks on Individuals who have Lived or Worked Abroad

Newly appointed staff who have lived or worked abroad must first undergo the same check as for all other staff in schools. In addition schools must make such further checks as they consider appropriate due to the person having lived outside the United Kingdom and take extra care when taking up references.

2.4. Contractors

Schools should have arrangements in place with contractors to make sure that for any of the contractor's staff working regularly in the premises with the opportunity for contact with children, the contractor has obtained a barred list check and an enhanced DBS check. For contractor's staff who do not work regularly at the school but may have contact, it is up to Head Teachers to use their professional judgement to decide whether to request a DBS check and how far to supervise these workers. Generally, contractors who have not been checked by their employers should be supervised.

2.5. Visitors

School cannot undertake barred list or enhanced DBS checks on visitors e.g. MPs or relatives on sports day. Head Teachers and Principals should use their professional judgement about escorting and supervising visitors.

2.6. Supply Staff

Schools must ensure that the supply agency provides written confirmation that the relevant checks have been completed.

2.7. Existing Volunteers

Schools don't need to DBS check volunteers continuing in the same position, however, the school will ensure that a DBS re-check will be undertaken every 3 years.

3. Who carries out the checks

The criminal records check will be carried out via the Disclosure and Barring Service (DBS). The Disclosure & Barring Service (DBS) was established under the Protection of Freedoms Act 2012 (PoFA). The DBS replaced the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) in December 2012.

The primary role of the DBS is to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups including children. The DBS issues disclosures of criminal records in addition to making decisions on the barring of individuals from working with vulnerable groups. There are 2 independent barred lists which are maintained by the DBS:

- A list of people barred from working with children;
- A list of people barred from working with adults in vulnerable circumstances.

4. Types of Checks

4.1. Standard Disclosures

Standard disclosures contain details of all convictions on record (including 'spent' convictions i.e. those that happened some time ago and normally no longer need to be revealed as specified in the Rehabilitation of Offenders Act 1974) plus details of any cautions, reprimands or warnings. This check will draw on information from the Police National Computer, local police force records, Department of Health records and Department for Education & Skills records. This check takes about 2 weeks.

4.2. Enhanced Disclosures

This check will also draw on information from the Police National Computer, local police force records, Department of Health records and Department for Education & Skills records. As this is an enhanced disclosure it will also include any relevant information held locally by police, that's reasonably considered relevant to the workforce being applied for (adult, child or 'other' workforce). It takes about 4 weeks.

'Other' workforce means those who don't work with children or adults specifically, but potentially both, eg taxi drivers. In this

case, the police will only release information that's relevant to the post being applied for. This check takes about 4 weeks.

A Standard or Enhanced Disclosure will only be required for posts, which are exceptions to the Rehabilitation of Offenders Act 1974.

In order to protect children and vulnerable people the Council will also act as an 'Umbrella Body' to enable other eligible organisations, agencies and individuals to have access to Disclosure information for potential employees and volunteers. These organisations, agencies and individuals will be required to comply with this policy and procedures as determined by the Council. They will also be required to reimburse the Council for any charge levied by the DBS together with an agreed fee for the administration costs of the Council.

This policy applies to all recipients of Disclosure information and it is intended to ensure that the information released will be used fairly. It complies with the Code of Practice drawn up by the CRB and it will be revised from time to time as necessary.

5. Procedure

5.1. Identification of types of checks required for Council posts

Each Council post will be assessed against the following guidelines to ascertain which levels of checks should be carried out.

- Posts involving regularly caring for, training, supervising or being in sole charge of children or vulnerable adults.

Potential post-holders will be the subject of an **Enhanced Disclosure** from the DBS.

- Posts that involve regular contact with those aged under 18, or vulnerable adults, but where post-holders are not regularly caring for, training, supervising or being in sole charge of children or adults. Other occupations that involve positions of trust, for example accountancy.

Potential post holders will be subject to a **Standard Disclosure** from the DBS.

A note of the appropriate level of DBS check required will be made on the post record on the computerised Human Resource System. This information will be reviewed and updated on a regular basis and will be consulted and assessed prior to any recruitment process.

5.2. Employing persons with criminal records

The Council will not unfairly discriminate against the subject of Disclosure information on the basis of conviction or other details revealed.

The Council has a written policy on equal opportunities which includes the commitment to equality of opportunity for ex-offenders. A copy of the equal opportunities policy will be given to all applicants for positions where a Disclosure will be required.

The Council will also ensure that a body or individual at whose request applications for Disclosures are countersigned has such a written policy and, if necessary, provide a model for that body or individual to use.

5.3. Employment application forms

The employment application forms for posts where Disclosures are required, will contain a statement that a Disclosure will be required in the event of a successful application. This will ensure that applicants are aware that such checks will be necessary. It will also state that the Council will report persons who attempt to obtain employment whilst they are disqualified from working with children.

5.4. Application for Disclosure Information

Once a shortlist has been agreed, short-listed candidates will be reminded that they will need to complete a Disclosure checks if they are the most suitable candidate.

When a provisional offer of employment or an offer of a volunteer post is about to be made to a candidate, the candidate will be requested to complete the Disclosure check online at the following website:

<https://disclosure.capitarvs.co.uk/telford/>

The individual will be required to enter the organisation reference number which has been provided to them by the recruiting manager.

The screens guide the individual through the questions they need to answer but should they need assistance they can contact Employment Services on 01952 383639 (Corporate) or 01952 383655 (Schools).

Prior to signing Disclosure forms, counter signatory officers should be satisfied that sufficient checks have been carried out as to the identity of the applicant. At least one item of photographic evidence and one item of address related evidence would be desirable. In cases where photographic evidence is not available a full birth certificate issued at the time of birth would be acceptable. If an applicant has changed his/her name then evidence of this change should be seen.

The DBS will carry out the necessary checks on receipt of the form and the original Disclosure will then be issued to the individual and a copy sent to the counter-signatory.

5.5. Subsequent use of information

A Council Officer may only disclose Disclosure information in the course of his/her duties; and either

- to another authorised member, officer or employee within the Council; or
- to an authorised member, officer or employee of the body at whose request the Council countersigned the application.

Passing information in any other circumstances will be a disciplinary offence and may be a criminal proceedings.

If Disclosure information is disclosed to an unauthorised person and constitutes an offence under the terms set out above, that person commits a disciplinary offence if he/she then divulges the information to any other person. This offence may also lead to criminal proceedings.

Other circumstances in which disclosing Disclosure information would not be an offence.

In addition to the circumstances set out above, information in a Disclosure may also be communicated in other specified, exceptional, circumstances, including in particular:-

- with the written consent of the subject of the Disclosure;
- to a government department; who have a statutory right to have access to such information.
- to a person appointed to an office by virtue of any enactment;
- in accordance with an obligation to provide information under or by virtue of any enactment.

Similarly, additional information conveyed by the police separately from a Disclosure (under section 115(8) of the Police Act 1997) may also be communicated with the written consent of the chief officer who provided the information

5.6. Positive Disclosures

Any matters revealed in Disclosure information will be discussed with the person seeking the position before withdrawing an offer of employment. In some cases the offences revealed in the disclosure will debar the person from being employed.

Where information has been released by the police to an employer in a separate letter, that information **must not** be discussed with the applicant without the written consent of the police officer who provided the information.

5.7. Disputes procedure – where a candidate states that disclosure information is inaccurate

Where a prospective employee or volunteer disputes the information provided in a Disclosure, that dispute will need to be resolved before the employer can reach a recruitment decision.

If it should prove impossible to resolve matters by other means, a fingerprint check may be sought, via the DBS, in order to determine whether the record in question relates to the applicant.

5.8. Consideration of Disclosure Information

In order to assist staff in making appropriate use of Disclosure information in reaching decisions, the following guidance is available in relation to the employment and fair treatment of ex-offenders and to the Rehabilitation of Offenders Act 1974. This guidance should also be made available to those at whose request the Council acts as an Umbrella body.

Officers should take into account a number of factors before reaching a recruitment decision.

The following should be considered:-

- whether the candidate has wilfully not disclosed information;
- the seriousness of any offence or other matter revealed;
- the length of time since the offence or other matter occurred;
- whether the applicant has a pattern of offending behaviour or other relevant matters;
- whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters; and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person.

Recruiters should be fully aware of their duties under the provisions of the Criminal Justice and Court Services Act 2000 and any other requirements stipulated in law or by regulatory bodies.

Disclosures carry no absolute guarantee of accuracy. Neither do they carry a pre-determined period of validity because a conviction or other matter could be recorded against the subject of the Disclosure at any time after it is issued. Employers are advised to make recruitment decisions as soon as possible after receiving their copies of Disclosures.

Ultimately, it is the responsibility of the employer to decide whether to offer the applicant a position.

6. The Council as an Umbrella Body

- The Council is an Umbrella Body, which has registered with the DBS on the basis that it will countersign applications on behalf of others who are not themselves registered.
- Officers must satisfy themselves that those on whose behalf they intend to countersign applications are likely to ask exempted questions under the Exceptions Order to the Rehabilitation of Offenders Act 1974.
- Council officers will take reasonable steps to ensure that those to whom they pass Disclosure information observe the Council Policy & Procedures for Disclosure Information. They will also ensure that a body or individual at whose request applications for Disclosures are countersigned has a written policy on the use of Disclosures. The body or individual should also have a policy on the recruitment of ex-offenders and a security policy for Disclosure information. If necessary, the Council will provide model policies for that body or individual to adopt.
- A member, officer or employee of an unregistered body at whose request an application is countersigned by another body which is registered (an Umbrella Body) may only disclose Disclosure information
 - a. in the course of his/her duties; and
 - b. to another authorised member, officer or employee of the unregistered body.

Passing information in any other circumstances may be a criminal offence.

- A charge will be made to the unregistered body/individual to cover any fees to the DBS and the administration costs of the Council.
- Where an individual or body using the services of the Council as an Umbrella Body loses Disclosure information (or information from a Disclosure), the individual or body must immediately inform the Council so that the loss can be reported to the DBS.

7. Security

This policy seeks to ensure that sensitive personal information is handled and stored appropriately and is kept for only as long as necessary. It is designed to ensure that all the Disclosure information provided about successful candidates is handled confidentially and fairly within the organisation.

References in this security policy to Disclosures include relevant non-conviction information supplied by the police but not included on Disclosures.

- Standard and Enhanced Disclosures must be kept securely and should be disposed of when decisions based on them have been made.
- Only those entitled to see disclosure information in the course of their duties should have access to such information.
- A written record must be kept of the names of those – whether in the Council or outside – to whom Disclosure Information has been revealed.
- Individuals and organisations making use of the Council's services as an Umbrella Body should also have a written security policy. The Council will provide a model security policy on request.

7.1. Recipients of Disclosure information

- must ensure that Disclosure information is not passed to persons not authorised to receive it under section 124 of the Act. Under section 124, unauthorised disclosure is an offence;
- must ensure that Disclosures and the information they contain are available only to those who need to have access in the course of their duties;
- must securely store Disclosures and the information that they contain;
- should retain neither Disclosures nor a record of Disclosure information contained within them for longer than is required for the particular purpose. In general, this should be no later than six months after the date on which the person commences employment or voluntary work. This period should be exceeded only in very exceptional circumstances which justify retention for a longer period.

There may be circumstances where a recipient of Disclosure information is asked to reveal details of a Disclosure to a third party in connection with legal proceedings for example, in a case submitted to an Employment Tribunal. In such instances, the recipient of Disclosure information should inform the CRB of any such request immediately and prior to the release of any information.

7.2. Storage

- All recipients of Disclosure information must store Disclosures and other confidential documents issued by the DBS in secure conditions. Documents should be kept in locked, non-portable storage containers. Keys or combinations for such storage units should not be freely available within an organisation and access must be restricted to named individuals. Wherever possible, access to rooms containing storage containers should be restricted to staff engaged in recruitment work.
- Once a person has taken up employment or voluntary work (or other relevant decision – e.g., for regulatory or licensing purposes) has been made, a recipient of a Disclosure must not retain it, or any associated correspondence, for longer than is necessary for the particular purpose. In general, this should be for a maximum of 6 months. This period allows for any dispute about the accuracy of a Disclosure or a recruitment decision to be made and considered. In the case of a dispute, Disclosure information may need to be retained for a longer period, but in general this should be for no longer than 6 months after resolution of the dispute. Advice on extensions to these periods can be sought from the DBS.
- Disclosures should be destroyed by suitably secure means - i.e., shredding, pulping or burning. They should not be kept in any insecure receptacle (e.g. a waste bin or confidential waste sack) whilst awaiting destruction.
- No photocopy or other image of the Disclosure may be retained, nor must any copy or representation of the contents be made or kept. But it is advisable for recipients of Disclosure information to keep a record of the date of a Disclosure, the name of the subject, the type of Disclosure, the position in question, the unique number issued by the DBS and the recruitment decision taken.

7.3. Lost Disclosures

- If Disclosure information (or information contained within a Disclosure) is lost, the registered person should inform the CRB immediately. The DBS will consider whether to issue a replacement, if this is requested.
- Where an individual or body using the services of the Council as an Umbrella body loses Disclosure information (or information from a Disclosure), the individual or body must immediately inform the Council so that the loss can be reported to the DBS.

7.4. Assurance

The council will

- co-operate with requests from the DBS to undertake assurance checks as to the proper use and safekeeping of Disclosure information;
- report to the DBS any suspected malpractice in relation to this Code of Practice.