

DBS Policy

Allegations against Staff Procedures

Date	Amendment	Approval
01.01.14	Changes specific from Council to Academy removing DBS Panel as was a Council specific function.	FGB
12.10.15	Mouchel replaced by Kier Appendix 2 – DBS Disclosures are brought into the HT or SBM	SIC
19.10.16	Significant changes to reflect updated KCSiE 2016 <ul style="list-style-type: none"> • New employees • Repeat checks • Contractors • Visitors • Allegations against staff • Volunteers • Governors 	SIC
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1. Introduction

The Academy is committed to safeguarding and promoting the safety and welfare of children and young people and expects all employees, governors/trustee's and volunteers to share in, and demonstrate, this commitment.

The purpose of this policy is to have appropriate and effective procedures in place to prevent people who pose a risk of harm from working with children by adhering to statutory responsibilities to check staff who work with children.

This policy has been developed in accordance with the 'Keeping children safe in education' statutory guidance published by the Department for Education (DfE) and guidance published by the Disclosure and Barring Service (DBS). Those involved in the recruitment process and for carrying out repeat checks must make themselves familiar with this guidance and other statutory requirements as referenced in this policy and the Recruitment and Selection Policy.

Requirements and legislation may change from time to time and this policy will be updated accordingly.

2. Scope

This policy applies to all employees and prospective employees and also provides guidance around self-employed workers, contractors, volunteers and visitors. Please note, there is a separate volunteer policy which should be read in conjunction with this policy.

3. Key Aims

- To safeguard and protect, as far as possible, all children and vulnerable persons within the Academy
- To prevent unsuitable people from working with children
- To ensure that safer recruitment practice and pre-employment checks are rigorously undertaken before any appointment is confirmed
- To ensure compliance with all relevant legislation, recommendations and guidance.

4. Establishing DBS requirements for new posts

A DBS check should only be requested after a thorough risk assessment has indicated that one is relevant to the role concerned, this should be confirmed prior to advertising.

Where an Enhanced DBS check is to form part of the recruitment process, the Academy will ask all applicants to 'self disclose' details of their criminal record at application stage in line with the Rehabilitation of

Offenders Act 1974 and the Rehabilitation of Offenders (Exceptions) Order 1975. This Order lists teaching posts and any employment carried out wholly or partly within the precincts of a School/Academy an exception to the rule of not disclosing spent convictions. Therefore, applicants must disclose any spent cautions and/or convictions, other than protected cautions and convictions. Information disclosed will only be seen by those that need to as part of the recruitment process. Failure to reveal information that is directly relevant to the position sought may lead to the withdrawal of an offer of employment. A DBS check should only be initiated once the applicant is successful at interview.

If an individual has had a break in service of 3 months or more, they will require a new DBS check. This rule applies to new employees whose checks have been initiated too soon before their start date and casual employees who have had a gap of 3 months or more between working in the Academy.

The minimum age of a person who can apply for a DBS check is 16 years old.

Members of staff, whether permanent, temporary, casual or volunteer should not start work until the DBS check has been received and appropriately considered and all other pre-employment checks have been completed. Offers of employment must be made subject to satisfactory clearances.

If, in exceptional circumstances, delaying a start date is not possible, a risk assessment may be undertaken, see [Appendix A](#). Please note, where an individual is allowed to start work in regulated activity before the DBS certificate is available, the Academy should ensure that the individual is appropriately supervised and that all other checks, including a separate barred list check have been completed.

5. Types of DBS checks

The level of DBS check required will depend on the role and duties of an applicant working in the Academy as outlined in this policy.

Standard check – Contains details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC) which have been filtered in line with legislation.

Enhanced check – Contains the same information as the standard check, above, but also includes a check of information held by police forces.

Enhanced check with Barred List check – can only be requested for individuals working in 'regulated activity'. This check contains the same information as an Enhanced check but in addition includes a check against the Children's/Adult's Barred Lists.

6. Determining the level of check

For most appointments within the Academy, an Enhanced DBS with Barred List check will be required as the majority of staff will be engaging in regulated activity (see [Appendix B](#)).

For other staff who do not fall into the remit of regulated activity, but have an opportunity for regular contact with children, an Enhanced DBS without Barred List check will be required.

The flowchart at [Appendix C](#) can be used to help establish the level of check needed.

6.1 Governors/Trustees

Governors/Trustees are required by law to have an Enhanced DBS without Barred List check unless, in addition to their governance duties, they engage in regulated activity.

6.2 Volunteers

The DBS definition of a volunteer is defined in the Police Act 1997 (criminal records) Regulations 2002 as:

“Any person engaged in an activity which involves spending time, unpaid, doing something which aims to benefit some third party and not a close relative.”

To qualify for a free-of-charge criminal record check, the applicant must not benefit directly from the position the DBS application is being submitted for, receive any payment, be on a placement or course that requires them to do the job or be in a trainee position that will lead to a full time role/qualification.

Volunteers who are supervised while regularly carrying out activities with pupils are not in regulated activity but as they have the opportunity to come into contact with children on a regular basis the Academy may obtain an Enhanced DBS check only (without a Barred List check).

Employers are not legally permitted to request Barred List information on a volunteer who, because they are supervised, is not in regulated activity. Under no circumstances must a volunteer, who has not been checked against the Children's/Adult's Barred List, because it is not required due to infrequent contact, be left unsupervised with children.

Refer to [Appendix C](#) for the level of check that will apply to a volunteer in the Academy, depending on their role.

6.3 Contractors

Contractors engaging in regulated activity will require an Enhanced DBS with Barred List check. For contractors not engaging in regulated activity, but whose work provides them with the opportunity for regular contact with children, an Enhanced DBS check will be required (not including Barred List check). It is irrelevant whether the contractor works on a single site or across a number of sites when considering whether the contact is regular.

The contracting organisation should provide the Academy with a list of staff, their certificate number, date, workforce and level of their DBS checks.

6.4 Self-employed workers

Self-employed workers cannot apply for a check directly to the DBS as they cannot ask an exempted question of themselves. The Academy can apply for a self-employed workers DBS check if they are wishing to use their services.

The level of check would depend on whether the individual is in regulated activity, regular contact or supervised.

6.5 Visitors

DBS checks are **not** required for visitors to the academy who do not have unsupervised access to children. The Headteacher will use their professional judgement about the need to escort or supervise visitors.

Visitors to the academy who undertake work with children will require a DBS check and their employing organisation should provide the Academy with their name, certificate number, date, workforce and level of their DBS checks.

6.6 Students on work placement

If the placement offers contact with children and the student is 16 years or over, they may be in regulated activity and would therefore require an Enhanced DBS check. If the student has a DBS check with a school or college they are on placement from then this will suffice as long as confirmation is received from the school or college.

7. Transgender process

DBS offers a confidential checking process for transgender applicants. This process is for transgender applicants who do not wish to reveal details of their previous identity to their prospective employer. The individual can email sensitive@db.s.gsi.gov.uk for more information.

8. Individuals who have lived or worked outside of the UK

The Disclosure and Barring Service cannot access overseas criminal records therefore, individuals who have lived or worked outside of the UK for more than 6 months in the last 5 years will require additional criminal record checks. For guidance on this process, refer to the Recruitment and Selection Policy.

9. Rehabilitation of Offenders

Under the requirements of the Rehabilitation of Offenders legislation there is a system for cautions and convictions, for both systems there is a list of exempt offences. This means that any caution or conviction for an offence on a particular list will not be filtered and others that will be. See [Appendix D](#) for further information.

10. Sighting the DBS Certificate

Once the applicant/employee has received their DBS certificate, they must present the certificate to the Academy.

The Academy will check all of the details on the certificate ensuring all personal data is correct and the correct workforce and Barred Lists (if appropriate) have been checked. Any discrepancies will be taken up with the Disclosure and Barring Service.

A record must be kept on the single central record of the date the certificate was sighted and who it was sighted by. A copy of the certificate should not be retained by the Academy in line with the DBS Code of Practice and point 12 of this policy.

11. Disclosures with Information

When a DBS check produces a history that causes concern then the Headteacher will discuss the circumstances with the individual before reaching a decision on whether to proceed with the appointment.

The Headteacher will discuss the circumstances with HR and consider:

- Whether the conviction or other information received is relevant to the post and workplace in question
- The seriousness of any offence or other information received
- The length of time since the offence or other matter occurred
- Whether the applicant has a pattern of offending behaviour
- Whether the applicant's circumstances have changed since the offending behaviour
- The circumstances surrounding the offence(s) and the explanation offered by the individual, and
- Any other relevant matters

The decision made will be recorded using the 'Action Required Form' at [Appendix E](#).

12. Handling of DBS certificate information

Certificate information should be stored securely, in lockable, non-portable storage containers with strictly controlled access and limited to those who are entitled to see it as part of their duties.

Once a recruitment decision has been made, certificate information should not be kept for any longer than is necessary. Generally up to 6 months to allow for consideration and resolution of any disputes or complaints. If it is considered necessary to retain certificate information for longer than 6 months, the DBS must be consulted and full consideration given to the Data Protection and Human Rights of the individual.

In accordance with section 124 of the Police Act 1997, the Academy will maintain a record of all those to whom certificate information has been revealed however, it is a criminal offence to pass the information to anyone who is not entitled to see it.

Once the retention period has elapsed, DBS certificate information must be securely destroyed in line with the DBS Code of Practice. The Academy will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, the Academy will keep a record of the:

- Date of issue of the certificate
- Name of the subject
- Type of certificate
- Position for which the certificate is requested
- Unique reference number of the certificate
- Details of the recruitment decision taken

13. Repeat checking

There is no legal requirement to repeat check however information disclosed on the certificate is only accurate at the time the check was carried out.

In line with **Keeping Children Safe in Education 2016**, the academy will not carry out repeat checks for existing staff, governors or members because they have continuous service:

in a school in England in a post which brought them into regular contact with children or young persons in any post in a school since 12 May 2006;

Contractors and third party organisations may repeat check on different timescales or only request a DBS check on appointment. Providing the Academy can satisfy themselves that the checks and safeguarding procedures of such organisations are satisfactory then confirmation of an Enhanced DBS check with the date can be accepted.

The Academy reserves the right to ask existing members of staff in relevant positions to apply for a new DBS check if their actions or activities give 'cause for concern'. The grounds for 'cause for concern' could include allegations of suspicious or inappropriate behaviour made by a child or other person or a colleague, parent, carer or member of the public. In such instances, a full investigation of any such allegations will be conducted in accordance with the Disciplinary Policy.

14. Information Received between/after DBS checks

Following their initial pre-employment DBS check, if a member of staff in a DBS designated post is convicted of any offence or receives a police warning they are required to declare this to the Headteacher. The Headteacher will consider the conviction/warning and can contact Human Resources for advice.

Failure to notify the Headteacher may result in disciplinary action being taken. In some instances the Police will notify the Academy direct.

The Academy will carry out an annual review to certify that there have been no changes in circumstances since the employee's original/most recent disclosure.

15. The DBS Update Service

The DBS update service is available for individuals to join (for an annual fee).

The applicant/employee can, if they wish, choose to join the update service at the point a DBS application is made, once they receive their application reference number or, within 19 calendar days of the DBS certificate issue date.

The update service enables portability of a certificate across employers (within the same workforce) and ease of repeat checking. Status checks can be carried out to confirm no new information has been added to the certificate since its issue.

Before using the update service the Academy has a legal obligation to:

- Obtain consent from the applicant to do so
- Confirm the certificate matches the individuals identity
- Examine the original certificate to ensure it is for the appropriate workforce and level of check

The Academy will need the DBS certificate number, date of birth and surname of the applicant/employee to carry out the check online using the link below: <https://secure.crbonline.gov.uk/crsc/check?execution=e1s1>

The results can be printed down and placed on the individual's personnel file as proof that the update check has been carried out.

If the online status check reveals a change in the disclosure status then a re-check will be required.

16. Accepting a previously issued DBS check

It is the Academy's decision whether to accept a previously issued DBS check. If the applicant has not joined the update service, the following should be considered prior to making a decision:

- The level of check required for the role
- The position and workforce required for the role
- Any police information disclosed on the certificate
- Information revealed on the certificate was based on the identity of the applicant, validated by another registered body
- The applicants criminal record or other relevant information may have changed since its issue

Advice may be taken from Human Resources with consideration of a risk assessment.

17. Risk Assessment

Only in exceptional circumstances would an individual commence work in advance of receiving the DBS disclosure. In this instance, the following risk assessments must be undertaken:

- The risk assessment form at [Appendix A](#) has been completed
- All pre-employment checks have been undertaken
- A DBS disclosure application has been submitted to the Disclosure and Barring Service
- The individual has been checked against the appropriate Barred List (if in regulated activity)
- Sufficient safeguards are introduced to ensure the individual does not have unsupervised access to children. The person(s) supervising* the individual must hold an Enhanced DBS with Barred List check.

* The person who is supervising must be in regulated activity, supervision must be regular and day to day and 'reasonable in all the circumstances to ensure the protection of children'.

18. Allegations against employees

For allegations against an Academy employee relating to a child or vulnerable adult, refer to the flowchart at [Appendix F](#).

19. Making a referral to the DBS

The Academy 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; where the harm test is satisfied in respect of that individual; where the individual has

received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence; and that the individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.

When an allegation is made, a full investigation will be carried out to gather enough evidence to inform any decision to refer as DBS rely on referral evidence and any other relevant evidence gathered. The DBS will consider whether to bar the person. Referrals will be made as soon as possible after the resignation, dismissal or removal of the individual from working in regulated activity. Guidance on referrals can be found on gov.uk website.

20. Equality Statement

This Policy applies to all employees irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

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To be completed for individuals starting work before a new Enhanced DBS check is returned, in exceptional circumstances.

Please complete this form fully as it will form the basis of a decision when considering whether to start a new member of staff prior to receipt of the DBS certificate. Approval must be obtained by the Headteacher prior to the individual commencing in post.

If applicable, a barred list check must be carried out separately prior to the individual commencing work.

Name of Person Completing Form

Name of Applicant

Position Applied For.....

Academy.....

Date of applicants proposed start date.....

Date of applicants last day at their previous employment.....

Date of Risk Assessment.....

Reason for individual starting before receipt of a new DBS check:

- ☐ Continuity of the academy's provision to children
- ☐ Other (please state)

Questions	Answers
Is this post eligible for a Barred List check?	Yes No
Has the Barred List check been undertaken if applicable?	Yes No N/A
Have all Pre-employment checks been undertaken in line with the Recruitment and Selection Policy?	Yes No
Has a correctly completed DBS check application form been submitted to the DBS?	Yes No
What level of and how much supervision is available to the applicant from an appropriately qualified and experienced member of staff?	

Questions	Answers
Can any safeguards be implemented to reduce/remove any risk e.g. no unsupervised contact?	Yes No
If the applicant has a previous DBS check:	Date of issue: Certificate sighted: Yes No
Has the applicant advised of any disclosures that the DBS check will show?	Yes No
Any questions/additional comments from the applicant?	

Declaration by applicant and any additional comments in support of an employee starting work before an Enhanced DBS check is returned:
<p>I understand that if I am allowed to start work before my Enhanced DBS check is returned, it is subject to the information I have supplied and that this is complete and correct. False information, or a failure to supply the details required could lead to termination of employment.</p> <p>Signature: Date.....</p>

Decision whether to start and the level of risk determined:

High Risk – anomalies in the pre-employment clearance checks, break in service of more than 3 months, Barred List check not complete if subject to and/or does not have a previously issued DBS check. **Should not be allowed to start without a new Enhanced DBS check.**

Medium Risk – a break in service of more than 3 months or do not have a previously issued DBS check. **May start work but must be supervised at all times and should not undertake 1:1 work, residential visits or personal care.**

Low Risk – All pre-employment checks have been satisfactorily completed, there is no break in service and the applicant holds a current, clear Enhanced DBS check against the relevant workforce. **May start work with adequate supervision.**

Please state (if applicable) whether approval is dependent upon conditions being met, such as recommendations, restrictions or safeguards to be implemented by the academy.

Name of Authorising Officer:

Signature of Authorising Officer:

Date:

I have considered the content of this risk assessment and give approval for the applicant to start in position, with the safeguards set out above put in place, prior to the return of an Enhanced DBS check.

Name of Headteacher.....

Signature of Headteacher

Date

Regulated Activity for Children

The definition of Regulated Activity relating to children is set out in three parts by The Protection of Freedoms Act.

A person can be in a Regulated Activity because of what they do (activities), where they work (establishments) or who they are (specified position).

The definition of Regulated Activity covers:

- Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on wellbeing, moderate a public electronic interactive service likely to be used wholly or mainly by children or drive a vehicle only for children, carried out by the same person on frequent (once a week or more often), intensive (on 4 or more days in a 30 day period), or overnight basis (any time between 2am and 6am).
- Work for a limited range of establishments (schools, nursery schools, PRU's, childcare premises, children's homes, children's centres) with the opportunity for contact with children carried out on a frequent, intensive or overnight basis.
- Providing healthcare – provision by a healthcare professional or under the direction or supervision of one. This may include psychotherapy and counselling, first aid administered on behalf of an organisation established for the purposes of providing first aid. This does not include workplace first aiders, members of peer support groups or life coaching.
- Providing personal care – physical assistance (or prompting with supervision or training or providing advice or guidance) with eating or drinking because of illness or disability, physical assistance (or prompting with supervision or training or providing advice or guidance) with going to the toilet, washing or bathing or dressing because of age, illness or disability.
- Day-to-day management or supervision of volunteers carrying out an activity which would be Regulated Activity if not supervised. However, a supervised paid employee working for a specified establishment is in Regulated Activity.

Exemptions – not Regulated Activity

- An individual carrying out activities, under reasonable day-to-day supervision by another person who is also engaging in Regulated Activity, is **not** undertaking Regulated Activity.
- Activities by a person contracted (or volunteering) to provide occasional or temporary services (which are not teaching, training or supervision of children) is no longer undertaking a Regulated Activity (e.g. maintenance contractors) but please remember, as stated above,

supervised paid employees in specified establishments are in a Regulated Activity.

Regulated Activity for Adults

An adult is a person aged 18 years or over. The definition of Regulated Activity for adults defines the activities provided to any adult as those, which, if any adult requires them, will mean that the adult will be considered vulnerable at that particular time.

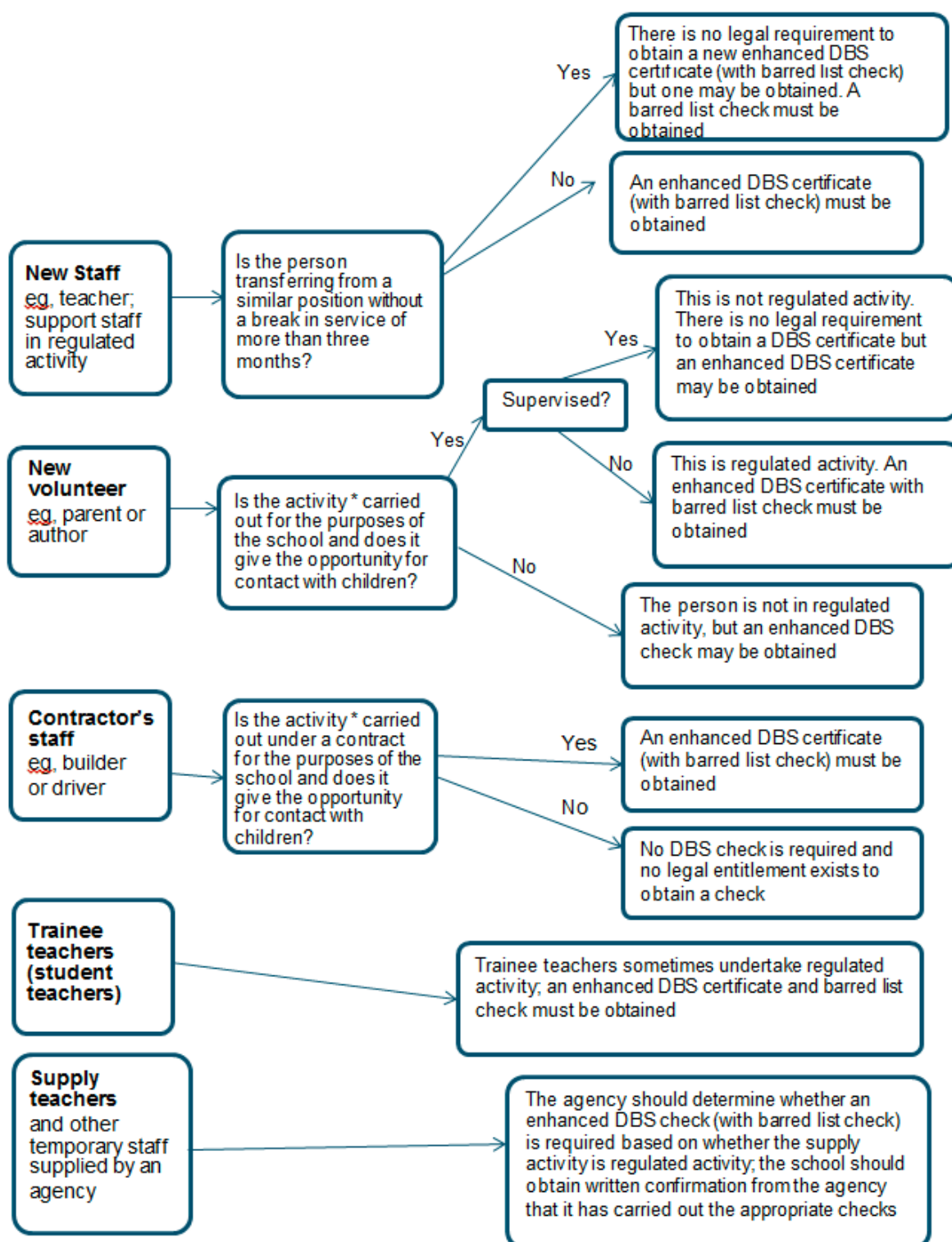
The frequency test does not apply to adults and an individual only needs to engage in a defined activity once to be carrying out a Regulated Activity.

There are six categories within the definition of Regulated Activity in relation to adults:

- Providing healthcare – provision by a healthcare professional or under the direction or supervision of one. This may include psychotherapy and counselling, first aid administered on behalf of an organisation established for the purposes of providing first aid. This does not include workplace first aiders, members of peer support groups or life coaching.
- Providing personal care – physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of skin, nails or hair (but not where this involves only cutting hair) because of the adult's age, illness or disability. This also includes anyone who trains, instructs or provides advice on the provision of personal care or those who prompt and then supervise an adult to do one of the above.
- Providing social work.
- Assisting with general household matters –assistance with managing a person's cash, paying a person's bills or shopping on their behalf because of the adult's age, illness or disability.
- Assisting in the conduct of people's own affairs.
- Conveying adults to, from, or between places, where they receive healthcare, relevant personal care or social work because of their age, illness or disability. This includes hospital porters, patient transport service drivers and assistants, ambulance technicians and emergency care assistants but does not include taxi or licensed private hire drivers.
- A person whose role includes the day-to-day management or supervision of any person engaging in Regulated Activity is also in Regulated Activity.

Exemptions – not Regulated Activity

- Activity carried out in the course of family relationships and personal, non-commercial relationships. Family relationships include close family (e.g. parents, siblings, grandparents) and the relationship between two people who live in the same household and treat each other as family.
- Personal, non-commercial relationships are arrangements where no money changes hands or if any money does change hands it is not part of a commercial relationship (e.g. giving a friend petrol money to drive you to the hospital), and the arrangement is made between friends or family friends.



*Activities listed under the definition of regulated activity at [Appendix B](#)

Filtering is the term that DBS are using to describe the process which will identify and remove from disclosure certificate convictions and cautions which should no longer be disclosed due to the changes in legislation.

For those 18 or over at the time of the offence:

An adult conviction will be removed from a DBS certificate if:

- 11 years have elapsed since the date of conviction
and
- it is the person's only offence
and
- it did not result in a custodial sentence

Even then, it will only be removed if it does not appear on the list of offences which will never be removed from a certificate. If a person has more than one offence, then details of all their convictions will always be included.

An adult caution will be removed after 6 years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.

For those under 18 at the time of the offence:

The same rules apply as for adult convictions, except that the elapsed time period is 5.5 years

The same rules apply as for adult cautions, except that the elapsed time period is 2 years.

Common Offences that are subject to filtering (subject to sentence and time)

1. Common assault
2. Drunk and disorderly conduct
3. Harassment
4. Theft (where no violence is involved)
5. Drugs offences that involve simple possession

Common Offences that are exempt (ie: always disclosed)

1. Many sexual offences
 - a. Indecent assault on female 16 or over
 - b. Possessing indecent photographs or pseudo-photographs of children
 - c. Sexual activity in a public lavatory
2. Offences that involve a certain degree of violence, for example

- b. Affray
 - c. Assault occasioning actual bodily harm
 - d. Robbery or assault with intent to rob
 - e. Stalk a person causing fear or violence
- 3. Safeguarding offences, for example
 - a. Wilfully abandoning young person under 16
 - b. Taking the child out of the United Kingdom without the appropriate consent
- 4. Drugs offences that involve supply, for example
 - a. Supplying controlled drug – Class C

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

Under the Exceptions Order 1975, a person applying for an excepted post, which includes working with children or vulnerable adults, will be required to disclose spent cautions and convictions, other than protected cautions and convictions.

Actions for Headteacher where disclosure certificate has detailed information

- *Contact individual to request to see original disclosure certificate.*
- *Discuss information disclosed with the individual.*
- *Once the disclosure certificate has been seen and discussion taken place you may need to contact a HR Advisor for advice.*
- *For your record purposes, please confirm details below:*

New Convictions

Date disclosure sighted:	
Disclosure certificate sighted by:	
Date of discussion with individual:	
Date new information cleared:	
HR advice obtained by (if applicable):	

Previously Cleared Convictions (if applicable)

Date convictions previously cleared:	
HR advice obtained by (if applicable):	

