

# **Holly Hill Infant School**

## **Safer Recruitment and Selection Policy**

**May 2014**

## Recruitment, selection and pre-employment vetting

At Holly Hill we create a culture of safe recruitment and, as part of that, adopt recruitment procedures that help deter, reject or identify people who might abuse children. This policy describes in detail those checks that are, or may be, required for any individual working in any capacity at, or visiting, the school. The Governing Body act reasonably in making decisions about the suitability of the prospective employee based on checks and evidence including: criminal record checks (DBS checks), and prohibition checks<sup>18</sup> together with references and interview information.

The level of DBS check required, and whether a prohibition check is required, will depend on the role and duties of an applicant to work in school, as outlined in this policy

For most appointments, an enhanced DBS check with barred list information will be appropriate as the majority of staff will be engaging in regulated activity. A person will be considered to be in 'regulated activity' if as a result of their work they:

- will be responsible, on a regular basis, in any setting for the care or supervision of children; or
- will regularly work in a school at times when children are on school premises (where the person's work requires interaction with children, whether or not the work is paid (unless they are a supervised volunteer), or whether the person is directly employed or employed by a contractor)

A **supervised** volunteer who regularly teaches or looks after children is not in regulated activity. The Department for Education (DfE) has published separate statutory guidance on supervision and regulated activity which schools and colleges should have regard to when considering which checks should be undertaken on volunteers. This is set out at Annex D.<sup>19</sup>

<sup>19</sup> 'Supervised' and 'unsupervised' have a particular meaning in relation to regulated activity

### Regulated activity

The full legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012. HM Government have produced a factual note on *Regulated Activity in relation to Children: scope*.

Regulated activity includes:

- a) teaching, training, instructing, caring for (see (c) below) or supervising children if the person is unsupervised, or providing advice or guidance on well-being, or driving a vehicle only for children,

b) work for a limited range of establishments (known as ‘specified places’, which include schools), with the opportunity for contact with children, but not including work done by supervised volunteers;

Work under (a) or (b) is regulated activity only if done regularly.<sup>20</sup> Some activities are always regulated activities, regardless of their frequency or whether they are supervised or not. This includes:

c) relevant personal care (personal care includes helping a child, for reasons of age, illness or disability, with eating or drinking, or in connection with toileting, washing, bathing and dressing)

## Types of check

### Disclosure and barring service (DBS checks)

The DBS is responsible for administering three types of checks

- **Standard:** a check of the Police National Computer (PNC) records of convictions, cautions, reprimands and warnings;
- **Enhanced:** a check of the PNC records as above, plus other information held by the police that is considered relevant by the police; and
- **Enhanced with barred list information:** for people working in regulated activity with children. This adds checks of the DBS Children’s Barred List to the enhanced check.<sup>22</sup>

<sup>22</sup> The DBS maintains ‘barred lists’ of individuals who are unsuitable for working with children and adults. The DBS lists replace the lists maintained by the former Independent Safeguarding Authority.

<sup>23</sup> Section 9, Safeguarding Vulnerable Groups Act 2006.

<sup>24</sup> Section 7, Safeguarding Vulnerable Groups Act 2006.

<sup>25</sup> Prohibition orders are made by the Secretary of State under section 141B of the Education Act 2002. Those made by the General Teaching Council for England (GTCE) prior to April 2012 have the same effect.

When the DBS has completed its check of an applicant’s PNC record and, if appropriate, whether or not they are on the barred list, the relevant information will be recorded on a certificate (the DBS certificate) that is sent to the applicant. The applicant must show the DBS certificate before they take up post or as soon as practicable afterwards. If an individual is allowed to start work in regulated activity before the DBS certificate is available then we will ensure that the individual is appropriately supervised and that all other checks, have been completed.

**If a school knows or has reason to believe that an individual is barred, it commits an offence if it allows the individual to carry out any form of regulated activity.<sup>23</sup> There are penalties of up**

**to five years in prison if a barred individual is convicted of attempting to engage or engaging in such work.<sup>24</sup>**

### **Secretary of State Prohibition Orders**

Prohibition orders prevent a person from carrying out teaching work in schools .<sup>25</sup> A person who is prohibited from teaching must not be appointed to work as a teacher. A check of any prohibition can be carried out using the Employer Access Online Service. <sup>26</sup> Prohibition orders are described in the National College for Teaching and Leadership's (NCTL) publication Teacher misconduct: the prohibition of teachers.

Prohibition orders are made by the Secretary of State following consideration by a professional conduct panel convened by NCTL. Pending such consideration, the Secretary of State may issue an interim prohibition order if he considers that it is in the public interest to do so.

<sup>26</sup> The Employer Access Online Service will also identify any existing prohibitions and sanctions made by the General Teaching Council for England (GTCE) before its abolition at the end of March 2012, and provide information about any teacher qualifications held and whether induction has been passed. The service is offered free of charge to schools, local authorities and teacher supply agencies in England

## **Pre-appointment checks**

### **All new appointments to regulated activity**

An offer of appointment to a successful candidate, including one who has lived or worked abroad, will be conditional upon satisfactory completion of pre-employment checks.

When appointing new staff, the school will:

- verify a candidate's identity, preferably from current photographic ID and proof of address except where, for exceptional reasons, none is available;
- obtain a certificate for an enhanced DBS check with a barred list information where the person will be engaging in regulated activity;
- check that a candidate to be employed as a teacher is not subject to a prohibition order issued by the Secretary of State, using the Employer Access Online service;
- verify the candidate's mental and physical fitness to carry out their work responsibilities. A job applicant can be asked relevant questions about disability and health in order to establish whether they have the physical and mental capacity for the specific role;
- verify the person's right to work in the UK. If there is uncertainty about whether an individual needs permission to work in the UK, then prospective employers, or volunteer managers, should follow advice on the GOV.UK website;
- if the person has lived or worked outside the UK, make any further checks the school or college consider appropriate (see relevant sections below); and

- verify professional qualifications, as appropriate.

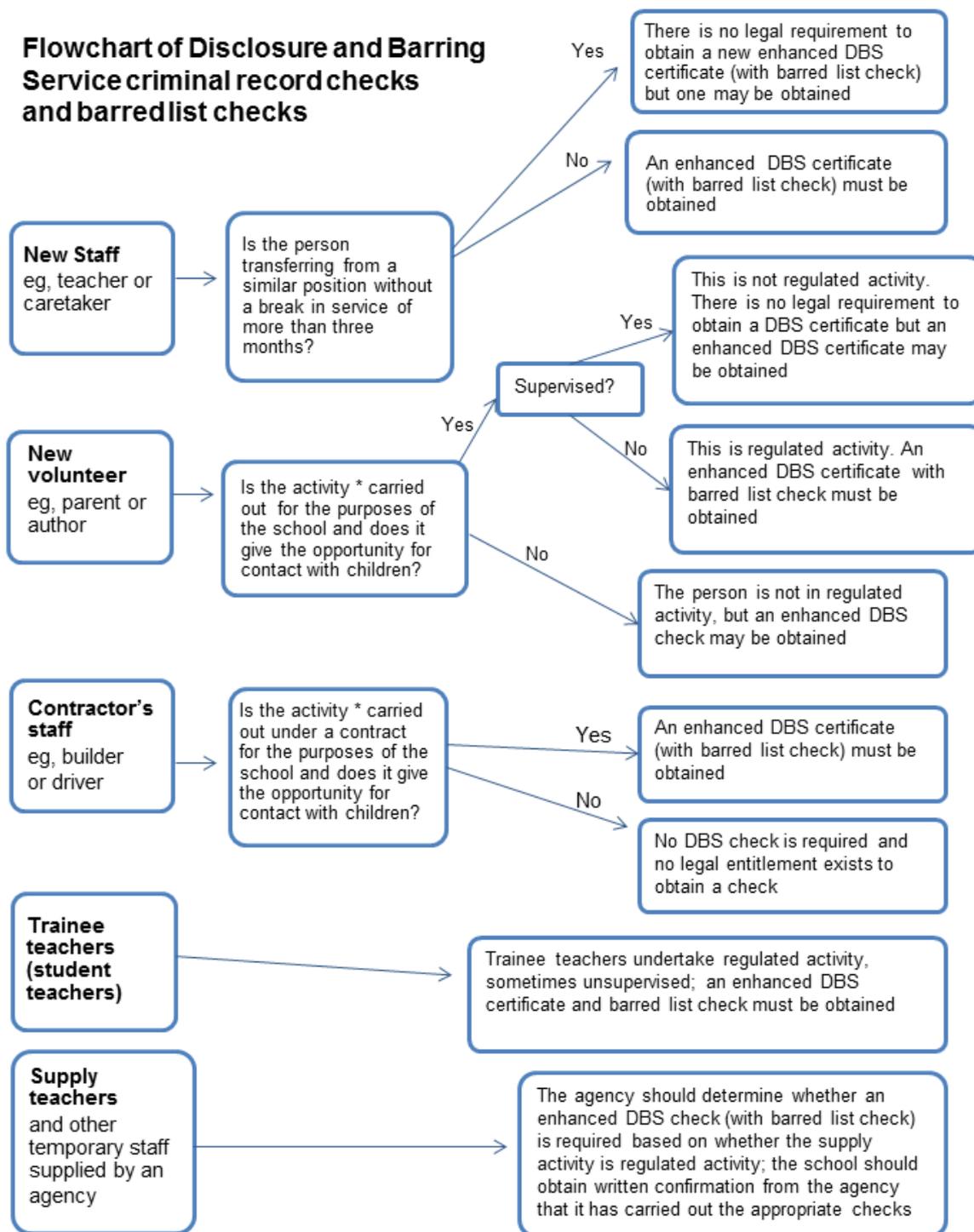
A DBS certificate must be obtained from the candidate before or as soon as practicable after appointment. Alternatively, if the applicant has subscribed to it and gives permission, the school will undertake an online update check through the DBS Update Service. Individuals can join the DBS Update Service when applying for a new DBS check; this will allow them to re-use this check when applying for similar jobs. With the individual's consent, their employer can go online and carry out a free, instant check to see if a new certificate is required: [www.gov.uk/dbs-update-service](http://www.gov.uk/dbs-update-service).

There is **no requirement** to obtain an enhanced DBS check if, in the three months prior to beginning work in their new appointment, the applicant has worked in a school in England in a post which brought them into regular contact with children or in any post in a school since 12 May 2006.

But a school **may** request an enhanced DBS check with barred list information should there be concerns and bearing in mind the duty schools are under not to allow a barred person to work in regulated activity.

A school **may not** request an enhanced DBS check with barred list check for anyone working in the school who is not in regulated activity, but may request an enhanced DBS check **without** a barred list check.

## Flowchart of Disclosure and Barring Service criminal record checks and barred list checks



\* Activities listed under the guidance's definition of regulated activity and which are carried out 'frequently'

## **Employment history and references**

The headteacher will ask for written information about previous employment history and check that information is not contradictory or incomplete. If a candidate for a teaching post is not currently employed as a teacher, there will be a check with the school or local authority at which they were most recently employed, to confirm details of their employment and their reasons for leaving.

The purpose of seeking references is to obtain objective and factual information to support appointment decisions. References should always be obtained, scrutinised and any concerns resolved satisfactorily, before the appointment is confirmed. They should always be requested directly from the referee and employers should not rely on open references, for example in the form of 'to whom it may concern' testimonials.

References will be sought on all short-listed candidates, including internal ones, before interview, so that any issues of concern they raise can be explored further with the referee, and taken up with the candidate at interview.

On receipt, references will be checked to ensure that all specific questions have been answered satisfactorily. The referee will be contacted to provide further clarification as appropriate: for example if the answers are vague. They will also be compared for consistency with the information provided by the candidate on their application form. Any discrepancies will be taken up with the candidate.

Any information about past disciplinary action or allegations will be considered carefully when assessing the applicant's suitability for the post (including information obtained from the Employer Access Online checks referred to previously).

## **Single central record**

Holly Hill keeps a single central record, referred to in the regulations (described in the following paragraph) as the register. The single central record covers the following people:

- all staff (including supply staff) who work at the school
- all others who work in regular contact with children in the school including volunteers

Generally, the information recorded on these individuals is whether or not the following checks have been carried out or certificates obtained, and the date on which the checks were completed:

an identity check;

- a barred list check;
- an enhanced DBS check;
- a prohibition from teaching check;
- further checks on people living or working outside the UK;
- a check of professional qualifications; and
- a check to establish the person's right to work in the United Kingdom.

For details of records that must be kept, see:

- for maintained schools: Schedule 2 to the School Staffing (England) Regulations 2009 and the School Staffing (England)

Schools do not have to keep copies of DBS certificates in order to fulfil the duty of maintaining the single central record. If for any reason a copy is kept, it will not be retained for longer than six months. A copy of the other documents used to verify the successful candidate's identity, right to work and required qualifications will be kept for the personnel file.

### **Individuals who have lived or worked outside the UK**

Individuals who have lived or worked outside the UK will undergo the same checks as all other staff. In addition, any further checks thought appropriate will be undertaken so that any relevant events that occurred outside the UK can be considered.

Advice on the criminal record information which may be obtained from overseas police forces, published by the Home Office, is on GOV.UK. The Department for Education has also issued guidance on the employment of overseas-trained teachers. This gives information on the requirements for overseas-trained teachers from the European Economic Area to teach in England, and the award of qualified teacher status for teachers qualified in Australia, Canada, New Zealand and the United States of America.

### **Agency and third-party staff**

Written notification will be obtained from any agency, or third-party organisation, that the organisation has carried out the checks on an individual who will be working at the school that the school would otherwise perform. This will include, as necessary, a barred list check, prior to appointing that individual. It will also be checked that the person presenting themselves for work is the same person on whom the checks have been made.

### **Trainee/student teachers**

If applicants for initial teacher training are salaried by the school, the school will ensure that all necessary checks are carried out. As trainee teachers can undertake regulated activity, sometimes unsupervised, an enhanced DBS certificate and barred list check will be obtained. Where trainee teachers are fee-funded it is the responsibility of the initial teacher training provider to carry out the necessary checks.<sup>31</sup>

31 National College for Teaching and Leadership - Initial teacher training provider supporting advice and initial teacher training criteria

32 Schools will wish to consider the offence of allowing individuals to engage in regulated activity whilst barred. It is intended that, at a date to be announced, schools (as a regulated activity provider) will be under a duty to request a barred list check before allowing any individuals to engage in regulated activity (section 34ZA Safeguarding Vulnerable Groups Act 2006) and for it to be possible to obtain such a check independently from the enhanced check from the DBS.

### **Existing staff**

If there are concerns about an existing staff member's suitability to work with children, the school will carry out all relevant checks as if the person were a new member of staff. Similarly, if a person working at the school moves from a post that was not regulated activity, into work which is regulated activity, the relevant checks for the regulated activity will be carried out.<sup>32</sup> Apart from these circumstances, the school is not required to request a DBS check or barred list check.

**Schools have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child, or if there is reason to believe the member of staff has committed one of a number of listed offences, and who has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.**<sup>33</sup> The DBS will consider whether to bar the person. Referrals will be made as soon as possible after the resignation or removal of the individual.

Where a teacher's employer, including an agency, ceases to use the services of a teacher because of serious misconduct, or would have dismissed them had they not left first, they must consider whether to refer the case to the Secretary of State, as required by sections 141D and 141E of the Education Act 2002. The Secretary of State may investigate the case, and if s/he finds there is a case to answer, must then decide whether to make a prohibition order in respect of the person.

33 The list of offences is set out in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (SI 2009 No. 37) (amended).

34 At a future date to be announced, all organisations will have a duty to obtain a barred list check on a volunteer who will be engaging in regulated activity.

## Volunteers

Under no circumstances will a volunteer in respect of whom no checks have been obtained be left unsupervised or allowed to work in regulated activity.

For new volunteers in regulated activity who will regularly teach or look after children on an unsupervised basis or provide personal care on a one-off basis schools must obtain an enhanced DBS certificate with barred list check.<sup>34</sup>

For new volunteers not in regulated activity schools should obtain an enhanced DBS certificate.

For existing volunteers who provide personal care, the school will consider obtaining an enhanced DBS certificate with barred list check.

For other existing volunteers who are unsupervised and continuing with their current duties, unless there is cause for concern the school will not request a DBS check with barred list check because the volunteer should already have been checked.

For existing volunteers not in regulated activity there is **no requirement** to request an enhanced DBS check. However the school may choose to request one as they judge necessary but **may not** request a check of the barred list.

If a volunteer is not engaging in regulated activity, the school will undertake a risk assessment and use their professional judgement and experience when deciding whether to seek an enhanced DBS check. The following will be considered:

- the nature of the work with children;
- what the school knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers;
- whether the volunteer has other employment or undertakes voluntary activities where referees can advise on suitability; and
- whether the role is eligible for an enhanced DBS check.

The Protection of Freedoms Act 2012 amended the Safeguarding Vulnerable Groups Act 2006, removing supervised volunteers from regulated activity and applying a duty on the Secretary of State to issue guidance to assist regulated activity providers to decide what level of supervision is required so that this exclusion would apply. If the volunteer is to be supervised while undertaking an activity which would be regulated activity if it was unsupervised, the statutory guidance must be followed. This is replicated at Annex D. The guidance issued following this change requires that:

- there must be supervision by a person who is in regulated activity;<sup>35</sup>
- the supervision must be regular and day to day; and
- the supervision must be “reasonable in all the circumstances to ensure the protection of children”.

Employers are not legally allowed to request a barred list check on a volunteer who, because they are supervised, is not in regulated activity.

35 If the work is in a specified place such as a school, paid workers remain in regulated activity even if supervised.

### **School and college governors**

Governors, who are volunteers, will be treated on the same basis as other volunteers, that is, an enhanced DBS check with barred list check should only be requested if the governor will be engaged in regulated activity. Governing bodies and proprietors can request an enhanced DBS check without a barred list check on an individual as part of the appointment process for governors.

### **Contractors**

Arrangements are in place with contractors to make sure that the contractor, or any employee of the contractor, working at the school has been subject to the appropriate level of DBS check, if any such check is required (for example because the contractor is carrying out teaching or providing some type of care for or supervision of children regularly).

Contractors and contractors’ employees for whom an appropriate DBS check has not been undertaken will be supervised if they will have contact with children.

If a contractor working at the school is self-employed, the school will consider obtaining the DBS check, as self-employed people are not able to make an application directly to the DBS on their own account.

The identity of contractors and their staff will be checked on arrival.

### **Visitors**

The school will not request DBS checks and barred list checks, or ask to see DBS certificates, for visitors (for example children’s’ relatives or other visitors attending a sports day). Headteachers should use their professional judgment about the need to escort or supervise visitors.

### **Adults who supervise children on work experience**

When supporting work experience placements, Holly Hill will ensure that policies and procedures are in place to protect children from harm.

Barred list checks by the DBS might be required on some people who supervise a child under the age of 16 on a work experience placement.<sup>36</sup> The school or college would have to consider the specific circumstances of the work experience, in particular the nature of the supervision and the frequency of the activity being supervised, to determine what, if any, checks are necessary. These considerations would include whether the person providing the teaching/training/instruction/supervision to the child will be:

- unsupervised; and
- providing the teaching/training/instruction frequently (at least once a week or on more than three days in a 30 day period).

If the person working with the child is unsupervised and the same person is in frequent contact with the child, the work is likely to be regulated activity. If so, the school may ask the employer providing the work experience to ensure that the person providing the instruction or training is not a barred person.

Schools are not able to request an enhanced DBS check with barred list information for staff supervising children aged 16 to 17 on work experience.<sup>37</sup>

<sup>36</sup> Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, which came into force on 10 September 2012.

<sup>37</sup> The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 was amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2012 so that employers may no longer request checks in these circumstances.

If the activity undertaken by the child on work experience takes place in a 'specified place' (school) and gives the opportunity for contact with children, this may itself be considered to be regulated activity. In these cases and where the child is 16 years of age or over, the work experience provider should consider whether a DBS enhanced check should be requested for the child/young person in question. DBS checks cannot be requested for children/young people under the age of 16.<sup>38</sup>

<sup>38</sup> Under the Police Act 1997, an individual must be 16 or over to be able to make an application for a DBS check.