



**“All equal, all different, all achieving together”**

# Learn@ MAT

## DBS Policy

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## **Statement of intent**

At Learn@ MAT, we are committed to promoting the welfare of our staff, pupils and visitors. Ensuring the safety of our Trust community is of paramount importance and, as a result, this policy has been created to establish a safe environment where pupils are cared for appropriately and are free from harm.

An enhanced DBS check forms part of the recruitment process for all roles within Learn@ MAT. This check may also include barred list information held on the DBS barred list, as well as any information held by the police which is relevant to the role applied for.

DBS checks allow the Trust to ascertain an individual's suitability to work with children in an educational environment. This policy will ensure that all staff, pupils and parents are aware of the measures taken by the Trust to promote the welfare of the Trust community.

## Legal framework

This policy has due regard to the legislation and statutory guidance including, but not limited to, the following:

Rehabilitation of Offenders Act 1974

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2016

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020

Police Act 1997

The Police Act 1997 (Criminal Records) (Registration) Regulations 2006

Childcare (Disqualification) Regulations 2018

Data Protection Act 2018

Safeguarding Vulnerable Groups Act 2006

Equality Act 2010

Human Rights Act 1998

Children Act 1989

The General Data Protection Regulation

DfE 'Keeping children safe in education' September 2021

DfE (2020) 'Changes to checks for EU sanctions on EEA teachers'

DBS (2014) 'Sample policy on the recruitment of ex-offenders'

DBS (2018) 'Handling of DBS certificate information'

DBS and Ministry of Justice (2020) 'DBS filtering guide'

Home Office (2015) 'Revised Code of Practice for Disclosure and Barring Service Registered Persons'

## Definitions

### Standard DBS

This provides information about convictions and cautions (unless they relate to a youth caution) held on the Police National Computer (PNC), regardless of whether they are spent under the Rehabilitation of Offenders Act 1974. The law does allow for certain old and minor matters to be filtered out.

## **Enhanced DBS**

This provides the same information as a standard check, plus any approved information held by the police which a chief officer reasonably believes to be relevant and considers ought to be disclosed.

## **Enhanced DBS with barred list check**

Where people are working or seeking to work in regulated activity with children, this allows an additional check to be made as to whether the person appears on the children's barred list.

## **DBS certificates issued on or after 28 November 2020**

The following changes to filtering rules have been made for standard and enhanced DBS certificates:

- warnings, reprimands and youth cautions will no longer be automatically disclosed on a DBS certificate
- the multiple conviction rule has been removed, meaning that if an individual has more than one conviction, regardless of offence type or time passed, each conviction will be considered against the remaining rules individually, rather than all being automatically disclosed.

## **Regulated activity**

Regulated activity includes:

Teaching, training, instructing, caring for or supervising children if the person is unsupervised, or providing advice or guidance on physical, emotional or educational wellbeing, or driving a vehicle only for children.

Work for a limited range of establishments (known as 'specified places', which include schools and colleges) with the opportunity for contact with children, but not including work done by supervised volunteers. Work under 2.5 is regulated activity if it is carried out frequently by the same person or if the 'period condition' is satisfied. The period condition is satisfied if:

The person carrying out the activity does so at any time on more than three days in any period of 30 days.

If the activity is done at any time between 2:00am and 6:00am and it gives the person the opportunity to have face-to-face contact with children.

Some activities are always regulated activities, regardless of frequency or whether the person conducting the activity is supervised. This includes the following:

Intimate or personal care, or overnight activity, including helping a child with eating and drinking for reasons of illness or disability or in connection with toileting, washing, bathing and dressing for reasons of age, illness and disability

Health care, i.e. care for children provided by, or under the direction or supervision of, a regulated health care professional

## **Roles and responsibilities**

### **The Board of Trustees are responsible for:**

Approving the headteacher's/manager's decisions with regards to disclosure information concerning existing and prospective employees.

Ensuring that this DBS Policy and the Home Office's Code of Practice (CoP) is adhered to at all times.

Ensuring all agreed DBS procedures are adhered to for both current and prospective employees.

Monitoring the academy's/ central team single central record (SCR), ensuring its compliance with requirements.

### **The Headteacher/Manager is responsible for:**

Making decisions with regards to disclosure information concerning existing and prospective employees.

Ensuring that headteachers/managers are aware all posts in Learn@ MAT academy are subject to an enhanced DBS check.

Maintaining an up-to-date SCR.

Ensuring that any job descriptions and person specifications for any posts within the school indicate that an individual will require a DBS check, as well as what level of check is required.

Ensuring that any individual who is not an employee, but who is covering an existing post or other work within the Trust, holds the appropriate level of DBS check.

Ensuring that all members of staff hold current, acceptable DBS checks and are registered on the DBS update service.

Checking the DBS update service bi-annually (September and February) for each member of their staff to ensure they have remained registered and there have been no changes to information held.

Ensuring the bi-annual checks are recorded on the SCR.

Ensuring that for those staff who are unable to register with the DBS update service (due to DBS only being able to issue a paper certificate) upcoming renewals are applied for within two months prior to the renewal date.

Ensuring all new employees are registered or register with the DBS update service Prior to commencement in post.

## **Procedures for staff**

### **New members of staff**

Staff who will be in regulated activity are required to obtain an enhanced DBS certificate with a barred list check and register on the DBS update service.

All other staff who have an opportunity for regular contact with children who are not engaging in regulated activity are required to obtain an enhanced DBS certificate, which does not include barred list information and register on the DBS update service.

Staff in management roles are required to obtain an additional check to ensure they are not prohibited under section 128 provisions.

Staff who have a current enhanced DBS certificate and are registered on the DBS update service are required to show the original DBS certificate and details of the registration to the headteacher/manager before they begin their employment.

Staff who have an enhanced DBS Certificate but are not registered on the DBS update service or do not have an enhanced DBS Certificate, must provide the headteacher/manager with the relevant identity documents to enable an enhanced DBS disclosure check to be carried out prior to commencement of employment. Once the new enhanced DBS Certificate is received, staff are required to immediately register with the DBS update service.

### **Trainee/student teachers**

Where applicants for ITT are salaried by the school or college, the headteacher will ensure that all necessary DBS checks are carried out. As trainee teachers are likely to be engaging in regulated activity, an enhanced DBS certificate (including barred list information) must be obtained.

Where trainee teachers are fee-funded, the training provider is responsible for carrying out the necessary checks. The headteacher will obtain written confirmation that the necessary checks have been carried out, and that the trainee has been judged by the provider to be suitable to work with children.

### **Procedures for Members, Trustees and Academy Councillors**

Enhanced DBS checks are mandatory for all members of Learn@ MAT governance. Learn@ MAT will apply for a certificate for any member of governance who does not have an enhanced certificate.

Registration with the Update Service is mandatory for all members of Learn@ MAT governance.

Learn@ MAT will request an enhanced DBS certificate without a barred list check on an individual as part of the appointment process for governance positions.

An enhanced DBS certificate with a barred list check will be requested if any member of Learn@ MAT governance is engaging in regulated activity.

A barred list check will only be required for Members, Trustees and Academy Councillors who, aside from their governance duties, are engaged in regulated activity.

Learn@ MAT Central Team will contact The Teaching Regulation Agency (TRA) Teacher Services to check if a proposed Member, Trustee or Academy Councillor is barred because of a section 128 direction.

The ESFA will carry out suitability checks on all newly appointed chairs of trustees. These checks include:

- An identity check.
- Confirmation of the right to work in the UK.
- An enhanced DBS check.
- A requirement to provide additional information if the individual has lived outside the UK for a period of 12 months or longer.

### **Procedures for volunteers**

All volunteers are required to hold a valid enhanced DBS certificate.

The headteacher/manager will obtain an enhanced DBS check, with barred list information, for any volunteer who is new to working in regulated activity.

In some circumstances, the headteacher/manager may obtain an enhanced DBS certificate for volunteers who are not engaged in regulated activity but will not request barred list information.

The headteacher/manager will determine whether a volunteer is supervised. For a person to be considered supervised, the supervision must be:

- By a person who is in regulated activity.
- Regular and day-to-day.
- Reasonable in all the circumstances to ensure the protection of children

When allowing any volunteers to work within the Trust, the headteacher/manager will check that the individual presenting themselves for work is the same person for whom the checks have been made.

### **Procedures for visitors**

The Trust does not have the power to request DBS checks to be carried out on visitors.

The headteacher/manager will use their professional judgement when considering the need to escort or supervise visitors.

### **Procedures for contractors**

Under no circumstances will a contractor who has undergone no checks be allowed to work unsupervised or engage in regulated activity within the Trust. The headteacher/manager is responsible for determining the appropriate level of supervision depending on the circumstances.

Contractors who engage in regulated activity will be required to obtain an enhanced DBS certificate with barred list check.

Any contractors who have the opportunity for regular contact with children, but who would not be in regulated activity, will be required to obtain an enhanced DBS

check. In considering whether contact is regular, it is irrelevant whether the contractor works on a single site or across a number of sites.

If a contractor working within the Trust is self-employed, the headteacher/manager will determine if they need to obtain a DBS check on the contractor's behalf.

The headteacher/manager will check the identity of contractors and their staff upon arrival to the academy/place of work.

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

New staff members who have lived or worked outside the UK will be checked in the same way as all other staff, in line with the procedures outlined in section 4 of this policy.

As of January 2021, the TRA no longer maintains a list of teachers from the European Economic Area (EEA) with sanctions. The academy/Trust will continue to carry out safer recruitment checks on all applicants.

For applicants who have lived or worked outside of the UK, the academy/Trust will make any further checks it deems appropriate so that relevant events that occurred outside the UK can be considered, including obtaining enhanced DBS certificate with barred list information, even if the applicant has never been to the UK.

The academy/Trust will request that teachers provide a letter of professional standing issued by the professional regulating authority in the country in which they worked.

The DBS cannot obtain police records from overseas; however, a check will be conducted to establish whether the individual has disclosed any criminal convictions during their time in the UK.

As the DBS cannot provide details of police records for overseas applications, the Trust is aware that the DBS information may not provide a complete picture of a candidate's criminal record.

In relation to the above, the academy/Trust will conduct additional recruitment checks such as obtaining a certificate of good conduct from relevant embassies or the police.

The academy/Trust will be vigilant when considering an applicant from overseas and will obtain additional references to ensure their suitability for the role.

### **Procedures for adults supervising children on work experience**

The academy/Trust will consider the specific circumstances of the work experience placement when considering what level, if any, of DBS check is required on individuals supervising pupils, including those aged 16 and over, on the placement.

Consideration will be given to whether the person providing supervision to the pupil will be unsupervised themselves and providing the supervision frequently, i.e. more than three days in a 30-day period, or overnight.

The headteacher/manager will ask the employer providing the work experience to confirm that any member of staff who will be working with the child unsupervised and frequently is not a barred person.

The academy/Trust is not able to request an enhanced DBS check with barred list information for staff supervising pupils who are aged 16 to 17.

Work experience providers are not able to request any DBS checks for pupils under 16.

The academy/Trust will ensure all work experience providers have policies and procedures in place to protect pupils from harm.

### **Procedures for alternative provision**

Where a pupil is placed in alternative provision, the headteacher/manager will obtain written confirmation from the provider that the appropriate DBS checks have been carried out on the provider's staff.

### **Procedures for arranged homestays during exchange visits**

When arranging a homestay for a visiting pupil in the UK, the headteacher/manager will consider the suitability of the adults in the respective families who will be responsible for the visiting child during the stay.

Where the headteacher/manager arranges for a visiting child to be provided with care and accommodation in the home of a family to which they are not related, the responsible adults will be engaging in regulated activity for the duration of the stay. In these circumstances, and where the academy/Trust has the power to terminate such a homestay, the academy/Trust will be the regulated activity provider.

When arranging homestays, the headteacher/manager will use professional judgement to assess the suitability of the adults in those families who will be responsible for the visiting child during their stay. To help inform the assessment, the headteacher/manager will obtain enhanced DBS certificates with barred list information.

The headteacher/manager may decide to obtain an enhanced DBS certificate in respect of anyone aged 16 or over in the household where the child will be staying.

When arranging a homestay abroad, the headteacher/manager will liaise with partner schools abroad to establish a shared understanding of, and agreement to the arrangements in place for the visit. The headteacher/manager will use professional judgement to determine that the arrangements are appropriate and sufficient to safeguard every child who will take part in the exchange.

The headteacher/manager may decide to contact the relevant foreign embassy or High Commission of the country in question to discuss what checks may be possible in respect of those providing homestay outside of the UK.

Where a period of UK homestay lasts 28 days or more, for a child aged under 16 (or 18 if the child has disabilities), this may amount to private fostering under the

Children Act 1989. Where this is the case, the headteacher/manager will notify the LA of the arrangements.

### **Disclosures containing criminal information**

A DBS check is considered to contain criminal information if it includes details of the following:

- A police record of convictions and cautions
- DBS barred list
- Any other relevant criminal information obtained by the police

If an individual has more than one conviction, regardless of offence type or time passed, each conviction will be considered individually, rather than all being automatically disclosed.

In the event of a disclosure containing criminal information, the headteacher/manager will check whether the individual has obtained any previous criminal convictions or cautions by instructing them to complete a disclosure review form, which will be followed by a meeting.

The headteacher/manager will discuss the disclosed information with the academy council/CEO immediately to agree a course of action regarding any prospective or existing employee.

The individual will be required to attend a meeting with the headteacher/manager to confirm that the convictions are theirs. If the individual denies that the convictions relate to them, the headteacher/manager will contact the DBS to carry out an investigation.

If it is established by the DBS that the convictions do concern the individual, the headteacher/manager will explore the circumstances surrounding these and their suitability to work with children, in accordance with the academy council/CEO.

For prospective employees, all posts will remain pending whilst meetings and investigations take place.

For current employees, the headteacher/manager will consider whether adjustments will need to be made whilst meetings and investigations take place, including:

- Whether the employee can continue their practice.
- Whether closer supervision is required of the employee.
- Whether the employee should be temporarily transferred to other duties.
- Whether the employee should be dealt with in accordance with the Disciplinary Policy and Procedure and suspended with entitlement to full pay.

The headteacher/manager will consult the HR Business Manager and CEO when deciding what adjustments will need to be made for the employee concerned.

An exception to section 14.7 is if the headteacher/manager was already aware of the employee's convictions and had previously discussed with the academy

council/CEO that they were still suitable for their appointment, or, if it is revealed that the convictions do not relate to the individual concerned.

### **Making a recruitment decision**

The headteacher/manager will consider the magnitude of any DBS disclosures.

Major disclosures will result in the candidate being automatically unsuitable for the role. These include where the adult is named on the following lists:

- Children's barred list
- Adults' barred list

Serious disclosures which involve criminal activity, but do not pose a risk to pupils, will be discussed with the headteacher/manager prior to the candidate being accepted for the role.

The headteacher/manager will endeavour to ascertain the relevant facts from the individual and decide upon a conclusion. Following this, the candidate will receive a rejection or acceptance letter.

When considering an applicant who will not be working in regulated activity, the academy/Trust will not take into account any minor or old convictions which are 'protected' from disclosure, as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2016).

When deciding to accept or reject a candidate, the academy/Trust will consider the following information:

- 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.

A risk assessment will be conducted by the headteacher/manager following a positive disclosure, before deciding on the candidate's suitability.

A record of all recruitment decisions following positive DBS disclosures will be kept by the headteacher/manager.

Depending on the circumstances of each case, the chair of the academy council/CEO may be asked to countersign the form recording the recruitment decision.

### **DBS update service**

All Learn@ MAT staff members must join the DBS update service to ensure that their DBS certificates are up-to-date.

The academy/Trust will check the status of any DBS certificates bi-annually (see section 3 above). The individual's consent will be gained before the DBS certificate status is checked.

Where consent is given, the academy/Trust will check the DBS certificate to confirm it matches the individual's identity and examine the original certificate to ensure it is for the appropriate workforce and level of check.

### **Referral to the DBS**

The Trust has a legal duty to refer to the DBS any member of staff who has harmed, or poses a risk of harm, to a pupil where:

The harm test is satisfied.

The staff member has received a caution or conviction for a relevant offence, or if there is reason to believe the staff member has committed a listed relevant offence.

The staff member has been removed from working in regulated activity, or would have been removed had they not left the school.

The staff member has been moved to an area of work not in regulated activity.

The staff member has been suspended.

Referrals will be made as soon as possible after the resignation, removal or redeployment of the staff member.

#### Recruitment of ex-offenders

The Trust is aware of its responsibility under the Police Act 1997 not to discriminate applicants based on their criminal record.

The Trust will only ask an individual to provide details of convictions and cautions that the Trust is legally entitled to consider when recruiting candidates.

The Trust selects all candidates for interview based on their skills, qualifications and experience.

All job application forms, job adverts and recruitment briefs will outline that an application for an enhanced DBS certificate will be submitted for all candidates once they have been offered the position.

During the recruitment process, the academy/Trust will ensure that a discussion between the recruitment panel and headteacher/manager takes place to evaluate any offences or other matters relevant to the position.

Candidates will be informed that failure to reveal any information which is directly related to the post could result in withdrawal of an offer of employment.

Any DBS certificates that reveal criminal information will be discussed with the individual, and their eligibility for the position will be reviewed in accordance with section 13 and section 14 of this policy.

### **Single central record (SCR)**

The headteacher/manager must maintain an up-to-date SCR of pre-appointment checks covering all staff (including teacher trainees on salaried routes) supply staff, agency staff, contractors and all Members, Trustees and Academy Councillors

The SCR details the checks carried out in each academy/place of work within the Trust – the information is recorded in such a way that allows for details for each individual academy/place of work to be provided separately, and without delay.

The SCR indicates whether the following checks have been carried out or certificates obtained, and the date on which each check was completed, or certificate obtained:

- An identity check
- A barred list check
- An enhanced DBS check
- DBS update service check
- A prohibition from teaching check
- A section 128 check for governance and management positions

Further checks on individuals who have lived or worked outside the UK

- A check of professional qualifications
- A check to establish the individual's right to work in the UK
- Whether the individual's position involves 'relevant activity', i.e. regularly caring for, training, supervising or being solely in charge of persons aged under 18

For supply staff, the SCR also records whether written confirmation has been received from the agency supplying the member of staff that the relevant checks have been carried out and the appropriate certificates have been obtained, and details of the date on which the confirmation was received and whether any enhanced DBS certificate check have been provided in respect of the member of staff.

The SCR is securely stored electronically.

### **Data handling**

All DBS certificates will be stored in accordance with the Trust's Data Protection Policy and will be stored in a securely locked and non-portable cabinet which is located in the school/central team office. Access to certificates will be strictly controlled and limited to those who are entitled to see them as part of their duties.

In accordance with the Police Act 1997, access to DBS certificates is strictly controlled and records will only be accessed by the headteacher/manager.

If in exceptional circumstances, and as part of their duties, another member of staff is required to access a DBS certificate, the academy/Trust will keep a record of the

named individual, and the individual whom the DBS certificate concerns will be informed prior to the sharing of the information.

DBS certificate information will only be used for the specific purpose for which it was requested and for which the individual's full consent has been given.

The academy/Trust will not keep DBS certificates for any longer than is necessary once a recruitment decision has been made – usually, for no longer than six months to allow for the consideration and resolution of any disputes or complaints. Copies of other documents used to verify the applicant's identity, right to work and required qualifications will be kept for the personnel file.

In exceptional circumstances, such as safeguarding audits, the academy/Trust may decide to retain DBS certificates for longer than six months. In such cases, the academy/Trust will consult the DBS and will have due regard to the data protection and human rights of the individual concerned.

DBS certificates will be disposed of securely such as by shredding, pulping or burning.

Prior to disposal, all waste will be stored securely in a confidential waste bin.

Although the academy/Trust will not keep any copy of the certificate, a record will be kept of the following:

- The date of issue of the certificate.
- The name of the person.
- The unique reference number of the certificate.
- The type of certificate requested.
- The position for which the applicant applied.
- The details of the final recruitment decision.

### **Monitoring and review**

This policy will be reviewed on an annual basis by the CEO in conjunction with the Board of Trustees.

Any changes made to the policy will be amended by the CEO and will be communicated to all members of staff.

All staff are required to familiarise themselves with this policy as part of their induction programme.

## Appendix 1

### Recruitment of ex-offenders' statement

Learn@ MAT is required to send a copy of its policy on the recruitment of ex-offenders to all job applicants which outlines the following:

The 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.

All applicants are subject to a DBS check before the job appointment is confirmed; this includes details of convictions and cautions, 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 interviews 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 a separate and confidential cover.

All applicants will be made aware of the existence of the DBS Code of Practice and will be provided with a copy on request.

The Trust is committed to ensuring all disclosure information will only be seen by those who require access as part of their duties.

The Trust will discuss any matters revealed on a DBS certificate with the applicant before withdrawing a conditional offer of employment.

At the interview, or in a subsequent discussion, open and measured discussion will take place on the subject of the offences.

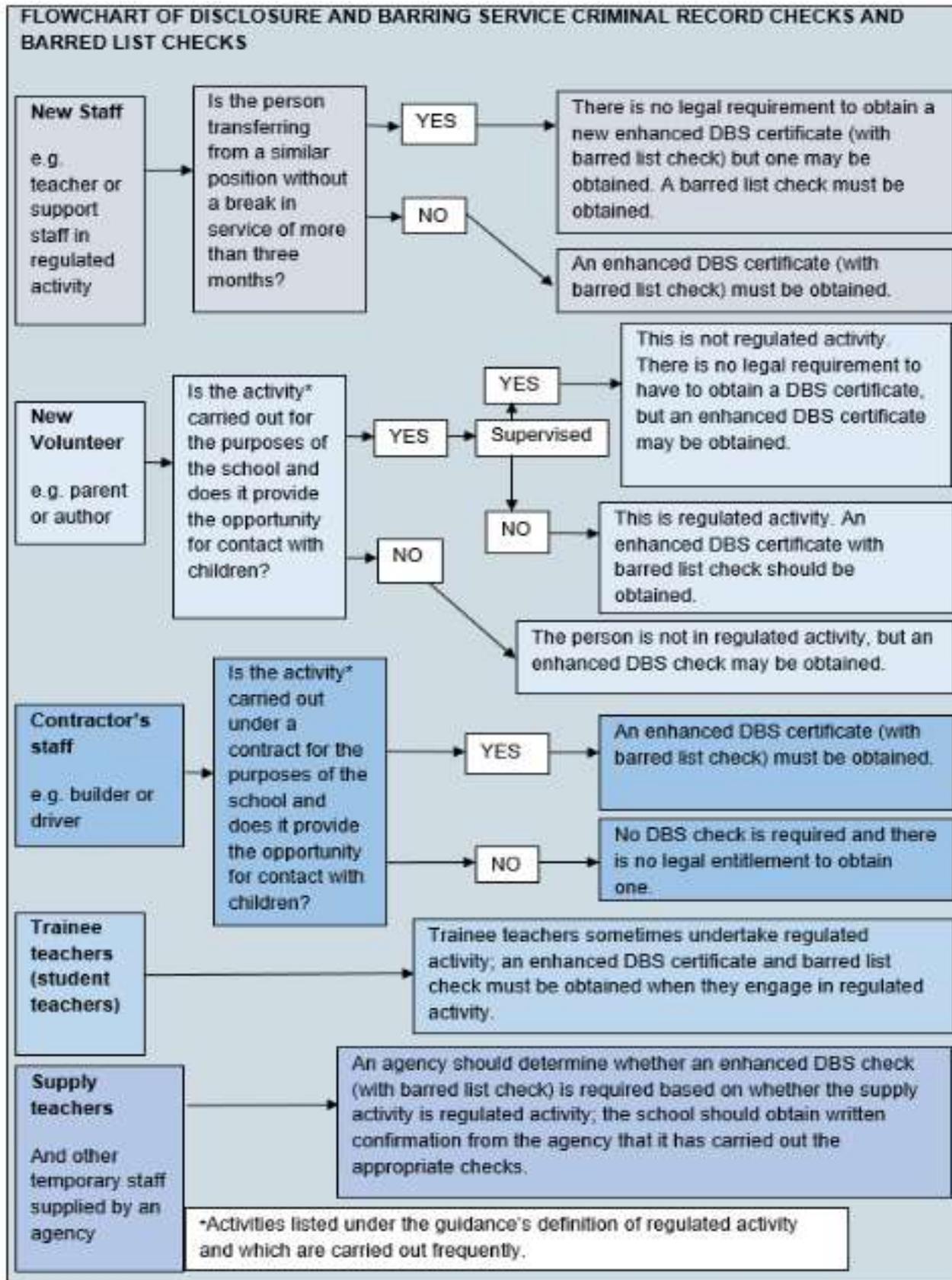
Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of any offer made.

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.

## Appendix 2.

### Flowchart of DBS and barred list checks



## Appendix 3

### Annual Declaration



### Learn@ MAT Annual Declarations

***Please ensure all sections are completed in full. Please sign and ensure it is countersigned by your line manager and handed to the main office***

<b>Employee name:</b>	
<b>Position:</b>	
<b>Date:</b>	
<p>I understand my responsibility to safeguard children, and I am aware that I must notify my manager of anything that may affect my suitability to work with children. I will ensure that I notify my manager of any convictions, cautions, court orders, reprimands or warnings I may receive. I will notify my manager immediately in writing if I am under criminal investigation, or subject to a pending caution, warning or criminal prosecution I hereby declare that the information I have provided in relation to criminal convictions, prosecutions pending and cautions is accurate.</p>	

### DBS Update Service

<p>Your continued employment in your post is subject to satisfactory DBS disclosure. Throughout your employment with Learn@ MAT you are required to be registered with the DBS update service. It is your responsibility to ensure you are registered and remain registered (if the Academy pay for the registration direct you must ensure this remains in place). You are able to claim the annual subscription fee from Learn@ MAT whilst you remain an employee of the Trust. The Trust reserves the right to carry out DBS checks throughout your employment with the Trust.</p> <p>I hereby declare that I have maintained my annual subscription of the DBS Update Service. Please circle the appropriate response: Yes    No Date of Renewal:</p>
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