



Bishop Bridgeman Church of England Primary School

Disclosure & Barring Service Procedure

1. INTRODUCTION

- 1.1 Bishop Bridgeman CE Primary School is registered with the Disclosure and Barring Service (DBS) to seek Disclosure of criminal records of applicants for posts within the School under the statutory requirements governing the DBS.
- 1.2 This Code of Practice should be read in conjunction with the attached Explanatory Guide that sets out the obligations of the Code in more detail and gives some additional information.
- 1.3 The Code is intended to ensure that information released for Disclosure purposes will be used fairly and only by those responsible for recruitment. The Code is concerned with the use of information provided to employers and voluntary organisations that are entitled to see Standard and Enhanced Disclosure documents. The Code also ensures that sensitive personal information is handled and stored appropriately and is kept for only as long as necessary.

2. OBLIGATIONS OF THE CODE

- 2.1 Those wishing to countersign Disclosure applications and make use of spent and unspent conviction data and other relevant information to help them make recruitment decisions shall observe the obligations set out in this Code of Practice.

These are as follows:

Fair Use of Information

Those registered shall use Disclosure information fairly and sensibly according to guidance issued by the DBS.

In particular, they shall:

- Use any guidance issued by the DBS on the use of Disclosure information to fully consider the relevance of any conviction or other details revealed.
- Have a written policy on the recruitment of ex-offenders, and provide a copy to all who apply for employment where a Disclosure will be requested.
- Ensure that application forms, for positions where Disclosures will be needed, contain a statement that a Disclosure will be requested in the event of a successful application. Application forms should also carry a statement to the effect that a conviction will not necessarily be a bar to obtaining employment.
- Encourage those seeking employment to declare any convictions or other matters that might be relevant at an early stage in the recruitment process.
- Discuss any matters revealed by the Disclosure with the applicant before making a recruitment decision.
- Inform applicants of the existence of the Code of Practice, and make copies available on request.
- Provide guidance on the employment of ex-offenders and the Rehabilitation of Offenders Act to those involved in making recruitment decisions.

3. IDENTITY

- 3.1 An applicant for registration will provide evidence of identity as required by the DBS.
- 3.2 Those registered must take all reasonable steps to satisfy themselves of the identity of individuals on whose behalf they intend to countersign applications.

4. HANDLING OF INFORMATION

- 4.1 Those registered shall store, retain and dispose of Disclosure information according to guidance issued by the DBS.
- 4.2 Any person receiving Disclosure information must:
- Ensure that Disclosure information is not passed to any person(s) who is not authorised to receive it and that access is only given to those persons who require it in the course of their duties.
 - All Disclosure information received must be securely stored at all times.

5. COMPLIANCE

- 5.1 Those registered shall co-operate with requests from the DBS to undertake compliance checks.
- 5.2 Those registered shall report to the DBS any suspected malpractice in relation to this Code of Practice or any suspected offences in relation to the misuse of Disclosures.

6. LEAD COUNTERSIGNATORIES

- 6.1 Those acting as Lead Countersignatories shall comply with those parts of the Code of Practice which relate specifically to the role of Lead Countersignatories.

7. UMBRELLA BODIES

- 7.1 Those registered who intend to act as Umbrella Bodies must satisfy themselves that the bodies on whose behalf they intend to countersign applications will ask exempted questions under the Rehabilitation of Offenders Act.
- 7.2 Those registered as Umbrella Bodies must ensure that the conditions of the Code of Practice are observed in respect of information that is passed to bodies or individuals likely to ask exempted questions.

8. MISCELLANEOUS

Those registered shall:

- Use Disclosures for employment (paid or unpaid) reasons only or for any other reasons as may be provided for in relevant legislation.
- Maintain their registration according to current guidance issued by the DBS and notify the DBS promptly of any material changes to the details of registration.
- Withdraw from the register if it is likely that they no longer need to ask exempted questions.
- Not imply or state that registration suggests any endorsement by the DBS of the person or organisation registered or any service provided by them.

EXPLANATORY GUIDE FOR REGISTERED PERSONS

1. INTRODUCTION

Purpose of the Code of Practice and Explanatory Guide

- 1.1 The Code of Practice sets out obligations in respect of the use of information upon employers and voluntary organisations who are registered with the DBS, or those acting on their behalf, to receive details of criminal record(s) and other information about applicants seeking employment with the School. This guide explains the provisions of the Code more fully and gives guidance on how those registered can ensure compliance.
- 1.2 References in the Code and this guide to employers are intended to refer to those involved in making recruitment decisions in respect of paid or unpaid positions in statutory, commercial or voluntary organisations.

Background And Certificate Types

- 1.3 On 14th December 1998, the Government announced its intention to implement Part V of the Police Act 1997 and create a Criminal Records Bureau (DBS) which will have responsibility for conducting criminal record checks for employment and volunteer related purposes in England and Wales. This signalled the Government's intention to strengthen the safeguards protecting children and other vulnerable groups and more generally, to extend the scope of current criminal record checking arrangements. Widening access to criminal record checks is intended to provide those making recruitment decisions with additional information to enable them to determine whether the past behaviour of a person suggests that they are unsuitable for employment.
- 1.4 Applications for criminal record checks (known as Disclosures) are made by the subjects of those checks, often at the request of employers. However, the Act places no general obligation on any person to apply for a criminal record check.
- 1.5 The DBS will conduct three types of check, each reflected by the issue of a different type of Disclosure.
- 1.6 The Basic Disclosure (BD) will be issued to individuals on request, subject to confirmation of identity. The BD will contain details of convictions held in central police records which are unspent according to the Rehabilitation of Offenders Act 1974 or will state if there are no such convictions. Any employer will be able to request a successful applicant to apply for a BD. The BD will be available by mid-2002.
- 1.7 The Standard Disclosure (SD) is available in respect of positions exempt under the Rehabilitation of Offenders Act. It contains details of any spent and unspent convictions as well as cautions, warnings and reprimands held at a national level. It also indicates if there are no such matters on record.

If an individual is applying for a childcare position, the SD also reveals whether the individual is banned from working with children by virtue of his/her inclusion on lists of those considered unsuitable to work with children. These lists are maintained by the Department for Education and Employment and the Department of Health.
- 1.8 By approximately mid-2002, the SD will also reveal whether a person is banned from working with vulnerable adults by virtue of his/her inclusion on a list of those considered unsuitable to work with such people that is held by the Department of Health.

1.9 The Enhanced Disclosure (ED) will also be available in respect of those seeking employment in positions exempted under the Rehabilitation of Offenders Act 1974. However, it is reserved for those employed in positions involving regular caring for, training, supervising or being in sole charge of those aged under 19 or vulnerable adults. It will also be available for certain statutory licensing purposes and judicial appointments.

1.10 The ED will contain the same details as the SD. It may also contain non-conviction information from local police records that the Chief Police Officer thinks may be relevant in connection with the position applied for.

Good Recruitment Practice

1.11 The DBS is committed to encouraging the spread of best practice in recruitment to ensure the best possible use of the information provided by the DBS and to encourage safer recruitment. Whilst we wish to widen the availability of criminal record checks in respect of positions of trust, it is crucially important that those who may have convictions are treated fairly and are given every opportunity to establish their suitability for employment.

1.12 The existence of a comprehensive Disclosure service should not be regarded as a substitute for any of the full range of existing pre-appointment checks, including the taking up of references. Disclosures should be seen as complementary to existing recruitment practice.

2. REGISTERED BODIES

Sensitivity of Disclosure Data

2.1 All data disclosed by the DBS should be regarded as sensitive personal information.

2.2 Information contained within Standard and Enhanced Disclosures may be particularly sensitive. Registered Bodies must ensure sensitive criminal record and other information is handled responsibly at all times.

The Register

2.3 Accordingly, details of those individuals seeking access to Standard and Enhanced Disclosures and who satisfy the conditions for registration, are included in a register maintained by the DBS. Those named in the register are expected to comply with the terms of the Code of Practice.

2.4 For organisations with a legitimate requirement to have access to higher level Disclosures, separate registration may not be appropriate. They may, however, be able to gain access to the information they require by asking another, registered, organisation to countersign applications for Disclosures on their behalf. These registered organisations are known as Umbrella Bodies.

2.5 Entry to the Register will confirm eligibility to receive Standard and Enhanced Disclosure information. It does not imply any endorsement, by the DBS, of a registered person or organisation. Those registered should not imply otherwise.

Eligibility

Basic Criteria

- 2.6 A person will be registered if he/she applies in writing, providing such information as may be requested by the DBS, pays the applicable fee and meets the requirements in respect of exempt questions under the Rehabilitation of Offenders Act.

Registered Persons

- 2.7 An applicant for registration must represent a body or organisation or be:

- a person appointed to a school by virtue of any enactment,
- or
- an individual who employs others in the course of a business

- 2.8 Those seeking registration must also, in the judgement of the DBS, be likely to ask exempt questions, under the terms of the Rehabilitation of Offenders Act, as part of their duties.

Umbrella Bodies

- 2.9 A person who is a representative of a body applying for registration may also register if he/she is able to satisfy the DBS that he/she is likely to countersign Disclosure applications at the request of bodies or individuals asking exempt questions. In this way, an employer who has chosen not to register may still be able to gain access to criminal record information.

- 2.10 In particular, the Umbrella Body must satisfy itself, and remain satisfied, that those on whose behalf it wishes to countersign applications are entitled to ask exempted questions and are also likely to wish to answer exempted questions during the currency of the registration. Umbrella Bodies must also satisfy themselves that the terms of the Code of Practice continue to be observed in respect of information released by them to those on whose behalf they are countersigning applications.

- 2.11 An Umbrella Body must, at the request of the DBS, disclose details of those persons or bodies on whose behalf it wishes to countersign applications.

When and How To Apply

- 2.12 Applications for registration should be made in writing, in the form determined by the DBS. Information about how to apply is available on the DBS website (www.DBS.gov.uk).

Identity

- 2.13 Each application for registration will be accompanied by proof of identity as requested by the DBS.

Lead Counter-signatory

- 2.14 The DBS wishes to ensure that those applying for registration are not only entitled to ask exempted questions but are also supported in their application for registration by

a senior person in the School. Accordingly, each application for registration should be counter-signed by the Lead Counter-signatory. The Assistant Chief Executive is the Lead Counter-signatory for Bolton MBC.

- 2.15 The Assistant Chief Executive will not be expected necessarily to countersign applications for Disclosures with the frequency of other counter-signatories. (see Chapter 6.3).
- 2.16 The Assistant Chief Executive will be the principal point of contact in the Authority on all matters connected with registration. The exception is that results of individual Disclosure applications will be sent to the registered person who has countersigned the original application.
- 2.17 The Assistant Chief Executive acting as the Lead Counter-signatory will be the first person registered in respect of the Authority. Thereafter, he/she will be able to countersign other applications for registration.
- 2.18 The Assistant Chief Executive may countersign his/her own application for registration.

Confidentiality

- 2.19 The details of registration are confidential and are not made known by the DBS to anyone outside the Authority without the individual's permission. However, those registered may wish to make some contact details available for members of the public or prospective recruits. This is particularly true for Umbrella Bodies. Those seeking registration are invited to consider what information, if any, about the registration should be made publicly available.

Changes

- 2.20 Registered persons shall let the DBS know of any changes to the details of their registration. The DBS will make any necessary amendments in response according to published service standards.

3. COUNTERSIGNING APPLICATIONS FOR DISCLOSURES

Identity of the applicant

- 3.1 It is standard good recruitment practice for employers to satisfy themselves of the identity of those applying for employment. Details of the checks undertaken should be recorded and retained in case of further enquiry by the DBS.
- 3.2 Disclosures issued by the DBS should not be taken as evidence of identity.
- 3.3 Those countersigning Disclosure applications should encourage those involved in the recruitment process to ask for documentary evidence of identity from applicants.

There are no hard and fast rules about the type of evidence that is acceptable, but at least one item of photographic evidence (eg a current passport, or new style UK driving licence) would be desirable plus at least one item of address related evidence (a utility bill, bank, credit card or mortgage statement containing the name and address of the applicant). In the absence of photographic evidence, a full birth certificate issued at the time of birth will carry more weight than one issued more

recently. Consistency of information provided by the applicant in his/her application for employment tends to lead to a greater level of confidence in his/her identity.

- 3.4 Where an applicant claims to have changed their name by deed poll or any other mechanism, the employer should see evidence of such a change.

Overseas Applicants

- 3.5 Registered Bodies should consider carefully before deciding whether to request a Disclosure in respect of an applicant with a substantial record of overseas residence. Applicants falling into this category include United Kingdom residents, whether British nationals or otherwise, with recent periods of overseas residence.

Also in this category are those with little or no previous United Kingdom residence.

- 3.6 It may be difficult to obtain satisfactory evidence of identity in respect of applicants in these categories. It may also be of limited value to ask for a criminal record check in respect of a person with gaps in their domestic residence or who has limited residence in the United Kingdom.
- 3.7 The DBS publishes guidance to employers about the availability of criminal record checks in a variety of foreign countries. They are free to ask those with overseas residence to apply for the equivalent of a Disclosure, if available.

Policy In Relation To Person With A Criminal Record

- 3.8 The School and the Authority is anxious to ensure that those members of the community who may have convictions are not unfairly treated in the process of considering them for employment.

Information for applicants

- 3.9 Each applicant for employment should be given a copy of this policy at the commencement of the recruitment process.
- 3.10 A statement expressing a willingness to consider applicants with a criminal record on their merits should be included on any forms requesting conviction information from individuals. In any event, application forms should indicate that a conviction is not necessarily a bar to recruitment. Application forms should also carry a statement that the successful applicant will be asked to apply for a Disclosure.
- 3.11 Applicants and employers having dealings with the Registered Body should be made aware of the existence of the Code of Practice and the Registered Body's commitment to it. A copy should be made available on request.

Training

- 3.12 All those involved in the recruitment and selection process will receive guidance in the areas of the employment of person(s) who have been convicted in the past and on the Rehabilitation of Offenders Act.

4. CONSIDERATION OF CHECKS

Factors to take into account

- 4.1 Possession of a conviction or indication of any other matter on a certificate should not automatically debar an individual from employment. The Authority will take into account a number of factors before reaching a recruitment decision. The DBS has issued comprehensive guidance to help the Authority consider how best to use the information contained in Disclosures. Registered Bodies shall follow this guidance in reaching decisions about the suitability of candidates. Umbrella Bodies should ensure that those employers for whom they act also follow this guidance.

Recruiters should consider the following:

- whether the conviction or other matter revealed is relevant to the position in question,
- the seriousness of any offence 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.

- 4.2 Ultimately, it is the responsibility of the School to decide whether to offer the applicant a position.

Validity

- 4.3 Disclosures carry no pre-determined period of validity or absolute guarantee of accuracy. The School will seek to make recruitment decisions as soon as possible after receiving copies of Disclosures.
- 4.4 Where the information provided on a certificate differs significantly from that provided by an applicant, a member of the recruitment panel will discuss any discrepancy with the applicant before reaching a decision. If discussion fails to resolve any differences, a fingerprint check may be sought, via the DBS and on payment of a fee, in order to determine whether the record in question belongs to the applicant or not.

Handling Data

Security

- 4.5 Disclosures contain sensitive personal data which must be handled carefully and only by those in the School entitled to see them in the course of their duties.
- 4.6 The School will keep a written record of the names of those in the School, or outside, to whom disclosure information has been revealed. The legislation governing the operation of the DBS sets out certain offences relating to the inappropriate disclosure of information released by the DBS. Details are given at Section 5 below.

Storage

- 4.7 Registered persons undertake to store Disclosures and other confidential documents issued by the DBS in secure conditions. Documents should be kept in lockable and non-portable storage containers.

Keys or combinations for such storage units should not be freely available within the School and access must be restricted to named individuals. Access to rooms containing storage containers should be restricted to staff engaged in recruitment work.

Retention of records

- 4.8 Once a recruitment decision has been made, the School may retain a certificate and associated correspondence generally for a maximum of 6 months. However, advice must be sought from LA HR Officers if it is believed that exceptional circumstances justify keeping the information for longer than 6 months. This period allows for any dispute about the accuracy of a certificate or a recruitment decision to be made and considered. In the case of a dispute the usual conditions in respect of storage and access remain in place during this period. If an Umbrella Body has forwarded a Disclosure to an employer on whose behalf it has countersigned an application, it should require the employer to return the Disclosure to the Umbrella Body for storage as soon as the recruitment decision has been made.
- 4.9 Disclosures should be destroyed by suitable secure means ie shredding, pulping or burning. They should not be kept in any receptacle (eg a waste bin or confidential waste sack) whilst awaiting destruction.
- 4.10 No photocopy or other image of the Disclosure may be retained nor must any copy or representation of the contents be made or kept. It will, however, be acceptable for employers and Registered Bodies 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.
- 4.11 References in this section to Disclosures should be taken to include letters containing relevant non-conviction information not included on Disclosures.

5. COMPLIANCE

Compliance checks

- 5.1 The DBS has a responsibility to check that those receiving conviction and other sensitive information are behaving responsibly and using the information provided in accordance with the Code of Practice, this guide and the law. Accordingly, the DBS monitors compliance with the Code by those registered and by others receiving information from those registered. Registered Bodies undertake to co-operate with the DBS in respect of any compliance enquiries and related matters.
- 5.2 In conducting compliance checks, the DBS seeks to confirm that those registered are complying with the Code of Practice, identifying any breaches and providing remedial action. In particular, the DBS will seek to:
- identify those registered who are no longer likely to ask exempted questions,
 - ensure that the obligations of those registered in respect of security and retention of Disclosures are being met,
 - confirm that those registered are seeking the appropriate level of Disclosure in respect of those to be recruited,
 - confirm that information provided by the DBS is not being used unfairly to the detriment of person(s) who have been convicted in the past,
 - advise those registered about good practice in the use of criminal record information.

Complaints and Audits

5.3 Compliance checks may be instigated for one of two reasons.

Complaints

5.4 Checks may be made following complaints from members of the public about the behaviour of those registered. Compliance checks may also be made at the request of a registered person if that person reports that the School of which he/she is a part may be in breach of the Code or is, in some way, using the information provided by the DBS inappropriately.

Audits

5.5 The DBS will conduct audits of a sample of those registered in order to check compliance and to provide advice on good practice where that would be helpful. Normally, the DBS prearranges audits. However, the DBS reserves the right to undertake audits on an unannounced basis. Audits may also be undertaken at the request of those registered.

5.6 The DBS provides written reports of each audit to the audited organisation, with recommendations where appropriate. The DBS may undertake follow-up audits of those registered to check that any recommendations made as a result of a first audit have been implemented.

5.7 Those registered undertake to co-operate with all audits.

Lost Disclosures

5.8 If a registered person or any person to whom he passes a Disclosure (1) (or information contained within a Disclosure), loses or otherwise misplaces a Disclosure, the registered person undertakes to inform the DBS immediately. On request, he should provide full details of the circumstances of the loss. The DBS will consider whether it is appropriate to issue a replacement. Loss may be considered as a breach of the Code of Practice.

Offences

5.9 Where the DBS has reason to believe that a criminal offence may have been committed by a Registered Body in respect of some aspect of Disclosure, consideration will be given about passing details to the police. The normal presumption is that details are passed on.

5.10 Full details of the categories of offence that are defined in Part V of the Police Act 1997 can be provided on request. One category of offences relates to the inappropriate disclosure of criminal record and other information; other offences relate to the making of false statements, the making of false certificates, alteration of certificates and inappropriate use of certificates.

5.11 The Criminal Justice and Court Services Act 2000 introduces further offences. It is an offence to apply, offer to do, accept or do any work with children if disqualified from working with children. Disqualification can arise from inclusion in either of the lists of those considered unsuitable to work with children held by the Department of

Education and Skills and the Department of Health. The courts can also disqualify unsuitable people convicted of serious sexual offences from working with children.

It is also an offence to offer a disqualified person work with children or to allow them to continue in such work.

5.12 Under the Data Protection Act 1998, Enforced Subject Access will become a criminal offence once the DBS is fully operational. Those registered shall not ask individuals to exercise their rights under data protection legislation to apply, under the Subject Access arrangements, for access to criminal record information. Any suspected examples of Enforced Subject Access which come to the attention of the DBS will be passed to the Office of the Data Protection Commissioner.

5.13 There may be circumstances when a Registered Body 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 Registered Body should inform the DBS immediately of any such request and prior to the release of any information.

(1) In this section, the reference to a "Disclosure" includes any letter containing relevant non-conviction information.

6. TERMINATING REGISTRATION

Withdrawal from the register

6.1 A person who considers that he/she is no longer likely to wish to ask exempt questions in the role in which he/she had originally registered, should ask to be removed from the register. He/she should make any such request in writing to the DBS. He/she shall be free, thereafter, to apply to join the register again, on payment of the appropriate fee.

Suspension of Service

6.2 In cases where the DBS considers that a Registered Body or Person or an Umbrella Body has failed to comply with the Code of Practice, the DBS may refuse to issue Disclosures in respect of applications countersigned by that body or person. Where a breach appears to apply across the School, the suspension may also apply across the Authority.

6.3 The DBS will notify the lead counter-signatory of the Authority about the suspension and its justification.

6.4 The DBS will, at the request of the suspended person or body, consider whether to lift the suspension but will not do so until it is satisfied that the person or body in question will thereafter fully comply with the Code.

Removal from the register

6.5 Where the DBS considers that a person or body is no longer likely to wish to countersign Disclosure applications, it may remove that person from the register.

6.6 In such cases, the DBS will write to the lead counter-signatory notifying him/her of the intention of the DBS to remove the person or body from the register and the reasons for so doing. The DBS will also indicate the date upon which removal will

take effect and may, in the meantime, suspend the service in respect of the individual(s) concerned.

- 6.7 Once a person has been removed from the register, he/she may be readmitted if he/she makes a valid application for registration in the normal way and on payment of the appropriate fee.
- 6.8 If a lead counter-signatory is removed from the register, the Authority will nominate a replacement lead counter-signatory without delay.
- 6.9 An indication of whether the DBS considers that a person is likely to wish to countersign applications may be found via an examination of his/her behaviour during the period of registration. If, for example, no applications have been countersigned during a particular period, the DBS might wish to propose removal from the register.

The DBS is less likely to apply this test in respect of lead counter-signatories since, due to their role, they are likely to be figures of authority within the Authority and may not be directly involved in the recruitment process.

Representations

- 6.11 The DBS will consider any written representations received against suspension or removal from the register. Any response to representation will be made in writing.

Other measures

- 6.12 The DBS may take other steps in respect of those breaching the Code of Practice or who are considered no longer likely to wish to countersign applications. In particular, the DBS reserves the right to publish details of those persons and the organisations they represent who are in breach of the Code.

Reviewed: September 2017

Next Review: September 2018

**APPENDIX 1
FLOW CHART
CRIMINAL RECORDS BUREAU CODE OF PRACTICE**

