



Disclosure and Barring Service Policy

Policy Statement

The safety of children and young people is paramount, and TES Ltd is committed to implementing the Disclosure and Barring (DBS) procedures and arrangements. We will comply with the DBS Code of Practice and National Care Standards guidance regarding the correct handling, use, storage, retention and disposal of Certificates.

The DBS (formerly the CRB Agency) was set up by the Home Office to improve access to the criminal record checks for employment related purposes and to help organisations make safer recruitment decisions; this applies to staff with access to children under 18 years of age, vulnerable adults or other positions of trust that fall within the Rehabilitation of Offenders Act 1974. The DBS and the Independent Safeguarding Authority (ISA) both became part of the Disclosure and Barring Service (DBS) in December 2012.

The DBS Code of Practice requires all registered bodies to have a written policy and procedure on the recruitment of people with a criminal record (1). The Recruitment and Employment Confederation (REC) requires the agency to have a written policy and procedure on the recruitment of people with a criminal record (1) and to ensure anyone applying for a job at the school receives a copy. TES Ltd are committed to the principal of equal opportunities and, subject to the overriding consideration of protecting children; we will endeavour to prevent unfair discrimination against those with a criminal record.

As members of the REC, we are required to:

- Carry out a status check for new candidates that register, or, if they are not subscribed to the Update Service, ask them to apply for a new DBS certificate.
- Use the Update Service to carry out a status check at least every 12 months (or ask candidates to apply for a new certificate if they are not subscribed to the Update Service)

Procedure

There are two different levels of Certificate:

Standard Certificates contain details of all convictions (2) on record (including spent convictions (3)) plus details of any cautions, reprimands or warnings. Information obtained on the government lists is of people considered unsuitable to work, or gain access to sensitive information relating to children/young people.

Enhanced Certificates involve an extra level of check with local police force records in addition to checks with the Police National Computer and the government department lists held by the Department for Education and Department of Health, where appropriate. The government's safer recruitment initiative stipulates that all staff in an educational establishment must have an enhanced Certificate.

Recruitment of Staff

TES Ltd are an equal opportunities employer. It is our aim to request applicants to disclose certain information regarding any previous criminal records they may hold. Having a criminal record will not necessarily bar applicants from working in schools. All information declared will only be considered in the light of its relevance to the post for which they are applying. It will depend on the circumstances, background of the offence(s) and the time elapsed. In most cases a particular conviction will be of no relevance and can be disregarded for the purpose of the application. Candidates must clearly state on their application form any unspent convictions or cautions. TES Ltd comply with the DBS Code of Practice.

All candidates will be required to complete an enhanced disclosure. This asks for a declaration by the applicant to disclose any convictions, cautions, reprimands or final warnings which would not be filtered in line with current guidance. Those who are subscribed to the DBS Update Service will have a status check performed on the relevant DBS certificate.

If a candidate declares any unspent convictions/cautions at registration which would not be filtered in line with current guidance and is relevant to the post for which they are applying, they would be deemed unsuitable to be placed in a school and their application would be withdrawn.

For more information contact the team 0151 480 8818



Renewal of DBS Certificates

The guidance for schools makes the following reference to DBS checks:

“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 or college may 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 reuse 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”

Under previous DfE statutory guidance for schools, CRB checks were described as having a three year shelf life. This guidance has been repealed. The DBS states that DBS certificates have no end date. This means that consideration now needs to be given to how long individuals should be able to rely on an existing DBS certificate before a fresh status check is carried out or a new certificate is obtained. TES Ltd perform status checks on all certificates subscribed to the Update Service. These checks are carried out at least every 6 months.

DBS certificates become invalid if the candidate has a gap of three months or more in education based employment (excluding the 6 week summer break for schools). In these circumstances a new disclosure certificate must be obtained if the current certificate cannot be verified by the candidate’s subscription to the Update Service.

Check on Staff Recruited from Abroad

DBS checks are not always sufficient for those who have lived or worked abroad as they do not generally show offences committed by individuals while living abroad. The person will not have a criminal record in this country, nor will he/she appear on the Barred List or the Protection of Children’s Act List. If the teacher has lived in this country previously, a Barred List Check can be done immediately. Where a work seeker from overseas or a UK work seeker who has lived and worked abroad cannot provide a police check from the relevant country, we obtain a statement of good conduct from the embassy or in the incidence of a nil return, the candidates most recent employer in that country. This should confirm that to the best of their knowledge, the candidate has no criminal convictions. The referee should also state that they know of no reason why the work seeker is not safe to work with children.

In the absence of a police check/letter of good conduct, we would obtain as much information as possible in the form of references (contacting referee to verify reference information). We also ask the work seeker to sign a second criminal record declaration to confirm that they did not incur any convictions in the relevant country. Or, if they did incur convictions to list these on the declaration form. We will also make an application for an enhanced DBS Certificate prior to placement as part of our recruitment process.

Storage and Access

DBS Certificate information will be kept in a locked cabinet with access strictly limited to those who are entitled to see it as part of their duties. It is a criminal offence to pass this information to anyone who is not entitled to receive it.

Usage

Certificate information is used only for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

DBS checks showing criminal convictions or cautions must be faxed securely to a school so that they can confirm that they are willing to accept the work seeker.

Retention

Once a recruitment (or other relevant) decision has been made, we retain DBS Certificate information generally for a period of up to six months. This is to allow time to consider and resolve any disputes or complaints. If, in exceptional circumstances, it is considered necessary to keep the information for longer, we will consult the DBS, taking data protection and human rights issues into consideration.

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Disposal

Once the retention period has elapsed, any Certificate information will be destroyed by secure means, ie, by shredding. We use a confidential data destruction service to ensure that all sensitive information is shredded securely. We keep a record of the date of issue of a Certificate, the name of the subject and the unique reference number of the Certificate.

1. A criminal record is a record of a person's convictions, whether spent or unspent, under the Rehabilitation of Offenders Act 1974, cautions, reprimands, final warnings and other non-conviction information such as acquittals.
2. A criminal conviction is a finding of guilty by a criminal court. Criminal convictions form part of the criminal record.
3. Spent convictions happened sometime ago and normally no longer need to be revealed. The Rehabilitation of Offenders Act 1974 gives people with criminal records the right not to disclose them after a rehabilitation period. However, there are exemptions and TES Ltd has the right to ask employees and those offered employment for such information.
4. A Barred List check ISA DfeS list of people who are banned from working with children (s.142 check)

Adult and Child Workforce

Child workforce checks are mandatory for our enhanced DBS applications. Adult workforce checks are required in addition when an agency worker will be working in relevant regulated activity with adults. We refer to the DBS guide to relevant workforce roles prior to submitting a DBS application. The REC also has guidance on this

Duty to Refer

We are registered with the DBS online services account where we would submit any referrals. The duty to refer applies even when a report has been made to another body such as a local authority safeguarding team. The duty to refer applies irrespective of whether another body has made a referral to the DBS in relation to the same person. This helps to make sure the DBS have all the relevant information to consider a case. DBS can then make a fair, consistent and thorough decision about whether to bar a person from working with vulnerable groups.

A person who is under a duty to refer and fails to refer to the DBS without reasonable justification is committing an offence. If convicted they may be subject to a fine up to £5,000.

As per the DBS guidance below, we have a legal duty to refer when the two main conditions have been met:

Condition 1

- You withdraw permission for a person to engage in regulated activity with children and/or vulnerable adults. Or you move the person to another area of work that isn't regulated activity.

This includes situations when you would have taken the above action, but the person was re-deployed, resigned, retired, or left. For example, a teacher resigns when an allegation of harm to a student is first made.

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Condition 2

You think the person has carried out one of the following:

- Engaged in relevant conduct in relation to children and/or adults. An action or inaction has harmed a child or vulnerable adult or put them at risk or harm or;
- Satisfied the harm test in relation to children and / or vulnerable adults. e.g. there has been no relevant conduct but a risk of harm to a child or vulnerable still exists, or
- Been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence

Relevant conduct in relation to children

A child is a person under 18 years of age.

Relevant conduct is:

- Endangers a child or is likely to endanger a child
- If repeated against or in relation to a child would endanger the child or be likely to endanger the child
- Involves sexual material relating to children (including possession of such material)
- Involves sexually explicit images depicting violence against human beings (including possession of such images)
- Is of a sexual nature involving a child

A person's conduct endangers a child if they:

- Harm a child
- Cause a child to be harmed
- Put a child at risk of harm
- Attempt to harm a child
- Incite another to harm a child

Relevant conduct in relation to adults:

A vulnerable adult is a person aged 18 years or over who is being provided with, or getting a service or assistance which is classed as regulated activity for adults.

Relevant conduct is:

- Endangers a vulnerable adult or is likely to endanger a vulnerable adult
- If repeated against or in relation to a vulnerable adult would endanger the vulnerable adult or be likely to endanger the vulnerable adult
- Involves sexual material relating to children (including possession of such material)
- Involves sexually explicit images depicting violence against human beings (including possession of such images)
- Is of a sexual nature involving a vulnerable adult

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A person's conduct endangers a vulnerable adult if they:

- Harm a vulnerable adult
- Cause a vulnerable adult to be harmed
- Put a vulnerable adult at risk of harm
- Attempt to harm a vulnerable adult
- Incite another to harm a vulnerable adult

A person satisfies the harm test if they may:

- Harm a vulnerable adult
- Cause a vulnerable adult to be harmed
- Put a vulnerable adult at risk of harm
- Attempt to harm a vulnerable adult
- Incite another to harm a vulnerable adult

The Harm Test

A person satisfies the harm test if they may harm a child or vulnerable adult or put them at risk of harm. It is something a person may do to cause harm or pose a risk of harm to a child or vulnerable adult.

Referral to the DBS when the legal conditions are not met

As per DBS guidance, there could be times when we consider that we should make a referral in the interests of safeguarding children or vulnerable adults even if we have not removed the person from working in regulated activity.

This could include acting on advice of the police or a safeguarding professional, or in situations where we don't have enough evidence to dismiss or remove a person from working with vulnerable groups.

DBS are required by law to consider any and all information sent to them from any source. This includes information sent to them where the legal referral conditions are not met.

DBS will use legal powers and barring processes to determine whether the person should be barred from working in regulated activity with children and / or vulnerable adults.

When making a referral to them where the referral conditions have not been met, we would do so in consideration of relevant employment and data protection laws and would also seek our own legal advice in relation to these cases.

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THE EDUCATION SPECIALISTS LTD DISCLOSURE AND BARRING SERVICE (DBS) POLICY

APPENDIX A – FREQUENTLY ASKED QUESTIONS

How long does it take to receive my DBS Certificate?

On average the process can take 3-4 weeks (but may take longer if you have lived at various addresses).

What do I receive from the DBS?

You will receive a certificate from the DBS stating whether or not you have a police record and, where appropriate, will confirm that your details have been checked against the list of those banned from working with vulnerable adults or children. In order for TES Ltd to verify the DBS certificate you must contact head office for them to take a copy.

Is my DBS Certificate portable?

Yes, if you register with the DBS Update Service. Further details can be found at <https://www.gov.uk/dbs-update-service>

What happens if I have a previous conviction(s)?

Having a criminal record will not necessarily stop you from working with TES Ltd. This will depend on the circumstances and background of the offence(s) and the time elapsed.

What happens if I have a criminal conviction during employment?

It is important, if you have a criminal conviction, that you disclose this information to TES Ltd as soon as possible. You will be asked to attend an interview to explain the background and circumstances regarding the conviction.

Who will know about my criminal record?

If a criminal record is revealed through a DBS check, the Managing Director and the HR Manager will know the details of the convictions.

The information on my Certificate is wrong – what can I do?

If you think that any information contained on your Certificate is wrong, please contact the DBS Certificate Dispute line on 0870 9090 778 who will advise on their dispute procedures.

Can I refuse to apply for a Certificate?

It is compulsory to check your details against the list of people banned from working with children. TES Ltd is obliged to insist on a DBS Certificate from all agency workers.

How long are Certificates valid?

A Certificate carries no period of validity. The information it contains reflects the position at the date of its issue. The closer this date, the more reliance can be placed on its content. For those agency workers who are subscribed to the DBS Update Service, ongoing status checks are carried out on the Certificate (minimum 6 monthly).

Do teachers from overseas need to be checked?

Yes. Overseas teachers will be treated the same as any new employee.

How long does a teacher newly arrived from overseas need to live in the country before a Certificate is carried out?

If the teacher has lived in this country previously, a Barred List Check can be done immediately. Those who have not lived here previously should contact their embassy to seek a letter of good conduct. Where an applicant is from a country where criminal record checks cannot be made, extra care must be taken in taking up references and conducting other background checks including asking probing questions at interview. TES Ltd will also make an application for an enhanced DBS Certificate as part of our recruitment process.

What happens if a candidate has a break in education based employment?

DBS certificates become invalid if the candidate has a gap of three months or more in education based employment (excluding the 6 week summer break for schools). In these circumstances a new disclosure

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