



<b>Title</b>	Disclosure & Barring Service Policy
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<b>Associated Policies</b>	Child Protection Policy and Procedures Recruitment Policy Visitors Policy
<b>Originator</b>	Mr Colin Hinds
<b>Approved</b>	<i>RHardcastle</i>

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## 1. Introduction

The safety and welfare of children and young people and other vulnerable groups is of paramount importance and Hatton Academies Trust is fully committed to the rigorous implementation of robust Disclosure & Barring Service (DBS) procedures and arrangements.

The Trust is committed to preventing discrimination or any other unfair treatment against employees, potential employees or volunteers on the grounds of prior convictions / offences that does not create a risk to children or vulnerable adults, in accordance with the DBS code of practice.

This document covers the Trusts policy on the vetting of staff and volunteers and information regarding the application and management of DBS checks. This information is for current employees and should be supplied as part of the Recruitment Pack to potential employees and volunteers.

## 2. The Law

Applications for DBS Disclosure checks are made under part V of the Police Act 1997 and the enabling provisions of the rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 for the purposes of asking exempted questions. This enables spent convictions to be disclosed and taken into account when considering an applicant's suitability for work with children, vulnerable adults or in certain positions of trust. This policy is written in accordance with: DfE policy guidelines, 'Working Together to Safeguard Children July 2018 and Keeping Children Safe in Education – Statutory guidance for schools and colleges; The School Staffing (England) Regulations 2009 (No. 2680), and The Home Office Revised Code of Practice for Disclosure & Barring Service Registered Persons (November 2015). Further information and guidance on this is available at [www.gov.uk](http://www.gov.uk).

The Safeguarding Vulnerable Groups Act 2006 introduced new criminal offences in relation to the engagement of barred persons and the provision of information relating to individuals. If an offence is committed by a corporate body and is proved to be committed with the consent or connivance of, or to be attributable to neglect on the part of a director, manager or other similar officer of the body or a person acting in this capacity, this could result in criminal prosecution.

The Protection of Freedoms Act 2012 sets out a range of obligations for employers including the checks they are able to carry out on volunteers. Specifically, the definition of Regulated Activity and Supervision and obtaining DBS checks for people under 16 years of age are covered.

## 3. 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.

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 physical, emotional or educational well-being, or driving a vehicle only for children;
- b) 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 (a) or (b) is regulated activity if done regularly.\* Some activities are always regulated activities, regardless of frequency or whether they are supervised or not. This includes:

- c) Relevant personal care, or health care provided by or provided under the supervision of a health care professional:
  - Personal care includes 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 or disability\*\*
  - Health care means care for children provided by, or under the direction or supervision of, a regulated health care professional.

\*The safeguarding Vulnerable Groups Act 2006 provides that the type of work referred to at (a) or (b) will be regulated activity if it is carried out frequently by the same person or if the period condition is satisfied:- if the person carrying out the activity does so at any time on more than 3 days in any period of 30 days, and for the purposes of the work referred to at (a), apart from driving a vehicle only for children, it is also satisfied if it is done at any time between 2am and 6am and it gives the person the opportunity to have face to face contact with children.

\*\*It is not intended that personal care includes such activities as, for example, parent volunteers helping with costumes for school plays or helping a child lace up football boots.

## **4. DBS Disclosures**

The DBS provides access to Disclosure checks for employment-related and voluntary appointment purposes. Disclosure checks enable schools to make informed decisions about the suitability of candidates for a particular position.

At Hatton Academies Trust, all employees and volunteers have Enhanced DBS checks including those employed before March 2002.

### **4.1 Enhanced Disclosures**

An enhanced level certificate provides information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC), regardless or not of whether they are spent under the Rehabilitation of Offenders Act 1974, plus any approved information held by the police which a chief officer reasonably believes to be relevant and considers ought to be disclosed. The law allows for certain old and minor matters to be filtered out. An Enhanced Disclosure with Barred List Check, allows an additional check to be made as to whether the person appears on the children's barred list for people who are working or seeking to work in regulated activity with children.

Upon completion, a DBS certificate will be sent directly to the employee. Employees are required to provide the Trust with sight of their DBS Certificate for verification before commencement of employment. Photocopies or scanned copies cannot be accepted.

## **5. Update Service**

The Update Service is an online subscription service provided directly by the Disclosure & Barring Service that enables an employee to keep their standard and enhanced DBS certificates up-to-date. It also allows employers to check a certificate online, with employee consent.

All Hatton Academies Trust employees must subscribe to the Update Service and give the Trust continued consent to carry out checks for the duration of their employment, to establish that the information released on the DBS certificate is current.

The Trust will notify employees of their certificate number as soon as it is available. Employees will then have 30 calendar days to subscribe to the Update Service. Support and advice for this process is available from the Trust HR team.

Once an update service subscription is in place, the DBS will keep the employee's DBS certificate up to date by regularly searching to see if any new information has come to light since its issue. If new information is identified when they carry out the checks, employees will receive a letter notifying them of the change and what they should do next. The Trust will carry out an annual Status Check through the update service.

The annual subscription fee for the update service will be refundable by the Trust for the duration of an employee's employment. However, in the event that an employee fails to maintain the subscription, a new DBS application will be made 3 years after the original DBS certificate is issued and the Trust reserves the right to reclaim additional fee costs incurred from the employee, given the increased cost to the Trust when an update service subscription lapses.

Volunteer subscriptions are free of charge but if a volunteer moves from a volunteer position to a paid position of employment, they will need to apply for a new DBS check, rejoin the update service and pay the annual fee (refundable by the Trust for the duration of their employment).

For current Terms and Conditions of the Update Service please refer to <https://www.gov.uk/government/publications/dbs-update-service-applicant-guide/dbs-update-service-applicant-guide>

## **6. DBS checks required by Hatton Academies Trust**

### **6.1 Employees**

Enhanced DBS clearance is required for all employees and will be obtained on their behalf by the Trust. For most employees, an annual Barred List check will also be required as the majority of staff and volunteers will be engaging in regulated activity.

### **6.2 Volunteers**

In accordance with Keeping Children Safe in Education Guidelines, the treatment of volunteers within Trust academies under this guidance depends on whether or not the activities undertaken by the volunteer qualify as regulated activity (see definition in section 3). The Trust recognises its legal obligation not to request barred list information on a supervised volunteer.

#### **a) Volunteers in Regulated Activity**

will require an enhanced DBS certificate (including barred list information).

#### **b) Volunteers not in Regulated Activity**

the Trust may obtain an enhanced DBS certificate (not including barred list information).

For volunteers who are not in regulated activity, the Trust will undertake (and document) a risk assessment and use its professional judgment and experience, taking account of the following when deciding whether an enhanced DBS certificate is necessary:

- The nature of the work with children
- what the Trust knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers
- Whether the volunteer has other employment / voluntary activities and references can advise on suitability
- Whether the role is eligible for an enhanced DBS check

The Trust will determine whether a volunteer is supervised and the appropriate level of supervision. To be considered to be supervised the supervision must be:

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

### **6.3 Chair of the Board of Trustees / Directors**

Enhanced DBS checks Chairs of the Board of Trustees / Directors in Academy Trusts must go through the Department for Education (DfE) in order that the Secretary of State for Education can countersign them. This is a requirement of paragraph 20(5) in part 4 of the Schedule to the 2014 independent school standards to which Academy Trusts and Free Schools must adhere.

All new chairs of trustees require a new enhanced DBS certificate, regardless of positions held previously at a different trust. Only chairs of trustees with an enhanced DBS certificate from the same school prior to converting to an academy trust are exempt provided that they have not had a break in service as Chair of over 3 months.

This principle applies to the chair of trustees in both a single and multi-academy trust. The countersignature must be sought prior to commencement as Chair.

Guidance on how to get a countersigned DBS check is available here:-

<https://www.gov.uk/guidance/enhanced-dbs-disclosure-checks-for-chairs-of-academy-trusts>

## 6.4 Trust Members, Directors and Local Governing Bodies

In accordance with the requirements set out in part 4 of the schedule to the Education (Independent Schools Standards) Regulations 2014, and Keeping Children Safe in Education, All Trust Members, Directors and Local Academy Governors require:-

- An enhanced DBS check (and barred list check where they are engaging in regulated activity)
- Section 128 Direction Check
- Checks to confirm identity (included as part of the DBS check)
- Checks to confirm their right to work in the UK
- Any other checks deemed necessary where the Trustee has lived or worked outside the UK (this may be through a certificate of good conduct from the embassy of the country where they lived or worked).

## 6.5 Visitors

The Trust does not have the authority to request DBS checks and barred list checks, or ask to see DBS certificates, for visitors to academy premises (for example children's relatives or other visitors attending a sports day). Principals should use their professional judgement about the need to escort or supervise visitors. Please refer to the Trust's Visitor Policy for further information and guidance.

## 6.6 Trainee/Student teachers

Where teacher/student teachers are employees of the Trust, the Trust will ensure that all necessary checks are carried out as for any other employee. As trainee teachers will be engaging in regulated activity, an enhanced DBS certificate (including barred list information) will be obtained.

Where trainee teachers are fee-funded and placed by a training provider within a Trust Academy, it is the responsibility of the initial teacher training provider to carry out the necessary checks. Individual academies should obtain written confirmation from the provider that it has carried out all pre-appointment checks that the Trust would otherwise be required to perform, and that the trainee has been judged by the provider to be suitable to work with children. Academies should use this information to inform its own risk assessment of a trainee's suitability to work with children, particularly in circumstances where the trainee has



a criminal record which may affect their suitability to work with children. In the event of a disagreement between an Academy and the training provider over a trainee's suitability, the Trust's decision will be final.

## **6.7 Contractors**

Any contractor, or any employee of the contractor, who is to work at a Trust Academy, must be subject to the appropriate level of DBS check. Contractors engaging in regulated activity will require an enhanced DBS certificate (including barred list information). For all other contractors who are not engaging in regulated activity, but whose work provides them with an opportunity for contact with children during their work, an enhanced DBS check (not including barred list information) will be required.

Under no circumstances will a contractor in respect of whom no checks have been obtained be allowed to work unsupervised, or engage in regulated activity. The Academy Principal is responsible for determining the appropriated level of supervision depending on the circumstances. If an individual working at a Trust Academy is self-employed, the Trust will obtain 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 at the Trust Academy site.

## **6.8 Supply Teachers / Staff**

The Principal must obtain written notification from any agency or third-party organisation they use for supply staff that the organisation has carried out the same checks on an individual who will be working at the Academy, that the Trust would otherwise perform for an employee (ie enhanced DBS, identity, Barred List check, qualifications and QTS, prohibition check, right to work in the UK, satisfactory references, Childcare Disqualification Regulations and where applicable overseas police check).

In respect of the enhanced DBS certificate, written notification that confirms the certificate has been obtained by either the employment business or another such business will be required.

The Academy must check that the person presenting themselves for work is the same person on whom the checks have been made (ie a photo ID document must be presented on arrival at the Academy).

## **6.9 Consultants and Inspectors**

Consultants and Inspectors must have their enhanced DBS clearance with them and a letter/document from the appropriate authority to prove their status before being given unsupervised access to children. Photo ID may also be required.

## **6.10 Local Authority staff and other organisations**

For Local Authority staff and those from other organisations working with the Trust confirmation of DBS clearance or verification of Local Authority status must be obtained and

checked with the relevant member of staff they are visiting **before** they are given unsupervised access to children. The Senior Leadership Team of the Academy will ensure that all organisations working within the Academy meet these requirements and these are confirmed in writing.

## 6.11 Peripatetic staff

Peripatetic staff are employed by the Northamptonshire Music and Performing Arts Trust or similar independent organisations and are covered by 6.10 above. Their DBS clearance details are kept on the Academy's approved visitor list.

## 6.12 Candidates on interview

The Trust asks all candidates to bring proof of identity and confirmation from their current employer that they have enhanced DBS clearance. If these are provided and checked as being in order, the candidate may walk around the site unaccompanied for interviews and will be classed as an 'Approved Visitor'. If this is not the case the candidates will be given supervised access only to the academy site.

## 6.13 Other visitors

Other visitors with access to children such as school photographers and trainers must also have a current enhanced disclosure either provided by the employing organisation with proof of identity or obtained by the Trust.

If the visitor is not able to meet these requirements, then supervised access only to the site and its pupils will be given. Such visitors will be accompanied at all times by a member of staff. For full details of visitor procedures please refer to the Trust's Visitor policy.

The Trust makes a determined effort to keep unauthorised adults from entering Trust sites and its buildings. Staff are expected to challenge any adult seen without an Academy 'Visitor' badge, or an adult with a red visitors badge who is not supervised. The Trust's security systems aim to make unauthorised entry to the buildings as difficult as possible.

## 7. Out of school hours and Extended School

Any person involved in delivering any activity to children or vulnerable adults on a trust academy site out of school hours must have had an Enhanced DBS disclosure within the past three years. Evidence of enhanced disclosure must be sought before the activity is planned and agreed to take place. This includes:

- after school clubs and events organised by a trust academy or Home School Association / PTA (responsibility for obtaining disclosure lies with the Academy or HSA/PTA)
- community school type activities where other schools come to an academy to take part in a collective activity (e.g. School sports co-ordinator activities and competitions). Responsibility for disclosure lies with the Trust employee organising the activity.

- activities delivered by external organisations who have hired the trust academy as a venue for their activity (e.g. Lettings). Responsibility for obtaining disclosure lies with the Academy employee responsible for the management of lettings.

All external organisations will be responsible for the cost of the enhanced disclosure. The Trust will only routinely fund disclosures for its employees, Members / Directors / Local Governors and home school association/PTA members.

## **8. Pupils Offsite**

### **8.1 Residential trips and visits**

Pupils must be accompanied by the academy staff at all times. Where this is not practical or pupils being given free time which is unsupervised this must be agreed with the Trips Co-ordinator and parents of the pupils and risk assessed in documentary form. Where pupils are with staff from other organisations and they require unsupervised time with students as part of the visit, confirmation of enhanced DBS clearance for such staff must form part of the visit procedures and risk assessment.

### **8.2 Pupils on regular visits to college/other schools**

The trust academy will check with the receiving school/college that their DBS requirements meet the high standards required by Hatton Academies Trust. The Principal/Vice Principal will ensure that a list of these institutions and confirmation of their DBS arrangements are kept with the central record.

### **8.3 Pupils in taxis**

Where pupils travel in taxis arranged by a trust academy e.g. pupils being transported to school, pupils in care, or on hospital out-reach, the trust academy will ensure that the taxi company has Enhanced DBS clearance for its drivers or will obtain them on their behalf. The Principal / Vice Principal will ensure that this list is up to date.

### **8.4 Alternative Provision**

Where an Academy places a pupil on roll in a setting of alternative education provision on a full or part-time basis, the Academy continues to be responsible for the safeguarding of that pupil. The Principal should obtain written confirmation from the alternative provider that appropriate safeguarding checks have been carried out on individual working at the establishment (ie those checks that the Trust would otherwise perform in respect of its own staff).

## **9. Work Experience**

Schools and colleges organising work experience placements should ensure that the placement provider has policies and procedures 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. The Trust will consider the specific circumstances of the work experience. Consideration must be given in particular to 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 on work experience will be:

- unsupervised themselves; and
- providing the teaching/training/instruction frequently (more than three days in a 30 day period, or overnight).

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 Trust could ask the employer providing the work experience to ensure that the person providing the instruction or training is not a barred person.

The Trust are not able to request an enhanced DBS check with barred list information for staff supervising children aged 16 to 17 on work experience.

If the activity undertaken by the child on work experience takes place in a 'specified place', such as a school or college, 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.

## **10. When may a Disclosure not be necessary?**

It is not necessary to obtain a DBS disclosure for visitors who will only have contact with the children on an ad hoc or irregular basis for short periods of time, or secondary pupils undertaking voluntary work or work experience in other schools. However, it is required practice that visitors sign in and out, and are escorted whilst on the premises by a member of staff or appropriately vetted volunteer.

The following are examples of when a DBS disclosure is not usually required

- Visitors who have business with the CEO, Principal or other staff or who have brief contact with students in the presence of a teacher. Such visitors should not be allowed to wander freely and unescorted on the school site.
- Visitors who come on site only to carry out emergency repairs, ad hoc repairs or to service equipment occasionally and where this work is undertaken during school holiday periods when there are no students on site.
- Secondary pupils on short-term work experience placements as part of Key Stage 5 work experience (see work experience in Section 9 above).
- Pupils from other schools on KS4 work experience in or from other schools or nursery classes.

- Pupils undertaking work in school as part of a voluntary service, citizenship or vocational studies
- Pupils from other schools in connection with a short careers or subject placement.
- Volunteers or parents who accompany staff and pupils on one off outings or trips that do not involve an overnight stay, or who help out at one off specific events e.g. sports days or music festivals.
- Parents of pupils participating in Sports Days

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

Individuals who have lived or worked outside the UK must undergo the same checks as all other staff, volunteers and Directors / Trustees. In addition, the Trust must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered (eg an overseas police check or certificate of good conduct from the embassy).

There is no requirement for a school to carry out checks for events that may have occurred outside the UK if, during a period which ended not more than three months before the person's appointment, the applicant has worked:

- In a school in England in a post:
  - o which brought the person regularly into contact with children or young persons; or
  - o to which the person was appointed on or after 12th May 2006 and which did not bring the person regularly into contact with children or young persons; or
- in an institution within the further education sector in England, or in a 16-19 Academy, in a post which involved the provision of education which brought the person regularly into contact with children or young persons.

All other pre-appointment checks must still be completed, including where the individual is engaging in regulated activity, a Barred List Check. The employee will be required to complete an enhanced DBS application and the Trust will undertake an ongoing, continuous and dynamic risk assessment of all staff during their employment.

Additional checks include, but are not limited to:

- criminal records checks for overseas applicants
- obtaining a letter of professional standing (for teaching staff) from the professional regulating authority in the country in which the applicant has worked.

Where available, such evidence can be considered together with information obtained through other pre-appointment checks to help assess their suitability. Where this information is not available the Trust will seek alternative methods of checking suitability and or undertake a risk assessment that supports informed decision making on whether to proceed with the appointment.

Although sanctions and restrictions imposed by another regulating authority do not prevent a person from taking up teaching positions in England, the Trust will consider the circumstances that led to the restriction or sanction being imposed when considering a candidate's suitability for employment.

Some overseas qualified teachers can apply to the Teaching Regulation Agency (TRA) for the award of qualified teacher status (QTS) in England.

For further details the DBS provides an overseas Information Service at [www.gov.uk](http://www.gov.uk). In cases where a criminal record check is not possible, particular care should be taken with the other required checks, especially those of identity, qualifications and satisfactory references. As outlined in the School Staffing (England) Regulations 2009, the Chief Executive Officer must ensure that these checks are amongst those which must have been undertaken before an appointment is made.

## 12. Skilled Worker Visa Applicants

Skilled Worker visa applicants who are applying for a post in an occupation defined by the relevant Standard Occupational Classification (SOC) code, will need to provide a criminal record certificate from any country they have lived for 12 months or more in the 10 years before their application, while aged 18 or over, at the time of the visa application. Failure to do so may result in refusal of the visa application being refused. Further Information and: Relevant SOC codes can be found on the Gov.uk website.

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants/guidance-on-the-application-process-for-criminal-records-checks-overseas>

## 13. Action if a DBS check shows a criminal record (conviction, caution, reprimand or bindover)

An applicant's suitability should be judged in the light of the results of all the relevant pre-appointment checks carried out on him or her. The fact that a person has a criminal record does not automatically make him or her unsuitable for work with children. The Trust Chief Executive Officer (CEO) and Director of Finance & Operations have delegated authority from the Board of Directors to a make a judgement about suitability, taking into account only those offences which may be relevant to the particular job in question. A risk assessment should be completed (Appendix 1).

As part of this risk assessment, the CEO / Director of Finance and Operations will consider convictions against the Childcare (Disqualification) Regulations 2009, which may preclude potential employees from working with children under 8 years of age.

In deciding the relevance of convictions a number of points should be considered:

- i) **The nature of the offence:** In general, convictions for sexual, violent or drug related offences will be particularly strong contra-indications for work in a Trust Academy

- ii) **The nature of the appointment:** Often the nature of the appointment will help to assess the relevance of the conviction. For example, serious sexual, violent, drug or drink offences would give rise to particular concern where a position was one of providing care. Driving or drink offences would be relevant in situations involving transport of children;
- iii) **The age of the offence:** Offences which took place many years in the past may often have less relevance than recent offences. However, convictions for serious violent or sexual offences or serious offences involving substance abuse are more likely to give cause for continuing concern than, for instance, an isolated case of dishonesty committed when the person was young. The potential for rehabilitation must be weighed against the need to protect children;
- iv) **The frequency of the offence;** A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.

#### 14. Risk Assessment

A risk assessment (Appendix 1) should be undertaken where a visitor, volunteer, parent or other stakeholder working with or supervising students has no DBS disclosure and where the work cannot be reasonably delayed. A risk assessment will also take place if the DBS return shows a criminal record. In undertaking this risk assessment, the CEO or Director of Finance & Operations should take account of the following factors:

- What the academy knows about the person, including informal and formal information offered by staff, parents or other volunteers
- Whether the person is well known by others in the local or academy community who are likely to be aware of behaviour that could give cause for concern
- Whether the person has other employment, or undertakes voluntary activities where referees can advise on suitability
- A clear Barred List check must be in place and official photo identification provided (e.g. driving licence or passport) in order that date of birth and surname can be verified
- The nature of the work being undertaken
- Appropriate controls and supervision arrangements that can be implemented

#### 15. Commencing employment prior to receiving Disclosure information

Where a DBS disclosure is required, it should be obtained before an individual begins work and the request for a DBS disclosure must be submitted in advance of the individual commencing in post. The CEO has discretion to allow an individual to begin work within the Trust pending the receipt of the Enhanced DBS Disclosure but must ensure that the individual

is appropriately supervised and that all other checks, including Barred List check and a full risk assessment has been completed.

### **15.1 Supervision**

Appropriate supervision for individuals who start work prior to DBS clearance should reflect what is known about the person concerned, their experience, the nature of their duties, and the level of responsibility they will carry. For those with limited experience and where references have provided limited information the level of supervision required may be high. For those with more experience and where the references are detailed and provide strong evidence of good conduct in previous relevant work a lower level of supervision may be appropriate. For all staff without completed DBS Disclosures it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision should be reviewed regularly, (ie at least every two weeks) until the DBS Disclosure is received and assessed as satisfactory.

### **15.2 Where a DBS Disclosure indicates cause for concern**

In circumstances where a DBS disclosure indicates cause for concern, the member of staff must be immediately withdrawn from the trust academy pending further enquiries. In these circumstances the CEO and Academy Principal will confer. The offer of employment to the individual and any subsequent employment arising from the offer will be conditional and subject to a Disclosure check that is satisfactory to the CEO. This check should normally be received during the employee's probationary period. Where DBS clearance is not returned during this period, employment can only continue if the probationary period is extended and the supervision arrangements remain in place.

## **16. Information Sharing**

The Trust has 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. The DBS will consider whether to bar the person. Referrals should 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.

## **17. The DBS Code - obligations**

17.1 As the Trust's recipient of Disclosure information, the CEO on behalf of the Board of Directors shall:

- Observe guidance issued or supported by the Disclosure & Barring Service ("The DBS") on the use of Disclosure information- and, in particular, recipients of



Disclosure information shall not unfairly discriminate against the subject of Disclosure information on the basis of conviction or other details revealed.

17.2 In the interest of the proper use of Disclosure information and for the reassurance of persons who are the subject of Disclosure information, the Chief Executive Officer shall:

- Have a written policy statement on the recruitment of ex-offenders, so that a copy can be given to all applicants for positions where a Disclosure will be requested (see below);
- Ensure that a body or individual who request applications for Disclosures have a written policy and, if necessary, provide a model for that body or individual to use.

17.3 In order that persons who are, or who may be, the subject of Disclosure information are made aware of the use of such information and shall be reassured, the CEO shall:

- Ensure that application forms for positions where Disclosures will be requested contain a statement that a Disclosure will be requested in the event of a successful application, so that applicants are aware of the situation;
- Include in application forms or accompanying material a statement to the effect that a criminal record will not necessarily be a bar to obtaining a position in the Trust, in order to reassure applicants that Disclosure information will not be used unfairly;
- Discuss any matters revealed in Disclosure information with the person seeking the position before withdrawing an offer of employment;
- Make every subject of a Disclosure aware of the existence of this Code of Practice, and make a copy available on request; and
- In order to assist staff to make appropriate use of Disclosure information in reaching decisions, make available guidance in relation to the employment and fair treatment of ex-offenders and to the Rehabilitation of Offenders Act 1974.

## **18. Handling the Disclosure information**

The CEO as the Recipient of Disclosure information must manage disclosure information in line with the requirements of the Police Act 1997 and data protection regulations, specifically they:-

- Must ensure that Disclosure information is not passed to persons not authorised to receive it under section 124 of the Act. Under section 124, to be unauthorised is an offence;
- Must ensure that Disclosures and the information they contain are available only to those who need to have access in the course of their duties;

- Must securely store Disclosures and the information that they contain;
- Should retain neither Disclosures nor a record of Disclosure information contained within them for longer than is required for the particular purpose. In general, this should be no later than 6 months after the date on which recruitment or other relevant decisions have been taken, or after the date on which any dispute about the accuracy of the Disclosure information has been resolved this period exceeded only in very exceptional circumstances which justify retention for a longer period

## **19. Policy Statement: Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information**

- 19.1 As an organisation using the Disclosure & Barring Service (DBS) to help assess the suitability of applicants for positions of trust, Hatton Academies Trust complies fully with the DBS code of practice regarding the correct handling, use, storage, retention and disposal of disclosures and disclosure information. It also complies fully with the obligations under the Data Protection Act 2018, the General Data Protection Regulations (GDPR) and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure Information and has a written policy on these matters which is available to those who wish to see this on request.
- 19.2 Storage and Access - Disclosure information should be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.
- 19.3 Handling in accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom Disclosures or Disclosure Information has been revealed. It is a criminal offence to pass this information to anyone who is not entitled to receive it.
- 19.4 Usage - Disclosure information is only used for the specific purpose for which it was requested and for which the applicants' full consent has to be given.
- 19.5 Retention - Once a recruitment (or other relevant) decision has been made, we do not keep Disclosure information for any longer than is necessary. This is generally for a period of up to 6 months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than 6 months, we will consult the DBS about this and will give full consideration to the Data Protection and Human Rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.
- 19.6 Disposal - Once the retention has elapsed, we will ensure that any Disclosure information is immediately destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction Disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). We will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure. However, notwithstanding the above, we may keep a record of the date of issue of the Disclosure, the name of the subject, the type Disclosure requested, the

position for which the Disclosure was requested, the unique reference number of the disclosure and details of the recruitment decision taken.

## 20. Policy Statement on the Recruitment of Ex-offenders

- 20.1 As an organisation using the Disclosure & Barring Service (DBS) to assess applicants' suitability for positions of trust, Hatton Academies Trust complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of a conviction or other information revealed.
- 20.2 The Trust is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependents, age, physical/mental disability or offending background.
- 20.3 We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates. We select all candidates for interview based on their skills, qualifications and experience.
- 20.4 A Full Enhanced Disclosure is required for **all posts** in the Trust. Our application pack contains a statement that an Enhanced Disclosure will be requested in the event of the individual being offered the position.
- 20.5 The Rehabilitation of Offenders Act 1974 provides that if a convicted person completes a specific period without being convicted of further offences the conviction may be regarded as being 'spent'. These sentences do not have to be revealed and may not be used as grounds for exclusion from employment. However, jobs that involve work with children and vulnerable adults are exempt from the provisions of the Act. Disclosure of convictions, either by the applicant or as a result of the DBS check, will not necessarily exclude an individual from employment. Employment decisions will have regard for the nature of the offence committed.
- 20.6 We ensure that all those in the Trust who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.
- 20.7 At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
- 20.8 We make every subject of a DBS Disclosure aware of the existence of the DBS Code of Practice and make a copy available on request.
- 20.9 We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment.

- 20.10 Having a criminal record will not necessarily bar you from working with us. This will depend on the nature of the position and the circumstances and background of your offences. The CEO will discuss the situation with the Chair of the Board of Directors before making a decision. Information will be treated sensitively and only disclosed to those people who require this information to make these decisions. The decision is final and will be noted in the Academy's recruitment records.

**Appendix 1**  
**RISK ASSESSMENT**

1. Employee starting work before the receipt of the DBS clearance  }
2. DBS certificate shows a declaration  }
3. Employee was born abroad or previously worked abroad  }

<b>Name of Employee/volunteer</b> <i>Click here to enter text.</i>	<b>Post/role in &amp; name of Academy</b> <i>Click here to enter text.</i>
<b>Start date/proposed start date</b> <i>Click here to enter text.</i>	<b>Person(s) making/made the appointment</b> <i>Click here to enter text.</i>
<b>1. Employee starting work before the receipt of the DBS Clearance</b>	
The nature of the appointment	<i>Click here to enter text.</i>
Details of pre-employment checks completed	<i>Click here to enter text.</i>
<b>2. DBS Certificate shows a declaration</b>	
The nature of the offence	<i>Click here to enter text.</i>
The age of the offence (s)	<i>Click here to enter text.</i>
The frequency of the offence(s)	<i>Click here to enter text.</i>
<b>3. Employee was born abroad or previously worked abroad</b>	
<p>In the 3 months prior to appointment, has the applicant worked</p> <ul style="list-style-type: none"> <li>• In a school in England in a post which brought them into regular contact with children <input type="checkbox"/></li> <li>• In an institution within the FE sector in England or in a 16-19 Academy, in a post which involved the provision of education which brought the person regularly into contact with children or young people <input type="checkbox"/></li> <li>• Clear Barred List check &amp; DBS check received <input type="checkbox"/></li> <li>• Good reference received from previous employer <input type="checkbox"/></li> <li>• Letter of professional standing from the professional regulating authority <input type="checkbox"/></li> </ul> <p style="text-align: right;">(please tick)</p>	
<p><i>Overseas Police Check Required</i> <input type="checkbox"/> yes <input type="checkbox"/> no</p>	
Decision made & names of staff and/or Directors involved in the decision	

Signed \_\_\_\_\_ Date \_\_\_\_\_

**NB. Only the Chief Executive Officer or Director of Finance & Operations have delegated authority from the Trust Board to sign and agree this form on their behalf.**