

DBS POLICY

Background

At The Learning Trust, we are committed to the welfare of our students, staff and visitors. Ensuring the safety of our community is of paramount importance to us and this policy reflects our dedication to creating a safe environment where pupils are cared for appropriately and safeguarded from harm.

Disclosure and Barring Service (DBS) checks replaced Criminal Record and Background (CRB) checks in 2012. DBS checks enable The Learning Trust to ascertain an individual's suitability to work with children and in an educational environment.

This policy has been created to inform staff, pupils and parents of the measures taken by The Learning Trust to ensure all employees and pupils are safe and cared for.

In addition, it outlines our commitment to meeting legislative requirements, DfE standards, data protection responsibilities and Ofsted guidance as outlined in the Policy.

1. Organisation

1.1. Duties of the Board of Trustees

The Board of Trustees, in consultation with the CEO, Headteachers and Local Governing Bodies, will:

- 1.1.1. Ensure familiarity with requirements of the appropriate legislation and codes of practice.
- 1.1.2. Create and monitor a management structure responsible for safeguarding pupils and ensuring the correct use of DBS checks in The Learning Trust.
- 1.1.3. Periodically assess the effectiveness of the Policy and ensure any necessary changes are made.

1.2. Duties of the Headteachers

- 1.2.1. The Headteachers have the general responsibility for the day-to-day implementation of the DBS Policy throughout The Learning Trust but may delegate these responsibilities to some extent.
- 1.2.2. The Headteachers will take all reasonably practicable steps to ensure the DBS Policy is implemented through the heads of the appropriate departments and other members of staff.
- 1.2.3. The Headteachers will designate the HR Officer to be responsible for the day-to-day implementation of the DBS Policy. This person will also be the designated contact with the DBS service where necessary.

1.3. Duties of Supervisory Staff / Department Heads

1.3.1. Supervisory Staff will take a keen interest in The Learning Trust DBS Policy and assist in ensuring all staff, students and visitors comply with its requirements.

1.4. Duties of all members of staff

1.4.1. All staff will familiarise themselves with the DBS Policy and aspects of their work related to safeguarding.

2. Legislative requirements

2.1. The Learning Trust is committed to ensuring it meets all requirements pertaining to safeguarding and background checks as prescribed in the following (the list is not exhaustive and other guidance, legislation and regulations may form part of The Learning Trust policy):

2.1.1. The DBS Code of Practice.

2.1.2. The Safeguarding Children and Safer Recruitment in Education DfE guidance.

2.1.3. The Data Protection Act.

2.1.4. The GDPR (General Data Protection Regulation).

2.1.5. The Freedom of Information Act 2000.

2.1.6. The Education Act 2002.

2.1.7. The Keeping Children Safe in Education DfE guidance.

2.1.8. Childcare Disqualification Act 2006 and Regulations 2018

3. Procedures

3.1. Potential staff members

3.1.1. All employment at The Learning Trust is subject to a satisfactory DBS check. For the avoidance of doubt, if any potential staff member has worked or lived in a country outside of the UK in the previous five years, a DBS check from that country will be required.

3.1.2. All advertisements for positions at The Learning Trust include the requirement for a DBS check.

3.1.3. All job application forms sent to candidates contain a requirement to admit any criminal convictions, warnings or cautions.

3.1.4. All candidates invited to interview are required to provide evidence of identity, address and their right to work in the UK.

3.1.5. Successful applicants are required to complete a DBS application as soon as practicable after the interview process.

3.1.6. Applicants for teaching and education support positions are required to produce original certificates of qualifications.

3.1.7. An enhanced DBS check is required for all successful job applicants who are: teachers, education support staff, ICT and administrative staff or maintenance and cleaning staff who will be taking part in regulated activity. An enhanced check includes a check on local police records. Where these records contain additional information that may be relevant to the post, the police may release information for inclusion in an enhanced check.

3.1.8. These enhanced DBS checks will be received via a secure online portal to protect all parties.

3.1.9. DBS certificates are sent directly to the applicant's home address.

3.1.10. In a very small number of circumstances, this additional information may be sent under separate cover to the counter signatory and will not be revealed to the applicant.

3.1.11. Written references for teaching staff are always requested in support of applicants selected for interview and these are always followed up by contact with the previous employer for the successful applicant.

3.2. Supply staff

The Learning Trust requires enhanced DBS checks to be carried out in respect of supply teachers, instructors and other education support professionals. Supply teachers must bring proof of identity on their first day of work at The Learning Trust. Supply teacher agencies are required to confirm that supplied staff members have relevant, clear and current enhanced DBS checks for regulated activity.

3.3. Governors/Trustees

The Learning Trust requires enhanced DBS checks for regulated activity to be conducted in respect of Governors and Trustees.

3.4. Visitors

3.4.1. Occasional visitors to The Learning Trust are not permitted unsupervised access to students and therefore DBS checks are not required.

3.4.2. Scheduled visitors engaged in regulated activity are subject to enhanced DBS checks.

3.5. Contractors working on school premises

3.5.1 Schools should ensure that any contractor, or any employee of the contractor, who is to work within the Learning Trust, has been subject to the appropriate level of DBS Check and that adequate supervision is in place whilst on the premises.

3.5.2 Contractors engaging in regulated activity will require an enhanced DBS Check (including a Children's Barred List Check). For all other contractors who are not engaging in regulated activity, but whose work provides them with an opportunity for regular contact with children, an enhanced DBS Check (not including a Barred List Check) will be required.

3.5.3 Under no circumstances should a contractor for whom no checks have been obtained be allowed to work unsupervised or engage in regulated activity.

3.5.4 If a contractor working at a school is self-employed, the Learning 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.

3.5.5 Where a school uses off site educational providers, the school must hold written assurances that all checks including DBS Checks have been carried out (via a Letter of Assurance).

3.5.6 Schools should always check the identity of contractors and their staff on arrival at the school and ensure that signing in arrangements are in place and are adhered to.

3.5.7 For contractors visiting the school on a regular basis, details must be noted on the school's Single Central Record (SCR) and cross referenced with a 'letter of assurance' from the employer to confirm that other required checks have been undertaken. Where contractors only make occasional visits, it is not necessary to add their details to the SCR.

3.5.8 In line with the Learning Trust's policy contracted staff must have their DBS renewed every 10 years. Evidence of this renewal must be presented to the HR team within each school

3.6. Applicants with recent overseas residence

3.6.1. This includes all applicants, whether British nationals or not, with recent periods of overseas work or residence, under normal circumstances this relates to a period of 5 years.

3.6.2. The HR Officer is responsible for ensuring all applicants with a record of overseas work have work permits if required.

3.6.3. Police clearance to work with pupils is also required from their home country.

3.6.4. These checks are in addition to the enhanced DBS checks required for all applicants.

3.7. PGCE and Qualified Teacher Status

3.7.1 University-led PGCE students are required to complete an Enhanced DBS Check when applying for their place at University and are asked to provide a copy of their DBS check when carrying out their placement at a school within The Learning Trust, together with a letter of assurance from their University.

3.7.2 PGCE Students (School Direct - Salaried) apply for a DBS check through their employing school, whose responsibility it is to ensure that the required checks have been carried out. Once complete, the school should be asked to provide a letter of assurance to confirm that the student applying for a placement at one of the schools in The Learning Trust has obtained satisfactory DBS clearance.

3.7.3 If a school within The Learning Trust allows an individual to start work in regulated activity before the DBS certificate is available, the school must ensure that the individual is appropriately supervised and that all other checks including a separate barred list check has been completed.

3.8 DBS checks for individuals carrying out Work Experience placements at The Learning Trust on a short-term basis (less than 15 working days)

3.8.1 A DBS check is only required if:

- the individual is aged 16 or over
- the placement involves regular contact with children as this is considered to be a regulated activity. Consideration will be given as to whether a DBS enhanced check should be requested for the person in question.

3.8.2 If a request is made for general work experience in one of the Learning Trust schools, and the person is doing the work experience for their own benefit any DBS check obtained should be paid for by the individual. Where the individual will be unsupervised and will be working in regulated activity a DBS check is required, however, if the individual will always be supervised (within reason) then a DBS check for a work experience applicant will not usually be required. The details of an individual undertaking work experience do not need to be included on the school's Single Central Register.

3.9 Staff working with children aged 8 or under

3.9.1 All staff in schools are covered by the DBS arrangements but the Disqualification Arrangements are additional safeguarding requirements for school staff working with children under the age of 5 and staff working with children aged 8 or below in before and after school settings.. On the application form new staff will be required to indicate if they have been disqualified for working with children under the age of 8.

3.9.2 Existing staff will complete annually a declaration form that there has been no change to their DBS status and have not been disqualified to work with children aged 8 or under.

4. Existing checks

Routine checks are not required under Ofsted guidance. However, the Trust has agreed that a DBS check will be carried out every 10 years for all staff. Additionally, all staff will be required to complete an annual declaration that there has been no relevant change in circumstances relating to their DBS check.

5. Positive Disclosures

- 5.1. All positive disclosures, regardless of the seriousness of the offence/conviction/charge, are subject to an objective assessment.
- 5.2. The Headteacher or designated Deputy will consider the magnitude of any DBS disclosures. If the disclosure relates to a member of the central Trust staffing team it will be reviewed by the CEO.
- 5.3. **Major disclosures** will be discussed with the Headteacher, who in consultation with the CEO will be asked for clearance for the candidate to be rejected.
- 5.4. **Serious disclosures**, those that do not pose a risk to students, will also be discussed with the Headteacher. The designated Deputy will endeavour to ascertain the relevant facts from the individual and to bring the matter to a conclusion. The candidate will be sent a rejection or acceptance letter, in keeping with The Learning Trust procedures.
- 5.5. **Minor disclosures** will be dealt with in a discussion between the candidate and the relevant department head. The designated deputy will recommend to the Headteacher whether to reject or accept the applicant. All minor disclosures relating to Trust central staff should be reviewed by the CEO.
- 5.6. The following considerations will be taken in relation to positive DBS disclosures:
 - 5.6.1. The relevance of the disclosure in relation to the position applied for.
 - 5.6.2. The nature of the offence or other matters revealed.
 - 5.6.3. The length of time since the offence or other matters occurred.
 - 5.6.4. Whether there is a pattern of offending behaviour.
 - 5.6.5. Whether the candidate's circumstances have changed since the offending behaviour or other matters occurred.
 - 5.6.6. Any extenuating circumstances surrounding the offence and explanations offered.
- 5.7. In exceptional circumstances, if an offer is made following a positive disclosure, an employment risk assessment may be completed.

- 5.8. A record of all recruitment decisions following positive DBS disclosures will be kept by the relevant HR Officer using the form provided in Appendix A.
- 5.9. Depending on the circumstances of each case, the Chair of governors may be asked to countersign the form.

6. The recruitment of ex-offenders

- 6.1. Under the Protection of Children Act 1999 and the Criminal Justice and Courts Service Act 2000, The Learning Trust cannot employ persons who may have regular contact with children who are:
 - 6.1.1. Included on the barred list (a list maintained by the Secretary of State for Health of people judged to be unsuitable to work with children).
 - 6.1.2. Subject to a disqualifying order made on being convicted or charged with the following offences against children: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm and/or other serious acts of violence.
- 6.2. The Learning Trust also consider it high risk to employ persons, who may have regular contact with pupils, if they have been convicted of or charged with any of the offences above or serious drug related offences.
- 6.3. The Learning Trust is required to send each applicant its Policy on the Recruitment of Ex-offenders (Appendix B) and a copy of its privacy notice.

7. Record keeping

- 7.1. Disclosure information is kept securely in lockable cabinets with strictly controlled access.
- 7.2. Only those entitled to see this information as part of their duties are permitted access.
- 7.3. In addition, disclosure information will only be passed to authorised personnel who require it in the course of their duties, in accordance with section 124 of The Police Act 1997. **It is a criminal offence to pass this information to anyone who is not entitled to receive it.**
- 7.4. A record will be kept of all those to whom disclosure information has been revealed.
- 7.5. Disclosure information will only be used for the specific purpose for which it was requested and for which the applicant's consent has been given.
- 7.6. The Learning Trust will process all data in accordance with its obligations under the Data Protection Act.

8. Referral to the DBS

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

- The harm test is satisfied.
- The staff member has received a caution or conviction for a relevant offence, or if there is reason to believe the staff member has committed a listed offence.
- The staff member has been removed from working in a regulated activity or would have been removed had they not left school.
- The staff member has been moved to an area of work not in regulated activity.
- The staff member has been suspended.

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

Reviewed by Author February 2021

Reviewed by IR March 2022

Approved by Trustees March 2022

Reviewed by IR March 2023

Approved by the Trustee Board 28 March 2023

Reviewed by IR June 2024

Appendix A

Record of Recruitment Decision

All positive disclosures relevant to child protection, regardless of the seriousness of the offence(s) or other matter revealed, are subject to objective assessment. All sections of this form must be completed and retained on file.

Personal Details		
Date:		
Applicant's name:		
Position applied for:		
Assessment		
Does the applicant meet all the essential criteria for the role, including skills, knowledge and ability?	Yes	No
Is the nature of the offence(s) directly related to the role?	Yes	No
When did the offence(s) occur?	Less than 2 years ago	More than 2 years ago
Is there a pattern of related offences?	Yes	No
Is there a pattern of unrelated offences?	Yes	No
Is the context still relevant today?	Yes	No
Was the offence(s) committed at work?	Yes	No
What level of independence will the role entail?	Close supervision	Minimal supervision
Does the applicant show a determination not to re-offend?	Yes	No
Did the applicant reveal the offence(s)?	Yes	No
What response was given when questioned about the offence(s)?		
Have two references been received?	Yes	No
What information did the referees provide on the candidate's suitability?	Yes	No
Does the applicant constitute a risk?	Yes	No

The Learning Trust Policy on the Recruitment of Ex-offenders

The Learning Trust is required to send a copy of its Policy on the Recruitment of Ex-offenders to all job applicants.

This policy is made available to all candidates at the outset of the recruitment process.

- The Board of Trustees fully complies with the DBS Code of Practice and will not discriminate unfairly against any subject of a disclosure on the basis of conviction or other information revealed.
- The Learning Trust meets the requirements of exempted questions under the Rehabilitation of Offenders Act 1974; all applicants are subject to a DBS check before the appointment is confirmed. This includes details of convictions, cautions and reprimands, as well as spent and unspent convictions. A positive disclosure will not necessarily prohibit a candidate from being offered a position.
- The Learning Trust is committed to the fair treatment of all applicants, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical or mental disability or offending background.
- The Learning Trust promotes equal opportunity and welcomes applicants from a wide range of backgrounds, including those with criminal records.
- Candidates are selected for interview based on their skills, qualifications and expertise.
- All application forms and recruitment notices will contain a statement that a disclosure will be requested if a position is offered.
- All applicants are encouraged to provide details of their criminal record at the earliest stage possible. This may be sent under separate and confidential cover.
- The Learning Trust is committed to ensuring all disclosure information will only be seen by those who require access as part of their duties.
- At interview, or in a subsequent discussion, open and measured discussion will take place on the subject of the offences.
- Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of any offer made.
- Legal advice is available for all involved in the recruitment process to ensure they can identify and assess the relevance and circumstances of offences.
- All recruitment personnel have received appropriate training and guidance in the relevant legislation relating to the employment of ex-offenders.

In conclusion, having a criminal record will not necessarily prohibit anyone from working at The Learning Trust. This will depend on the nature and severity of offences or other matters and their relevance to the position offered.