



# **POLICY ON THE USE OF THE DISCLOSURE AND BARRING SERVICE AND THE RECRUITMENT OF EX-OFFENDERS**

## **CONTROLS ASSURANCE STATEMENT**

Access to the information provided by the Disclosure and Barring Service (DBS) enables Thomas's London Day Schools to make safer recruitment decisions by helping to identify individuals who may be unsuitable for certain work and positions, particularly those involving contact with vulnerable adults and children.

All schools, using the DBS service, are obliged to comply with the DBS Code of Practice. This includes a requirement for a written Policy, which is fully implemented in relation to the Use of the Disclosure and Barring Service and the Recruitment of Ex-Offenders.

The Schools are committed to the creation of an environment, which extends to all their activities, where the differences between individuals, such as gender, race, ethnic origin, nationality, disability, religion, age, sexual orientation or personal characteristics, are accepted and the benefits of diversity are valued. Everyone employed by the Schools are encouraged to understand and support this philosophy in carrying out their day-to-day duties.

## **I. INTRODUCTION**

Thomas's London Day Schools is the Registered (Umbrella) Body for use of the Disclosure and Barring Service (DBS) Disclosure Service and carries out disclosures for the schools within the Thomas's London Day Schools Group.

In common with all organisations using the DBS Disclosure Service, the Schools must comply with the DBS Code of Practice. This requires the Schools to treat all applicants for employment who have a criminal record, fairly and not to discriminate unfairly against the subject of a Disclosure on the basis of conviction or other information revealed.

The Schools apply for Enhanced Disclosures in their capacity as a Registered (Umbrella) Body in respect of successful applicants to qualifying posts and volunteers. Disclosure application forms will require the signatures of both the applicant and the lead/counter-signatory for the Schools.

Legislation indicates which level of security is required for a particular post. The range of positions for which Enhanced Disclosures are available is determined by and set out in the Exceptions Order to the Rehabilitation of Offenders Act 1974.

Enhanced Disclosures will include spent and unspent convictions, cautions, formal reprimands and final warnings and show whether the individual is banned from working with children (by virtue of their inclusion on the children's barred list). Enhanced Disclosures may also contain non-conviction information from local police records.

## **2. SCOPE**

All employees and volunteers working at the schools are within the scope of this Policy.

## **3. PRINCIPLES**

The Schools comply with the DBS Code of Practice and undertake not to discriminate unfairly against any subject of a Disclosure from information received.

The Schools are committed to the fair treatment of their staff and potential staff regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.

People with criminal records applying for jobs will be treated according to their merits and to any special criteria for the post.

Having a criminal record will not, in itself, prevent a person from being appointed to any post, unless the offence bars the person. Where it is felt, however, that a recent or serious offence might mean that a person presents a risk to vulnerable adults or children, then that person will not be appointed.

This policy, which includes information on the recruitment of ex-offenders will be made available to all applicants who apply for posts, which are subject to a Disclosure, on request and at the outset of the recruitment process. (See Appendix 3)

Candidates will be selected for interview based on their skills, qualifications and experience.

The Schools will apply for Enhanced Disclosures for all posts. If an applicant has subscribed to the DBS update service, a check will only be made on this with their consent.

Recruitment advertisements and application forms will contain a statement explaining that a Disclosure will be requested in the event of the individual being offered the position.

Information on criminal records will be requested from applicants called for interview via the Application Form, which can be marked as Confidential to the Head. Information will be shared on a need to know basis only, as part of the recruitment process.

Staff involved in the recruitment process should contact their Head of school, the Principal responsible for HR or the Head of HR for guidance to assist them in identifying and assessing the relevance and circumstances of offences.

Applicants invited for interview will be given the opportunity for open and measured discussion on the subject of offences or other matters that may relate to the position. If an applicant fails to reveal information that is directly relevant to the position sought, any offer of employment from the Schools may be withdrawn.

Every subject of a DBS Disclosure will be made aware of the existence of the DBS Code of Practice and that a copy is available on request.

Any matter revealed in a Disclosure will be discussed with the individual seeking the position before any conditional offer of employment is withdrawn.

Where Disclosure information is sought in relation to an existing employee, in the event that an individual is found to have a criminal record, disciplinary action will not be taken as a matter of course. Only after a full appraisal of the situation, including the risks involved, will disciplinary action be considered.

Disclosures and Disclosure information must be handled, used, retained and disposed of in accordance with the DBS Code of Practice. This is reflected in our procedure for the Security of Disclosures and Disclosure Information. [See Appendix 2]

Where staff have access to criminal record information, on a need to know basis, this information must be maintained as strictly confidential. Breaches of confidentiality will be dealt with through the Disciplinary procedure.

#### **4. LEGISLATIVE FRAMEWORK**

##### The Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act 1974 was introduced to ensure that ex-offenders who have not re-offended for a period of time since the date of their conviction are not discriminated against when applying for jobs.

In order to protect vulnerable groups within society there are a large number of posts and professions that are exempted from the Act.

The Exception Order overrules the employment rights an ex-offender would otherwise have in respect of spent convictions.

##### The Police Act 1977

Part V of the Police Act 1997 includes measures that enable all organisations in England and Wales, irrespective of whether they are likely to ask exempted questions under the terms of the Rehabilitation of Offenders Act, to obtain criminal record information about prospective employees and volunteers.

##### Protection of Children Act and the Criminal Justice and Court Services Act 2000

Under these Acts, it is an offence for any organisation to offer employment that involves regular contact with children (under 18) to anyone who has been convicted of certain specified offences (see Appendix 1) or included on the lists of people considered unsuitable for such work held by the Disclosure and Barring Service. It is also an offence for people convicted of such offences to apply for work with young people.

##### The Protection of Children Act 1999

Provides for regulation of the full range of care and to protect children.

##### General Data Protection Regulation 2018

All Registered Bodies for Disclosure must comply fully with the requirements of the DBS's Code of Practice for the handling and safekeeping of Disclosure information. (See Appendix 2)

Human Rights Act 1998

Disclosure is a fully consensual process, with the applicant agreeing to the check. The applicant is the recipient of the Disclosure, and it is their responsibility to provide the original disclosure to the employer for verification.

**5. MONITORING AND REVIEW**

This policy will be monitored and reviewed by the Head of HR on an annual basis.

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Policy Created:	December 2007	By:	Margaret Tuck, Director of Admin.
Policy Reviewed	January 2020	By:	Christine Tuck, Head of HR
To be reviewed:	January 2021	By:	Christine Tuck, Head of HR

## PEOPLE BANNED FROM WORKING WITH CHILDREN

Under the Protection of Children Act 1999 and the Criminal Justice and Court Services Act 2000, it is a criminal offence for an individual to apply for, accept or continue to work in a regulated position if they are disqualified from working with children. Similarly, an individual, such as a manager, will be committing a criminal offence if they offer or procure work or allow an individual to continue to work with children in the knowledge that they are disqualified from working with children.

The following people are banned from working with children:

- People on the Disclosure and Barring Service Children's Barred List
- People aged 18 or over convicted of certain specified offences against those aged under 18 (or 16 in some instances) and given a hospital or guardianship order or a custodial sentence of 12 months or more. Suspended sentences of 12 months or more are treated as qualifying sentences.

The term 'working with children' covers a number of areas. According to the Guide on the Protection of Children, broadly these are:

**Employment in certain establishments**, which provides functions of various sorts, exclusively or mainly for children, such as schools, children's homes and children's hospitals. All staff, whether primary or secondary carers or ancillary staff are deemed to be primary carers.

**Employment in day care premises**, except where the work takes place in a different part of the premises to where the day care activities are situated, or it occurs during times of the day when children are not being looked after. A cleaner, for instance, who entered the day care premises each day after the children has left, would not be considered to be working with children.

**Caring for, training, supervising or being in sole charge of children.**

**A position where normal duties involve unsupervised contact with children.** This would cover, for example, a minicab firm whose drivers are routinely employed to transport unaccompanied children on a regular basis, but not those who do it on an irregular or one off basis.

**Child employment.** Where the young person is under the age of 16, those responsible for caring for them in the course of their employment would be covered by the definition.

**Positions of influence and control** over children, which could place them at risk.

Juveniles – under 18 years old – should only be banned if a court believes that there is a likelihood of the offender in question committing a further offence against a young person.

Organisations are to refer the names of individuals considered unsuitable for work with children to the Disclosure and Barring Service.

## **THE SECURITY OF DISCLOSURES AND DISCLOSURE INFORMATION**

Thomas's London Day Schools use the DBS Disclosure service to help assess the suitability of applicants for positions of trust and will comply with the DBS Code of Practice in respect of the following areas:-

### **1. STORAGE AND ACCESS**

Disclosure information will not be kept on an applicant's personnel file and will always be kept separately and 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.

### **2. HANDLING**

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 Disclosure or Disclosure information has been revealed and we recognise that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

### **3. USAGE**

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

### **4. RETENTION**

Once the recruitment decision has been made, we do not keep Disclosure information for any longer than is absolutely necessary. This is generally for a period of up to six months, to allow for consideration and resolution of any disputes or complaints.

### **5. DISPOSAL**

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately and suitably destroyed by secure means. While awaiting destruction, Disclosure information will be kept securely in a locked cabinet. 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 will keep a record of the date of the issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested and the unique reference number of the Disclosure. This information is necessary for inclusion in the "Single Central Register" which is a mandatory requirement for the purposes of Ofsted and Ofsted Inspections.

### **6. ADHERENCE TO THE POLICY**

Responsibility for the implementation, monitoring and development of this policy lies with the Head of HR. The Senior HR Advisor, the HR Advisor and Heads of Schools have day-to-day responsibility for the operation of the policy.

### **7. COMPLAINTS**

Any employee who has concern regarding the application of this policy should contact the Head of HR in the first instance.

## **POLICY ON THE RECRUITMENT OF EX-OFFENDERS**

### **I. INTRODUCTION**

Thomas's London Day Schools is an Equal Opportunities employer and as such undertakes to treat all applicants for paid or voluntary positions within the schools fairly and not to discriminate unfairly on the basis of conviction or other information revealed.

The nature of the work of the Schools means that all staff and volunteers will have regular and ongoing contact with children. For this reason it will be necessary to carry out criminal record checks (Disclosures) as part of the recruitment process for all posts within the Schools. The Schools comply with the Disclosure and Barring (DBS) Code of Practice and Part V of the Police Act 1997 for the purposes of assessing applicants' suitability for positions of trust.

The aim of this policy is to ensure that having a criminal record will not necessarily bar any individual from working with the Schools, and that due consideration is given to the nature of the position together with the circumstances and background of any offences. This document should be seen as part of a policy framework designed to ensure safe and fair recruitment and selection procedures throughout the Schools, that includes:

- Recruitment Policy
- Equal Opportunities Policy
- Safeguarding and Child Protection Policy and Procedures

### **2. POLICY**

- 2.1 We are committed to equality of opportunity and our policy is to take every reasonable step to ensure that no-one connected to the Schools receives less favourable treatment than others, on the grounds of race, colour, religion or belief, nationality, ethnic origin, sexual orientation, gender, age, disability, marital status, responsibility for dependants, or unrelated criminal record.
- 2.2 All applicants for posts within the Schools are exempt from the Rehabilitation of Offenders Act 1974 because their duties involve regular contact with children. Applicants will be asked to provide details of their entire criminal record at an early stage of the application process and will need to include all convictions whether spent or unspent. The information provided, will only be seen by those who need to see it as part of the recruitment process. Information about an applicant's criminal record will only be looked at for those who have been short-listed and invited for interview.
- 2.3 We will request an Enhanced Disclosure for all prospective employees. Confirmation of their employment will be subject to a Disclosure, which is satisfactory to us. The Job Advertisement and Application Form will contain a statement that a Disclosure will be requested in the event of the individual being offered the position.
- 2.4 At interview, or under separate discussion, the Schools undertake to ensure an open and measured discussion on the subject of any offences or other matters that might be considered relevant for the position concerned. At interview or when receiving a disclosure, which shows a conviction, we will take into consideration:
  - Whether the conviction is relevant to the position being offered.
  - The seriousness of the offence revealed.
  - The length of time since the offence took place.
  - Whether the applicant has a pattern of offending behaviour.

- Whether the applicant's circumstances have changed since the offending took place.
- 2.5 Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment. We will, however, undertake to discuss any matter revealed in a Disclosure with the subject of that Disclosure before withdrawing a conditional offer of employment.
  - 2.6 We will ensure that all staff involved in the recruitment process are aware of this policy
  - 2.7 We undertake to make this policy available to all applicants who apply for posts with Thomas's London Day Schools.