

# Caroline Haslett Primary School & Faraday Club



## Disclosure and Barring Policy Statement

**Date of Issue:** January 2023

**Date of next review:** January 2024 (or earlier in the event of legislation changes)

**Approved by the Headteacher on:** \_\_\_\_\_

**Signed:** \_\_\_\_\_ (Headteacher) **Date:** \_\_\_\_\_

**Approved by the Governing Board on:** \_\_\_\_\_

**Signed:** \_\_\_\_\_ (Chair of Governors) **Date:** \_\_\_\_\_

# Disclosure and Barring Policy Statement

-  This policy is not intended for use by non-maintained schools. If extracts are used they should be attributed.
-  Foundation and Voluntary Aided Schools can adapt and adopt this policy or use an alternative.
-  This policy is for use by Community and Voluntary Controlled schools. Governing Bodies are asked to adopt this policy. Should a Governing Body wish to adopt an alternative policy please ensure that a copy is supplied providing assurance that it is legally compliant.

<https://www.milton-keynes.gov.uk/schools-and-lifelong-learning>

Date issued: FV2.0 – June 2018  
Review date: In line with legislative changes  
Prepared by: Human Resources

## Foreword

Effective recruitment practices form a crucial part of the protection of Milton Keynes Council's more vulnerable people.

The checks available through the Disclosure and Barring Service are only one aspect of the Council's commitment and procedures to ensuring that those employed in a paid or voluntary capacity are suitable individuals to work with children or vulnerable adults. A recruitment process cannot definitely identify an individual as permanently suitable to work with children or other vulnerable people.

As Sir Michael Bichard has previously indicated –

*“...for those agencies whose job it is to protect children and vulnerable people; the harsh reality is that for a sufficiently devious person is determined to seek out opportunities to work their evil, no-one can guarantee they will be stopped. Our task is to make it as difficult as possible for them to succeed...”*

What is, therefore, required within the Council and amongst its workforce is a continuing culture of vigilance.

## 1.0 Introduction

- 1.1 This document sets out the Council's policy towards the recruitment and retention of people, who wish to work with children and/or vulnerable adults, and who may have a criminal record or pose a risk to these groups. The Council recognises that, subject to certain exceptions, those convicted of criminal offences are entitled to have “the slate wiped clean” after a certain period of time and that employment is an important factor in an individual's rehabilitation.
- 1.2 Under its Comprehensive Equality Policy the Council is fully committed to recruitment on the basis of an objective and systematic assessment of candidates against job related factors. Through the use of fair employment practices and the adoption of this policy, the Council is committed to ensuring that information relating to criminal records is dealt within context and with discretion.
- 1.3 To this end, the Council gives assurances that it will take no account of spent criminal offences except in relation to those occupations exempt from the provisions of the Rehabilitation of Offenders Act 1974 (ROA) and/or where the Council has a duty under other legislation to protect vulnerable groups in the community.
- 1.4 The purpose of this policy is to facilitate the protection of the public and service users, especially children and vulnerable adults as well as Council property /assets/ staff etc. by defining the use of criminal record information in the selection of persons involved in service delivery.

## 2.0 What Is The Policy About?

- 2.1 The policy will apply to those seeking paid or unpaid work with the Council. In addition, certain types of voluntary or seasonal work, fostering and adoption arrangements, student placements, permitted drivers/escorts, elected members, preferred contractors and other regulated positions will also come under the provisions of the policy, particularly where they involve unsupervised contact with children or vulnerable adults. In addition, where there are reasonable grounds, the Council may require existing employees to apply for an up to date criminal record certificate.

## 3.0 Use of Criminal Records

- 3.1 The relevance of criminal records to the workplace is a constantly developing area of employment and the Council will need to review and amend its policies in the light of experience or new legislation. Where, due to changes in legislation, occupational groups become subject to

regulation for the first time, the Council will require existing employees in those groups to obtain a criminal records certificate (known as a Disclosure) under the terms of this policy.

#### **4.0 DBS Policy for Recruitment**

4.1 The Council undertakes not to discriminate unfairly against any subject of a Disclosure check on the basis of conviction or other information revealed.

4.2 We will:

- **Ensure that no candidate commences employment before a DBS Disclosure has been received by the Council.**
- Ask for a DBS Disclosure where required under the Protection of Freedoms Act 2012, Safeguarding Vulnerable Groups Act 2006, or section 12 of the Children Act 2004.
- Ensure where a Disclosure is required that all application forms, job adverts and recruitment briefs will contain a statement that a Disclosure will be requested in the event of the individual being offered the position.
- Undertake at an appropriate level of either Enhanced or Enhanced with a Barred List check.
- Make every subject of a DBS Disclosure aware of the existence of the DBS Code of Practice and make a copy available on request.
- Accept a Disclosure obtained by an applicant from their previous employer in accordance with the protocols established under the DBS Update Service.
- Where a Disclosure is to form part of the recruitment process, require all applicants to provide details of their criminal record at an early stage and we undertake that this information is only seen by those that need to see it as part of the recruitment process
- Ensure that where a DBS Certificate is retained by Milton Keynes Council, the applicant / employee will complete a consent form giving the Council permission to retain the document.
- Undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of appointment.
- Ensure that sensitive personal information is held securely, and only seen by those entitled to see it in the course of their duties. DBS Disclosures (with a signed consent form) will only be stored for as long as necessary, and then confidentially destroyed in accordance with the DBS's requirements.
- Not ask for a DBS Disclosure where it would be an offence under the Police Act 1997 to do so.

#### **5.0 DBS Policy for Recruitment of Ex-Offenders - (Posts Exempt from the Rehabilitation of Offenders Act)**

5.1 Various kinds of employment, occupations and professionals are exempted. The Exceptions Order overrules the employment rights an ex-offender would otherwise have in respect of spent convictions. Ex-offenders have to disclose information about non-protected spent and unspent convictions, cautions, reprimands and final warnings provided the employer states clearly in the recruitment advertisement, on the application form or at the interview that the job applied for is exempted. Exempted occupations fall into the following categories:

- Work involving matters of national security, for example, some civil service posts, defence contractors etc.
  - Work that brings the person into contact with vulnerable groups such as the infirm, elderly, mentally ill and young people under the age of 18
  - Professionals that have legal protection, for example, nurses, doctors, dentists, chemists, accountants
  - Posts concerned with the administration of justice, for example, police officers, lawyers, probation officers, and traffic wardens
  - Health Service appointments
- 5.2 Unless the nature of the position allows the Council to ask questions about an individual's entire criminal record we will only ask about "unspent" convictions as defined in the Rehabilitation of Offenders Act 1974.
- 5.3 At interview, or in a separate discussion, we will undertake an open and measured discussion 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 the withdrawal of an offer of appointment.
- 5.4 Not discriminate unfairly against the subject of a Disclosure, on the basis of conviction or other information revealed.

## **6.0 DBS Disclosures for Existing Employees and Re-Checking Existing Employees**

- 6.1 Employees appointed prior to April 2002 will not have been subject to the current more rigorous DBS Disclosure process. They may have been subject to less thorough checking or have not been checked. With regard to these groups of employees, MKC has no plans to instigate a programme of retrospective checking at this stage. However, it reserves the right to ask existing members of staff in relevant positions to apply for Disclosure if their actions or activities give 'cause for concern'. It should be noted that this does not preclude specific groups from being retrospectively checked where regulation or statute dictate.
- 6.2 The grounds for 'cause for concern' could include allegations of suspicious or inappropriate behaviour made by a child or other vulnerable person or a colleague, parent, carer or member of the public. In such instances, a full investigation of any such allegations will be conducted in accordance with Council's disciplinary procedures. As part of the investigation process, the employee may be required to undergo a DBS check with consideration and legal advice taken in respect of human rights and employment legislation.

## **7.0 Existing Employee Re-Checks:**

- 7.1 Re-checks on employees will not normally be undertaken and there is currently no legislation in place requiring such checks.
- 7.2 The Council will review and amend this policy decision in accordance with any future changes in the requirements of appropriate government inspection bodies and relevant legislation. It should be noted that this does not preclude specific groups from being re-checked where regulation or statute dictate. The Council reserves the right to ask existing members of staff in relevant positions to apply for Disclosure if their actions or activities give 'cause for concern' as set out above.
- 7.3 In some circumstances Service Directors may request that re-checks take place within specific service areas where this may be deemed to be best practice. Any service that wishes to initiate a re-check must speak to their HR Business Partner in the first instance. Such checks would normally be made via the DBS Update Service.

## **8.0 Existing Employees Who Have Not Previously Required A Disclosure Check**

8.1 Existing employees may, as a result of the changes to legislation, regulations or working practices, be required to undertake a DBS disclosure check during the course of their employment with the Council. All employees will be expected to comply. Any existing employee refusing to comply with the request for a full DBS disclosure check will be advised that their deliberate and unreasonable refusal to carry out, lawful and safe instructions issued by an appropriate manager and/or to comply with a contractual agreement, will lead to the employee being subject to a disciplinary investigation.

## **9.0 Situations Requiring a Fresh Disclosure Check**

9.1 A further disclosure should be undertaken in the following circumstances:

- When appointing a new employee from another employer if the applicant is not subscribed to the DBS Update Service or a Status Check indicates a new check is required
- Where a school governor seeks to act as a volunteer “classroom helper” on a regular basis
- If there is a break in service of three months or more and the applicant is not subscribed to the DBS Update Service.
- If the Council, school, or employing agency/organisation has grounds for concern about an employee’s/applicant’s suitability to work with children
- Where an existing employee moves from a post working with children to one where they are working with vulnerable adults, or vice versa.

## **10.0 Manager Discretion**

10.1 The Council will only carry out DBS checks and rechecks if the employee or volunteer meets the requirements as set out in this policy. Line Managers do not have discretion to determine separate rechecking regimes outside the remit defined in this policy. Discretion is in place to vary this, subject to the agreement of the relevant Service / Assistant Director with advice from Human Resources Lead Counter Signatory.

## **11.0 Data Protection**

11.1 Any data collected and processed as part of employing and managing employee’s is held securely. It is accessed by, and disclosed to, individuals only for the purposes of completing that specific procedure; process or activity.

11.2 Records are retained and destroyed in accordance with the organisations Retention Schedule.

11.3 Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Data Protection Policy immediately. It may also constitute a disciplinary offence, which may be dealt with under the Disciplinary Procedure.

## **12.0 Review**

12.1 This Policy Statement will be reviewed in line with changes to legislation

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