

# **SCHOOLS DISCLOSURE & BARRING SERVICE (DBS) POLICY**

**(DBS is the new title of the Criminal Records Bureau  
CRB)**

**This document applies to Community and Voluntary  
Controlled Schools and is advisory for Foundation  
and Voluntary Aided Schools**

October 2013

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# 1 Disclosure and Barring Service (DBS) Policy

The School is committed to safeguarding the welfare of those accessing their services and has a statutory duty of care towards vulnerable members of society under the Safeguarding Vulnerable Groups Act (2006) and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013. However, this duty must be carried out with due regard to all other relevant legislation including the Protection of Freedoms Act 2012, the Data Protection Act (1998), the DBS Code of Conduct and the Human Rights Act (1998). A description of each piece of key relevant legislation can be found in [Appendix F: Relevant Legislation](#).

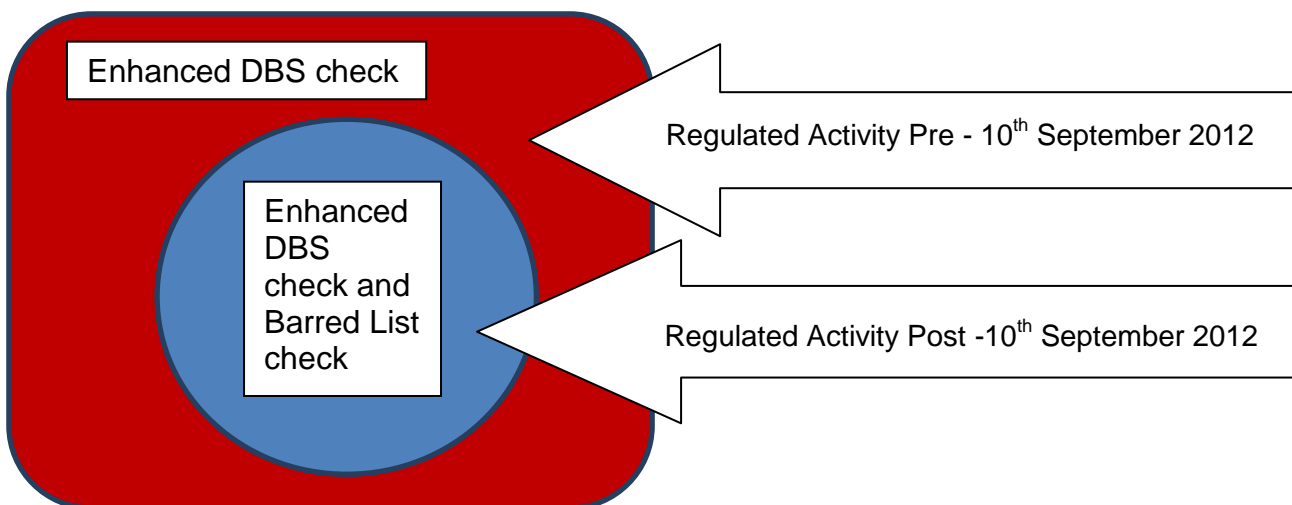
This policy will apply to those seeking paid work or volunteering opportunities with the School. In addition, certain types of voluntary or seasonal work, student placements, permitted drivers, school governors, preferred contractors and other regulated positions will also come under the provisions of the policy, particularly where they involve unsupervised contact with children.

## 1.1 Types of DBS Disclosure and Barred List Checks

With the merging of the CRB and ISA to form the DBS there has been a change in terminology which will now appear throughout this policy, these are:

Previous term	New term
Criminal Records Bureau (CRB), Independent Safeguarding Authority (ISA)	Disclosure & Barring Service (DBS)
Enhanced CRB check	Enhanced DBS check
Enhanced CRB check with Barred List Check	an Enhanced check for Regulated Activity

The Protection of Freedoms Act 2012 has resulted in a differentiation between those posts which can legally have an Enhanced DBS check and those posts which can also legally be checked against the Children or Adult Barred Lists (an Enhanced check for Regulated Activity). The definition of Regulated Activity was changed on 10<sup>th</sup> September 2012.



The red square represents the posts that fell within the old definition of Regulated Activity. From 10<sup>th</sup> September 2012 employees in posts that fall within this area are still entitled to an Enhanced DBS check.

The blue circle represents the new definition of Regulated Activity. There are now fewer posts that fall within this definition. From 10<sup>th</sup> September 2012, employees in posts that fall within this area are entitled to an Enhanced check for Regulated Activity.

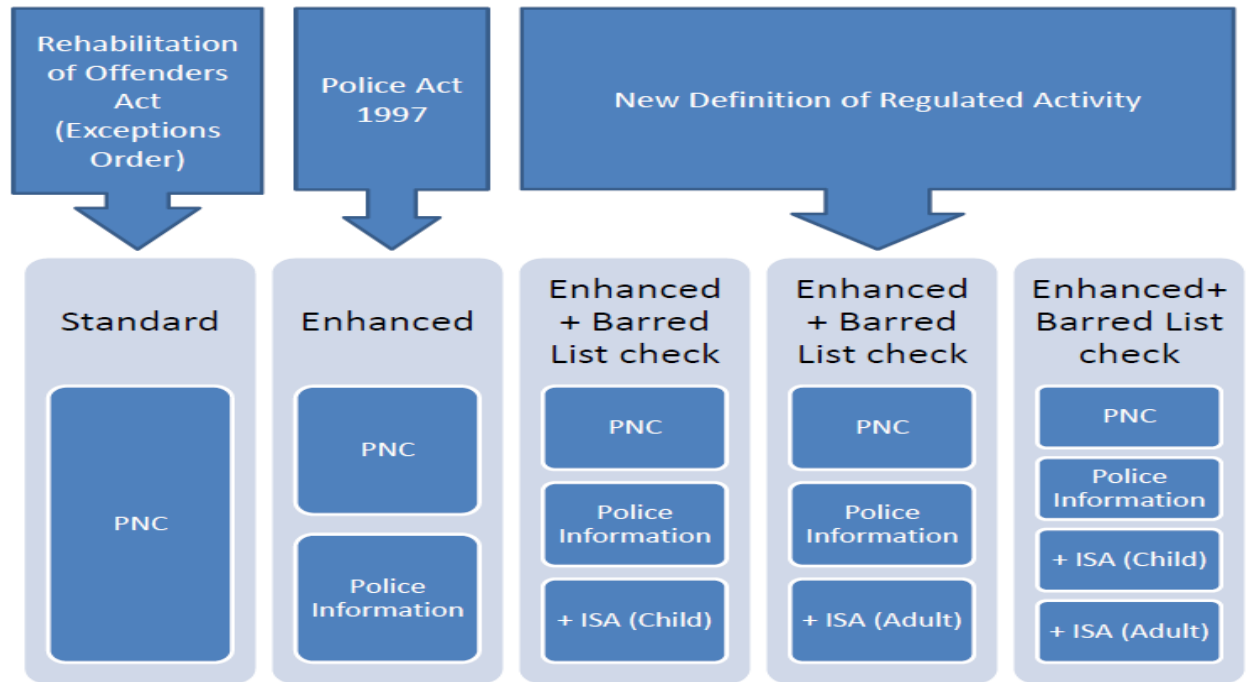
As a Head Teacher/Governor you should begin by looking at [Appendix B](#) to establish if a position comes under the post 10<sup>th</sup> September definition of Regulated Activity and is therefore entitled to an Enhanced check for Regulated Activity. If the position does not come under this definition then turn to [Appendix A](#) to establish if the position comes under the pre 10<sup>th</sup> September definition and is therefore entitled to an enhanced DBS check. If a post does not come under either definition then it is not entitled to a DBS check.

It is an offence for individuals on the Barred List to apply for posts in Regulated Activity. Previously it was illegal for them to apply for all the posts illustrated above. In effect this means that individuals who are currently on the Barred List can now apply for posts that fall under the old definition of Regulated Activity so long as these posts do not fall within the parameters of the new definition of Regulated Activity.

The fact that someone is on the Barred List will not be stated on an Enhanced DBS check, but there will be details of criminal convictions that would indicate that someone might be on the Barred List and a Head Teacher must investigate thoroughly and complete [Appendix E: Cause for Concern Risk Assessment Proforma](#), if any such disclosures are received.

The minimum age that someone can have a DBS check is now 16 years old. Head Teachers/Governors or Mouchel DBS Administration team or other provider of this service will not be able to countersign an application for anyone under 16.

## Types of Checks Available and Relevant Legislation (Post 10<sup>th</sup> September 2012)



### 1.2 Legal Requirements for an Enhanced DBS Check

The School will ensure the national minimum requirement for Disclosure & Barring Service compliance is met. This requires all those who commenced working in a role exempt from the Rehabilitation of Offenders Act after 1<sup>st</sup> March 2002 to undertake an Enhanced DBS check.

Ofsted Advice (Inspecting Safeguarding, January 2013) on repeat checks and portability is included as Appendix J. Part of this states:

*The following sets out the current position in relation to schools and colleges and outlines the differences in social care settings as to when checks need to be in place before an employee can start work.*

- *DBS checks were strongly recommended for all employees who have regular contact with children if they were employed after March 2002. However, the only requirement for those appointed before this date is that they must have been List 99 checked.*
- *DBS checks became mandatory for the entire maintained schools' workforce from 12 May 2006 (September 2003 for independent schools, including academies). Employees who took up post from this date must have an enhanced DBS disclosure.*
- **No further checks are required** for any staff unless the person has a break in service of more than three months. There is no requirement for staff employed before March 2002 to have retrospective DBS checks as long as they have been in continuous service. In this context, continuity means no break of service of longer than three months. However, prior to 2002, there

*was a requirement for all staff who work with children and young people to have been checked against List 99, and evidence of this should be checked.*

The School will only ask for an Enhanced DBS check when it is not an offence under the Police Act 1997 to do so. See [Appendix A](#): Posts requiring an Enhanced DBS check. The School is still entitled to ask all post holders in these posts to undertake an Enhanced DBS check but not all these posts are now entitled to a Children or Adult Barred List check (See 1.3 below for further details).

Schools should ensure that all posts within the school have a record identifying whether they:

- Require a DBS check at the start of an employment.
- Require a three yearly DBS check which is for those posts within care.
- Do not require a DBS check.

For schools using the SAP system through People Services, this will be recorded using this system and it is being updated to identify Barred List requirements, stating whether:

- No Barred List required.
- Children's Barred List
- Adults Barred List
- Children's & Adults Barred List

### **1.3 Legal Requirements for an Enhanced DBS and Barred List Check (Post 10<sup>th</sup> September 2012)**

Where an individual within a role meets the new definition of undertaking 'Regulated Activity' an application will be made for an enhanced DBS check and a relevant (Adult or Children) Barred List check (an Enhanced check for 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. For information on the new definition of Regulated Activity and posts for which a check can be made against the barred list, please see [Appendix B](#): Posts requiring an Enhanced check for Regulated Activity (post 10<sup>th</sup> September 2012 definition).

### **1.4 Establishing DBS Requirements for a New Post**

If a Head Teacher/Governor has a new post which they believe requires an enhanced DBS check they should check this with the Mouchel DBS administration team, who will confirm whether the post is eligible for a DBS check. If the Mouchel DBS administration team believes it would be illegal to request a DBS check they will ask for the Head Teacher/Governor's rationale behind their request and clarify the parameters for which the Exceptions Order can be applied. The Mouchel DBS administration team can be contacted at [dbs@mouchel-lincoln.com](mailto:dbs@mouchel-lincoln.com)

Where a school use another provider to undertake this role they will need to make arrangements with them in line with this procedure.

## 1.5 Recruitment

All recruitment will be in line with the School's Recruitment, Selection and Induction Policy

Where a post is identified as one that requires an Enhanced DBS check or Enhanced Check for Regulated Activity all application forms, job adverts and recruitment literature will contain a statement advising that this will be requested in the event of the individual being offered the position.

Applicants should be made aware that enhanced disclosures might include non-conviction information from local police records if the police 'reasonably believe' the information is relevant to the post in question.

Schools will make every subject of this process aware of the existence of the [DBS Code of Practice](#).

Where an Enhanced DBS check is to form part of the recruitment process, the School will ask all applicants to 'self disclose' details of their criminal record at an early stage in line with the Rehabilitation of Offenders and Self Disclosure Policy (Appendix L). This information will only be seen by those that need to as part of the recruitment process. Failure to reveal information that is directly relevant to the position sought may lead to the withdrawal of an offer of employment.

The School will not employ someone to work in Regulated Activity with children if they have been barred through the DBS Children Barred list. The School would be breaking the law if they did so. Conversely if the School receive an application from a person barred from working with children they are breaking the law if they work or volunteer or seek to work or volunteer with children and the School will report them to the relevant Authorities.

The School will use this process as one part of a range of safeguarding tools for assessing the suitability of preferred candidates, volunteers, contractors, agency workers, those transferring from another school and the continued employment of those in specific roles which require re-checking. Other tools include thoroughly confirming identity, qualifications, taking up and verifying references and examining dates of employment histories on application forms.

All school staff that require an enhanced DBS check can now also subscribe to the online update service (DBS Update Service). For individuals this means that if they move to another position with a school, providing it is with the same workforce that is on their DBS certificate, they will not need another DBS check. Instead the School will be able to carry out an online status check to ensure that their disclosure is still valid.

For new applicants to the School who already have an enhanced DBS certificate for the relevant workforce and who are signed up to the online update service, the school will accept the disclosure and carry out an online status check to ensure that their disclosure is still valid.

If applicants internal to the School or external applicants are applying for a position within a different workforce (for example where the new work represents a significant



increase in responsibility for, and contact with children) then a new DBS check will be required.

Applicants who have worked or been resident overseas for longer than three months within the previous five years, including UK citizens who have worked or lived overseas, require a Statement of Good Conduct. The School will request that a Statement of Good Conduct (SOGC) (sometimes referred to as a Certificate of Good Conduct) is provided where one is required. See [Appendix G: Statement of Good Repute](#) for further information.

### **1.6 Identity Checks**

When making an application to the DBS for disclosures, the Head Teacher/Governor will act as the evidence checker (also termed the data checker) of the individual's documents. Full guidelines on the documents that can be used and how to check them is available in [Appendix C: Completing an Applicant's DBS Application Form](#).

### **1.7 After Recruitment**

As part of an employee's induction, new employees should be made aware of their commitment to safeguarding children. If their role is as a practitioner they should complete the relevant LSCB Safeguarding E-learning programme for children.

Where posts which are entitled to an Enhanced DBS check a Head Teacher/Governor should complete a risk assessment if they have to, for operational reasons, allow someone to work before the enhanced DBS disclosure is returned. In this instance the Head Teacher/Governor must complete [Appendix D: Risk Assessment Template](#) and update this once a relevant disclosure is received.

### **1.8 Applicants with Adverse Disclosures**

If a DBS check reveals details of convictions which may render the applicant unsuitable for the applied post – termed 'Cause for Concern' - the appointing Head Teacher/Governor will discuss the situation with the applicant in line with the [DBS Code of Practice](#) and through use and completion of [Appendix E: Cause for Concern Risk Assessment Proforma](#). The applicant will be asked to sign the completed risk assessment to verify the information provided and give permission for the risk assessment to be stored securely and later destroyed in accordance with [Appendix H: Policy on the secure storage, handling, use, retention and disposal of disclosures and disclosure information](#).

When assessing any disclosure or declared conviction information received, consideration will be given to a range of issues and the risk assessment will support a Head Teacher/Governor's decision enabling them to assess the suitability of the applicant for their proposed position in light of matter(s) disclosed on their DBS certificate. In some cases a Head Teacher/Governor may wish to discuss the information with their HR provider for guidance prior to discussing it with the applicant.

Having a conviction will not necessarily bar someone from employment with the School who will only take a criminal record into account when the conviction is relevant. Protection of the applicant's rights and interests must be weighed against the rights and interests of children, employees and the public, including the School's duties and responsibilities towards these or other groups.

Head Teachers/Governors will not allow personal prejudices to 'cloud' their judgement and good practice. They will consider the relevance of offences and be aware that no two offences are exactly alike e.g. a premeditated burglary that involves extensive damage to property and the physical intimidation of the occupants is different from the opportunist convicted of reaching in through an open window and stealing a purse.

If the candidate has made a false declaration on their application form then the School will not be able to confirm the appointment. If the disclosure certificate contains information that was not revealed by the candidate or additional information from the Police is received it will be necessary to hold a further discussion with the candidate and undertake a further review against any risk assessment before deciding to confirm or withdraw the offer of employment. HR and legal advice should be sought at this point.

It is an offence for a barred person to work, apply to work or offer to work in Regulated Activity with a group they are barred from working with. Candidates on the Barred List will not be employed in Regulated Activity by the School. If the checks reveal that a candidate is on the Barred List for Regulated Activity the School will make a referral to DBS to notify them of the individuals attempt to apply for barred work.

### **1.9 Enhanced DBS and Barred List Re-Checks for Employees**

Staff who require a DBS disclosure will have an annual check via the online update service annually.

If a post requires an Enhanced DBS or an Enhanced check for Regulated Activity, the School can legally re-check their staff as regularly as they wish to. This will be done through the online update service. If the online status check reveals a change in the disclosure status then a re-check will be required.

Where there are reasonable grounds the School may require existing employees to re-apply for an up to date Enhanced Check for Regulated Activities. The School reserves the right to ask existing members of staff in relevant positions to apply for a new DBS check if their actions or activities give 'cause for concern'. The grounds for 'cause for concern' could include allegations of suspicious or inappropriate behaviour made by a child or other 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 the School Disciplinary Policy. As part of the investigation process, the employee may be required to undergo an Enhanced Check for Regulated Activities with consideration and legal advice taken in respect of human rights and employment legislation.

Where, due to changes in legislation, occupational groups become subject to regulation for the first time, the School will write to existing employees in those groups informing them of the requirement to obtain an Enhanced DBS and Barred List check. All employees will be expected to comply. Any existing employee refusing to comply with the request for an enhanced DBS Check for Regulated Activities will be advised that their deliberate and unreasonable refusal to carry out lawful and safe instructions issued by a Head Teacher/Governing Body and/or to comply with a contractual agreement will lead to the employee being subject to a disciplinary investigation.

## **1.10 Employees with Adverse Disclosures**

Where existing employees, who have not been previously checked, or their post requires a re-check and subsequently have an adverse disclosure result, the Head Teacher/Governor should follow the guidance in [section 1.8 Applicants with adverse disclosures](#) and complete [Appendix E: Cause for Concern Risk Assessment Proforma](#) and discuss the contents with their HR provider. It may be appropriate to move the employee to an alternative post with no access to children, where this is possible, depending on the nature of the disclosures and pending the outcome of a full investigation. It may be that there are no suitable duties the employee could undertake during this period which do not bring them into contact with children. If this is the case, the Head Teacher/Governor must give consideration to suspending the employee on full pay pending the outcome of the disciplinary investigation.

The employee may confirm or refute the information provided by the DBS. Where this is the case the School may seek advice from their HR provider to pursue a range of options which may include further checking with the DBS.

When completing [Appendix E: The Cause for Concern Risk Assessment Proforma](#) it should be considered whether the conviction is relevant to the post and evidence of previous convictions should not be used to dismiss a person for poor job performance. The track record of the individual should be carefully assessed and if it is satisfactory, this should be considered positively. If the disclosure results are considered to be of a serious nature and prove to be correct the Head Teacher/Governor may consider various options. These include:

- Termination of employment.
- Redeployment pending the availability of a suitable vacancy.
- The introduction of safeguards.

Only after a full appraisal of the situation, including the risks involved and other alternative employment options have been investigated should dismissal be considered and then only after advice from your HR provider. If the Head Teacher/Governor decides to consider termination of employment, then the employee must be informed in writing and a hearing held in line with the Disciplinary Procedure.

If the disclosure results are considered not to be serious and do not impinge on an employee's ability to work in their existing role the line manager should inform the employee accordingly in writing.

## **1.11 Data Protection**

The School will ensure that sensitive personal information is held securely, and only seen by those entitled to see it in the course of their duties. An Enhanced Check for Regulated Activity and, if applicable, the cause for concern assessment ([Appendix E](#)) will only be stored for as long as necessary, and then confidentially destroyed. See [Appendix H: Policy on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information](#).

Under Section 124 of The Police Act 1997 it is a criminal offence to pass disclosure information about a spent conviction to anyone who is not entitled to receive it.

Serious misuse of a person's criminal record could result in a prison sentence of up to six months or a fine of up to £1,000, or both.

### **1.12 Contractors**

The organisation providing the contractor is legally the employer of any contractors and the responsibility to obtain a relevant DBS and Barred List check is theirs. This check can then be used within any organisation that contractors are provided to. If contractors are procured, Schools will need to satisfy themselves that all Safeguarding requirements have been undertaken.

### **1.13 Volunteers**

A volunteer is described as a person who performs an activity which involves spending time unpaid (except for travelling and approved out of pocket expenses) doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives.

Volunteers who assist on a regular basis in a role which meets the parameters for requiring a DBS check are required to undertake a DBS check, and if the role is also classed as Regulated Activity they will be eligible for an Enhanced Check for Regulated Activity. See [Appendices A and B](#).

The disclosure is provided free but there is an internal administrative charge. Some people can be referred to as volunteers but do not actually meet the DBS' criteria to get a free disclosure check. To qualify for a free of charge disclosure, the applicant must not benefit directly from the position the DBS application is being submitted for. The applicant must not:

- receive any payment (except for travel and other approved out of pocket expenses);
- be on a placement/work experience;
- be on a course that requires them to do this job role; and/or
- be in a trainee position that will lead to a full-time role, post qualification.

Volunteers roles should be properly described under 'role of applicant' on the DBS disclosure form e.g. "volunteer classroom helper".

### **1.14 Referral to the Disclosure and Barring Service (DBS)**

The Safeguarding Vulnerable Groups 2006 Act, sets a legal duty for the School to refer information to the DBS if they dismiss or remove a member of staff/volunteer from working with children in what is legally defined as Regulated Activity because they meet the referral criteria. The School has a duty to refer information to the DBS. See the [Policy on Referral to the DBS](#).

### **1.15 Single Central Record**

Following the introduction of new regulations in 2006, Head Teachers are responsible for the establishment and maintenance of the Single Central Record. This is a database of all those employed at the school and contains information regarding an individual's vetted status, i.e.

- teachers appointed prior to 1978 were only List 99 checked

- teachers appointed prior to March 2002 were List 99 and police checked
- teachers appointed after March 2002 were enhanced CRB checked (inclusive of List 99)
- all appointments at a school from May 2006 are required to undertake an enhanced CRB disclosure check which includes a check against the Children Barred List, now the DBS Enhanced check for Regulated Activity.

In line with 'Safeguarding Children and Safer Recruitment in Education (2006)' every effort must be made to obtain an Enhanced DBS and Barred List check for school based individuals before they commence working with children. An individual can commence work in a school in advance of receiving the DBS disclosure if there is an urgent need for them to do so and the following risk assessments have been undertaken:

### **Risk Assessment**

- the school has completed an Appendix D
- the school has undertaken all of the pre-employment checks
- the school has submitted a correctly completed DBS disclosure application form which has been sent to the DBS
- the individual has been checked against the Children's Barred List
- the school undertakes a risk assessment to determine what appropriate safeguards must be introduced
- the school has introduced sufficient safeguards for the individual not to have unsupervised access to children and;
- the governors and the head teacher maintain the 'Single Central Record' which records this.

There is no requirement for routine DBS clearances for governors unless they have a role in the school that brings them into Regulated Activity (pre September 2012 definition) or an Enhanced check for Regulated Activity unless they have a role in the school that brings them into Regulated Activity (post 10<sup>th</sup> September 2012 definition).

See [Appendix I](#): Information on the Single Central Record, Volunteers, Supply Staff, Governors and Issues that Ofsted Inspectors will raise at Inspection.

### **1.16 Gender Recognition Certificates**

The Gender Recognition Act 2004 allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate. When a full gender recognition certificate has been issued, the person is legally considered to be of the acquired gender.

If the person is required to undergo a DBS check as part of the recruitment process they must disclose any previous names and/or gender to the DBS who have established a special application procedure/dedicated contact officer to maintain confidentiality (email: [sensitive@dbsgsi.gov.uk](mailto:sensitive@dbsgsi.gov.uk) or telephone: 0151 6761452).

Gender confidentiality will be maintained where the individual has no criminal convictions and where there is no other information held by any Police Authority, as a clear disclosure certificate is the ultimate result. However, if they did have convictions under their previous gender that were considered relevant to the post/position, then the individual's gender change would become evident through the provision of conviction information on the DBS disclosure certificate showing both gender names.

### **1.17 Complaints**

Applicants unhappy with any aspect of the DBS process, including the application of this policy, should initially raise their concerns through the Head Teacher or the Mouchel DBS administration team leader where the School uses this service. Where this fails to produce a satisfactory resolution, applicants have the right to complain to the Chair of Governors.

Complaints relating to mistaken identity or the nature of the information given in a criminal record disclosure can only be dealt with by the Disclosure & Barring Service.

## **2 USEFUL CONTACTS**

- Mouchel DBS Administration, 01522 836656 [dbs@mouchel-lincoln.com](mailto:dbs@mouchel-lincoln.com)
- Mouchel Lead HR Adviser – John Matthews – 01522 836745

[John.Matthews@mouchel-lincoln.com](mailto:John.Matthews@mouchel-lincoln.com)

- Local Authority Designated Officer (LADO for DBS Referral) - 01522 554675

## **3 FURTHER INFORMATION**

### **Further relevant Policy**

- Recruitment, Selection and Induction Policy, Toolkit and Forms
- School Disciplinary Policy