



Diocese of Salisbury

Academy Trust

'Beyond expectations for all of God's children'

GUIDANCE FOR MAKING REFERRALS TO THE DISCLOSURE AND BARRING SERVICE (DBS)

Policy Date: January 2021

Review Date: January 2026

1. INTRODUCTION

- 1.1 The Disclosure and Barring Service (previously known as the Independent Safeguarding Authority) was established under the Safeguarding Vulnerable Groups Act 2006. It was created to help prevent unsuitable people from working or volunteering with children and vulnerable adults in England, Wales and Northern Ireland.
- 1.2 The DBS has four statutory duties:
- To maintain a list of individuals barred from engaging in regulated activity with children;
 - To maintain a list of individuals barred from engaging in regulated activity with vulnerable adults;
 - To make well-informed and considered decisions about whether an individual should be included in one or both barred lists; and
 - To reach decisions as to whether to remove an individual from a barred list.
- 1.3 For the purpose of this procedure for use in Diocese of Salisbury Academy Trust (DSAT) and its academies, reference is made only to work with children.
- 1.4 An individual is involved in **regulated activity** with children if they:
- Undertake an activity of a specified nature (i.e. teaching, training, instruction, care, supervision, advice, guidance, treatment, therapy or transport) that involves contact with children on a frequent, intensive or overnight basis.
- Frequent = once a week or more with the same children*
Intensive = 4 days or more in any period of 30 days with the same children
Overnight = between 2 am and 6am
- Undertake any activity in a specified place (e.g. a school) that provides the opportunity for contact with children on a frequent, intensive or overnight basis
- 1.5 A **Regulated Activity Provider** is an organisation or individual that is responsible for the management or control of regulated activity, paid or unpaid, and makes arrangements for people to work in that activity, for example the Headteacher of a school. The Headteacher of the Academy has a statutory duty to make a referral to the DBS if the conditions set out below are satisfied.
- 1.6 This procedure reflects the requirements of the Referral guidance published by the Disclosure and Barring Service
- 1.7 This procedure should be read in conjunction with the policy on Dealing with Allegations of Abuse against Members of Staff and Volunteers.

2. SCOPE

- 2.1 This procedure applies to everyone employed by the Academy, to all contractors within the Academy and all volunteers in the Academy, including Academy Standards and Ethos Committee (ASEC) members .

3. GENERAL PRINCIPLES

- 3.1 The ASEC Members and Headteacher of the Academy are committed to ensuring referral procedures are robust, well-understood and satisfy the requirements of the DBS.
- 3.2 The decision to refer to the DBS will be taken in accordance with the principles set out in this procedure.
- 3.3 Referral to the DBS will only be made when both the following conditions have been met:
- i) Where the Academy has permanently removed a person from regulated activity through dismissal or would have done so had that individual not resigned or ceased to volunteer
- And
- ii) Because there is sufficient evidence to support the view that the individual has engaged in relevant conduct, satisfied the harm test or received a caution or conviction for a relevant offence.
- 3.4 Relevant conduct is any conduct that:
- endangers a child or is likely to endanger a child
 - if repeated against or in relation to a child would endanger them or would be likely to endanger them
 - involves sexual material relating to children (including possession of such material)
 - involves sexually explicit images depicting violence against a human being (including possession of such images), if it appears to the DBS that the conduct is inappropriate or
 - is of a sexual nature if it appears to DBS that the conduct is inappropriate
- 3.5 Referral to the DBS will normally be after a disciplinary hearing has considered the evidence and come to the view that such conduct/harm or the potential for harm has occurred, or if an individual admits that it has occurred outside of a disciplinary hearing.
- 3.6 In cases where there is an allegation which satisfies the criteria outlined in 4.2 but an employee resigns before a hearing takes place, a referral to the DBS should be made.
- 3.7 Referrals to the DBS in respect of volunteers should be made at the point when a decision is made whether the conduct meets the criteria outlined in 4.2 and the Academy decides not to use them anymore.
- 3.8 Referrals should be made to the DBS where an agency worker within the Academy is removed from regulated activity by the school and that is referred to the agency.
- 3.9 An employee or volunteer who is referred to the DBS will be notified of the referral by the Academy.
- 3.10 The Headteacher, as the Regulated Activity Provider, will be responsible for making the referral to the DBS. If it is the Headteacher who is to be referred, the Chief Executive will have that responsibility.

- 3.11 All referrals to the DBS must be made using the DBS referral form and should include the relevant information in accordance with the DBS referral policy and the information contained in this procedure.
- 3.12 Advice on referrals is available from the Trust's HR advisors and the Designated Officer for Allegations (DOFA) in the local authority, for schools.
- 3.13 The DOFA is able to refer individuals to the DBS even where Academies do not. If the DOFA decides to make a referral in such circumstances, the individual and the Academy will be told and advised of the reasons why.

4. PROCEDURE

- 4.1 A referral to the DBS will be made once there is sufficient evidence that relevant conduct, harm or a caution/conviction for a relevant offence has occurred. In order for there to be sufficient evidence a referral should be made once a disciplinary hearing has considered the evidence and come to a view that such conduct/harm or potential harm has occurred. A decision to refer to the DBS will normally be made at step 5 of the 'Dealing with Allegations of abuse against members of staff and volunteers' policy and procedure'.
- 4.2 Referrals must be made if both the conditions in 3.3 above are met.
- 4.3 The individual should be notified in writing that a referral to the DBS will be made.
- 4.4 Where a disciplinary hearing cannot proceed as originally arranged or where there are delays that are outside of the Academy's control, a decision may be taken by the DOFA in conjunction with the Headteacher and DSAT that a referral to the DBS should be made, with an explanation that the case outcome is pending. Documents that would have been submitted to the disciplinary hearing should be sent to the DBS with an explanation of the reason for the delay.
- 4.5 A referral will normally be made at the time of the original decision by the disciplinary committee and before any appeal. If the appeal changes either the findings or the disciplinary penalty, the Headteacher will need to inform the DBS and tell the individual that they have done so.
- 4.6 Where an individual resigns before or during an investigation or prior to a disciplinary hearing, the Headteacher is required to refer the individual to the DBS if that person would have been withdrawn from regulated activity and if the Headteacher thinks that the individual has engaged in relevant conduct, satisfied the harm test or received a caution or conviction for a relevant offence. There is no requirement to hold a disciplinary hearing in the individual's absence. Advice will be available from the DOFA and DSAT's HR advisors.
- 4.2 Where a Headteacher has concerns about a volunteer and removes the volunteer from regulated activity, he/she should conduct an investigation to find out as much information as possible and decide whether to refer in conjunction with the DOFA.
- 4.3 Where the Academy has concerns about an individual who has been supplied by an employment business, for example a supply agency, which caused the Academy to remove that individual from regulated activity, the Academy must inform the employment business. Where the Academy thinks that the individual has engaged in relevant conduct, satisfied the harm test or received a caution or conviction for a relevant offence, the Headteacher should refer that individual to the DBS.

- 4.4 The DOFA also has a responsibility to refer the individual to the DBS. Where the DOFA agrees with the referral made by the Headteacher, it will be sufficient to advise the DBS that this is the case.
- 4.5 When making a referral to the DBS, the Headteacher needs to be aware that any information provided to the DBS may be made available to that individual. It is recommended that witness documents should be anonymised, particularly where an individual resigns at an early stage in the investigation.
- 4.6 All referrals to the DBS must be made using the DBS referral form (Appendix 1) and should include relevant information in accordance with this procedure.

5. RECORD KEEPING

- 5.1 A record of the referral to the DBS must be maintained as part of the employee or volunteer's record. All records must be maintained in accordance with 'Keeping Children Safe in Education'.

Further information regarding the referral process can be found at www.gov.uk