

# Disclosure and Barring Service Policy including the Recruitment of Ex-Offenders and Security of Disclosure Information

## 1. The Requirement for Disclosure and Barring Checks by the School

- 1.1. There is a legal obligation for Old Swinford Hospital to ensure so far as possible that those who take up appointments do not pose a risk to the children in its care. Old Swinford Hospital uses an umbrella body to undertake the statutory Disclosure and Barring Service (DBS) checks.<sup>1</sup>
- 1.2. The application for the use of DBS Disclosures is based on a number of separate pieces of legislation.<sup>2</sup> This policy is written in accordance with the following legislation and guidance, as listed or amended:
  - Protection of Freedoms Act 2012, Part 5
  - Safeguarding Vulnerable Groups Act 2006
  - Rehabilitation of Offenders Act 1974, and associated Guidance.
  - Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975
  - Police Act 1997 Part V and associated Regulations
  - Data Protections Act 1998
  - Care Standards Act 2000
  - Children Act 2004
  - Keeping Children Safe in Education (September 2024)
  - General Data Protection Regulation (GDPR) (effective May 2018)<sup>3</sup>
- 1.3. Guidance can change from time to time and it will be assumed that the current guidance at any point in time forms part of this policy.
- 1.4. The School is required to apply for and review the past criminal records of any successful applicants for positions, before confirming appointments.
- 1.5. All application forms, job adverts and recruitment briefs will contain a statement that an enhanced disclosure will be requested in the event of the individual being offered the position.
- 1.6. If any confidential disclosure is made at the recruitment and selection stage, and prior to the DBS process, the School will ensure that it is used fairly and sensibly in order to avoid unfair discrimination of applicants and, subject to an assessment of the content of the disclosure as set out in section 4 below, candidates will be selected for interview based on their skills, qualifications and experience.

## 2. Enhanced Disclosure

- 2.1. Enhanced disclosure will be required for all posts including voluntary posts and those relating to persons recruited by other organisations.

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<sup>1</sup> The School will protect the rights of trans persons and ensure that no discrimination or victimisation as a result of the gender in which they present themselves. Where disclosure and barring checks are required all trans persons will be able to opt for their application to be processed through the sensitive route made available by the DBS.

<sup>2</sup> GDPR: This is the legal reason for collecting personal information under this Policy

<sup>3</sup> As applicable in the UK

### **3. Application Procedure**

- 3.1. Applicants will be required to provide proof of their identity to current DBS regulations.<sup>4</sup> Where an applicant has changed their name by deed poll or for other reasons (e.g. marriage or adoption) the School will require evidence of this change of name. The applicant will remotely complete the DBS form on line<sup>5</sup>. A delegated administrator will then complete the ID check on line.
- 3.2. Where a candidate has a disclosure which is to form part of the recruitment process, applicants are encouraged to provide details at an early stage. Candidates will be invited to make any relevant disclosure if they are shortlisted. This information will only be seen by those who need to see it as part of the recruitment process.
- 3.3. The School does not receive a copy of an individual's DBS certificate. The DBS certificate will be sent to the applicant. It is the applicants' responsibility to bring the certificate into School and show it to the Bursar or a delegated administrator. No position, either paid or voluntary, will be confirmed until the certificate has been provided to the Bursar or a delegated administrator and any disclosures have been risk assessed as set out in section 4 below.

### **4. Consideration of Disclosure Information by the School**

- 4.1. On receipt of the DBS certificate, or other information disclosed during the interview process or voluntarily during employment or volunteering, the Headmaster<sup>6</sup> will complete a risk assessment and consider the following:
  - 4.1.1. Whether any conviction or other information disclosed is relevant to the position in question.
  - 4.1.2. The seriousness of any offence or other matter revealed.
  - 4.1.3. The length of time since any offence or other matter occurred.
  - 4.1.4. Whether the applicant has a pattern of offending behaviour or other relevant matters.
  - 4.1.5. Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters.
  - 4.1.6. The circumstances surrounding any offence and the explanation(s) offered by the applicant.
- 4.2. We ensure that all those at Old Swinford Hospital who are involved in the recruitment process have received guidance in identifying and assessing the relevance and circumstances of offences. We also ensure that they have received appropriate guidance in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

### **5. Disclosure and Barring Service Code of Practice**

- 5.1. Organisations that wish to use DBS checks must comply with the DBS's Code of Practice.
- 5.2. The Code of Practice is intended to ensure and to provide assurance to those applying for Standard and Enhanced Disclosures that the information released will be used fairly. The Code also seeks to ensure that sensitive personal information is handled and stored appropriately and is kept for only as long as necessary.
- 5.3. The School will comply with the provision of the DBS Code of Practice.

### **6. Recruitment of Ex-offenders**

A Policy Statement on the Recruitment of Ex-offenders is attached at Annex A.

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<sup>4</sup> Where disclosure and barring checks are required all trans persons will be able to opt for their application to be processed through the sensitive route made available by the DBS.

<sup>5</sup> Access to online facilities will be made available if required.

<sup>6</sup> Or the Governing Body if it is their appointment. Both may consult the Designated Safeguarding Lead for advice where necessary.

## **7. Security of Disclosure Information**

For details of the School's "Security Policy for Handling Disclosure Information" see Annex B.

## **8. Consequences of Failure to Reveal Information**

- 8.1. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment, or the termination of the employment if it has commenced and this equally applies to volunteer roles.
- 8.2. In the event that any adult connected with the School receives a conviction, caution or bind-over it is their responsibility to self-disclose give details immediately in a sealed envelope marked 'Confidential' to the Headmaster.

## **9. DBS and the Children's Barred List**

- 9.1. Schools who dismiss or remove a member of staff because they are unsuitable to work with children, or would have dismissed or removed them had they not resigned, must report this to the DBS.
- 9.2. A person who is barred from working with children will be breaking the law if they work or volunteer with children.
- 9.3. A school that knowingly employs a person who is barred from working with children will also commit an offence.

## **10. Volunteers**

- 10.1. Old Swinford Hospital recognises all volunteers as being unsupervised and therefore must obtain an enhanced DBS check and a children's barred list check arranged and paid for by the School.
- 10.2. Any volunteer who is not DBS checked must be accompanied by a member of staff at all times.
- 10.3. Overseas volunteers and other adults from overseas not employed by the School but residing within a boarding house, must complete a DBS overseas with our registered umbrella body before starting at the School. A clean Police Certificate of good conduct from the country they reside in must also be provided.
- 10.4. By Regulation<sup>7</sup> all Governors must have an enhanced DBS and this must be applied for within 21 days of their appointment or election.

## **11. GDPR Statement**

- 11.1. We will collect and review information about individuals to fulfil our legal requirement for both safer recruitment practices and ongoing monitoring for safeguarding and promoting the welfare of children under statutory guidance and we will only have asked for sufficient information to do this.
- 11.2. Details may be kept in paper form or recorded on the School's computers; all information will remain confidential. If requested we may be required to share information with the DfE or otherwise to the extent we are required to do so by law, in legal proceedings or for any matters relating to investigating or reporting safeguarding concerns including where we are statutorily required to report to DBS.
- 11.3. Excepting where a person is an overseas resident or has worked overseas, and references are required relating to any time overseas or for overseas checks, information is not transferred outside of the UK.

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<sup>7</sup> The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016, Amendment 2(3).

- 11.4. Individuals can at any time request access to the information held about them and, if necessary, correct the information if it is not accurate.
- 11.5. If any person has a concern about the way we are collecting or using their personal data we ask that concerns are raised with us in the first instance. Alternatively, individuals can contact the Information Commissioner's Office at <https://ico.org.uk/concerns>.

## **ANNEX A**

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

1. As an organisation using the Disclosure and Barring Service (DBS) to assess applicants' suitability for positions of trust, Old Swinford Hospital complies fully with the DBS Code of Practice and undertakes to treat all applications for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of a conviction or other information revealed.
2. Old Swinford Hospital is committed to the fair treatment of its staff, potential staff or users of its services, regardless of gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
3. We actively promote equality of opportunity for all with the right mix of talent, skills and potential and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview based on their skills, qualifications and experience.
4. For those positions where a DBS is required, all application forms, job adverts and recruitment briefs will contain a statement that a DBS will be requested in the event of the individual being offered the position.
5. Where a DBS is to form part of the recruitment process, we encourage all applicants called for interview to provide details of any criminal record at an early stage in the application process. Candidates will be invited to make any relevant disclosure if they are shortlisted. This information will only be seen by those who need to see it as part of the recruitment process.
6. Unless the nature of the position allows Old Swinford Hospital to ask questions about a person's entire criminal record, we only ask about 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974 and the (exceptions) order 1975 (as amended in 2013 and updated 2020).
7. At interview or in a separate discussion, we ensure that an open and measured discussion takes place 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 withdrawal of an offer of employment. We make every subject of a DBS Disclosure aware of the existence of the DBS Code of Practice and make a copy available on request.
8. We undertake to discuss any matter revealed in a Disclosure with the person seeking the position before withdrawing a conditional offer of employment. Having a criminal record will not necessarily bar a person from working with us. This will depend on the nature of the position and the circumstances and background of the offences.

## **ANNEX B**

# **POLICY STATEMENT - SECURE STORAGE, HANDLING, USE, RETENTION & DISPOSAL OF DISCLOSURES AND DISCLOSURE INFORMATION**

### **1. General Principles**

Old Swinford Hospital uses the Disclosure and Barring Service (DBS) to help access the suitability of applications for positions of trust, and complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.

### **2. Storage , Access and Retention**

Old Swinford Hospital does not receive a copy of an individual's Disclosure Certificate from the DBS. Only the applicant receives this. The applicant is required to show the certificate to the Bursar or designated Administrator before they start at School.

Where offences are disclosed, consent is requested from the applicant/employee to retain the certificate until it has been assessed by the Headmaster. Disclosure information and the related risk assessment will be securely stored.

In accordance with statutory guidance a record will be kept in the HR system, the Single Central Record, with access strictly controlled and limited to those who are entitled to see it as part of their duties, to include;

- name of the employee, volunteer and contractor
- the type of the DBS Disclosure and the date of it
- the position for which the DBS Disclosure was requested
- the unique reference number
- Children barred list checked
- Update service check

### **3. Handling**

In accordance with section 124 of the Police Act 1997, Disclosure Information is only passes to those who are authorised it receive it in the course of their duties. We maintain a record of all those to whom Disclosures or Disclosure information has been revealed and understand that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

### **4. Usage**

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

### **5. Disposal**

At the appropriate time, Criminal Record Disclosure information will be disposed of securely.