

Policy/Procedure Name:	Disclosure & Barring Service		
Policy/Procedure Number:	HR002		
Date of Approval:	March 2002		
Effective Date:	March 2002		
Revised Date:	June 2020		
Review by Date:	June 2022		
Policy/Procedure Author:	Head of HR		
Policy/Procedure Owner:	Head of HR		
Management Committee Approved By:	TLT		
Governor Committee (where appropriate) Approved By:	N/A		
For Action By:	HR & All Managers		
For Information to:	All Staff		
Approval requested to upload on the Treloar Website:	Yes <input type="checkbox"/> (tick if requested)		
Who is carrying out EIA?	Lorna Woodcroft	Date of EIA?	3 rd June 2020
Have we shown due regard for the 9 protected characteristics within the policy/procedure?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
Are all opportunities to promote equality taken within the policy/procedure?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
Refer Policy/Procedure to EDI Co-ordinator for further assessment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

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1. Policy/ Procedure Aim –

This policy is designed to provide a statement for all employees about Treloar's approach to the use of Disclosure & Barring Service checks (previously known as Criminal Records Bureau checks).

This policy is also available on request to potential employees and any umbrella body which may be used to process the DBS check.

2. Policy/Procedure Details

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Appendix 1. Risk Assessment Template for Positive DBS checks

1. Policy

Treloar's actively promotes equality of opportunity for all with the right mix of talent, skills and potential including those with a criminal record that does not create risk to the Trust, staff or students. Managers select all candidates for interview based on their skills, qualifications and experience.

New employees may not start work at Treloar's until the HR Department has completed the Disclosure Procedure.

In exceptional circumstances and in certain job roles it may be possible for a member of staff to commence employment before Disclosure checks have been received from the DBS. In these circumstances the employee must not have any unsupervised access to students.

Any employee or prospective employee who fails to disclose any convictions or cautions during the application process or throughout employment with the Trust may be subject to disciplinary action, which may include dismissal.

2. Procedures

2.1 General Procedures

The following procedures must be followed for all staff (including those from agencies, supply teachers, bank staff, Treloar volunteers and voluntary helpers):

The HR Department will be responsible for the supply of Disclosure forms.

When submitting an application form, applicants who have a criminal record are asked to provide the necessary details in a separate envelope sealed and marked private and confidential for the attention of the Head of HR.

When candidates are invited for interview the HR Department will send each person a Disclosure form and list of valid identity documents. The Trust, as registered body, will verify identity through the DBS identity checking process. Candidates are asked to complete the Disclosure form and give it to the HR representative at the interview or if applying online applicants will be required to complete the details on acceptance of offer.

Disclosure forms must not be viewed by anyone other than a member of the HR Department. If anybody else views them, that person will be subject to disciplinary action.

The Disclosure form and any other additional information of unsuccessful candidates will be destroyed in accordance with our disposal procedure.

The HR representative/manager interviewing the candidate must ask if they have any convictions or cautions or any pending. Candidates must be made aware that these are not limited by the Rehabilitation of Offenders Act and that it is an offence not to declare them. The exception to this is 'protected' cautions and convictions which have qualified for filtering in the 2013 amendment of the Act.

Candidates do not have to disclose offences to anyone other than the HR representative if they do not wish to.

The HR Department will ensure that the necessary checks are made for the successful candidate. Only those who need to see the Disclosure Certificate shall do so, this may include HR, Safeguarding Manager, Recruiting Manager, and the Chief Executive/Principal, as appropriate.

All employees will require a DBS check. The level of check will depend on job role as defined in the Police Act 1997. Successful applicants will be asked to declare that they have read and understood the DBS' Privacy Policy for Standard and Enhanced checks. Available at <https://www.gov.uk/government/publications/standard-and-enhanced-dbs-check-privacy-policy>.

Applicants who receive a positive DBS check will be subject to a risk assessment completed by the line manager (in conjunction with HR) to assess and where appropriate manage any associated risk.

2.2 Rechecking Procedure

We are introducing a rechecking procedure in 2020 which aims to ensure that all those subject to a DBS check including employees, bank workers, volunteers, Trustees and Governors, will be rechecked every three years. Due to the large number of people who will require a recheck this process will be implemented over the next three years and then checks will be refreshed every three years.

3. Suitability of Ex-Offenders

In accordance with the code of practice published under section 122 of the Police Act 1997, Treloar's treat DBS applicants who have a criminal record fairly and do not discriminate automatically because of a conviction or other information revealed.

Treloar's is entitled by law to ask an applicant or employee to reveal their full criminal history, including spent convictions – this excludes protected cautions and convictions that will be filtered from a criminal record check. This applies when an individual will be working in specific occupations, for certain

organisations and specified positions. These exemptions are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

All applications forms and job adverts state that successful applicants will be required to submit a DBS application. Treloar's actively promotes equality of opportunity for all and selects candidates for interview based on their skills, qualifications and experience.

Having a criminal record will not necessarily bar an applicant from working at Treloar's. For applicants who have declared a conviction or caution, we will ensure that an open and measured discussion takes place on the subject of any offences or other matters that might be relevant to the position. Failure to reveal information that Treloar's is legally entitled to ask about could lead to withdrawal of an offer of employment.

Treloar's make all potential employees aware of the DBS code of practice and a copy is available on request. Treloar's also obtain consent from all successful applicants to processing the DBS check in line with the DBS privacy policy.

The minimum age at which someone can be asked to apply for a criminal record check is 16 years old.

4. Ex-Employees

An ex-employee who wants to re-join the Trust must undergo another Disclosure if they left more than three months ago. This also applies to bank staff who have not completed any work for the Trust for more than three months.

5. Overseas Applicants (Or Those Who Have Lived Abroad During The Last Five Years)

All applicants who have lived abroad for three months or more within the last five years will be required to get Police Clearance Certificate, Criminal Records Check or Certificate of Good Conduct, from the relevant country, stating all convictions, cautions or any pending. It is the responsibility of the applicant to obtain this certificate and this must be given to the HR Department prior to commencing work. If this check cannot be carried out due to issuing country restrictions then a risk assessment will be carried out by the manager (in conjunction with HR).

6. Work Experience Placements

A DBS check will not be obtained for work experience placements; the duration of placements will not exceed 10 days. A supervisor will be assigned and under no circumstances will a work experience student be left in a one-to-one situation with a student.

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Disclosure checks cannot be processed for anyone under 16.

7. Voluntary Helpers

All voluntary helpers are subject to Disclosure checks.

8. Trust Staff Accommodation

The Employer will only allow family members who have been subject to a DBS check by the Trust and have received appropriate clearances to occupy/reside at the Holybourne campus premises. Such restriction shall not apply to children under the age of 16.

A family member over the age of 16 residing with the Trust employee will be required to vacate Trust accommodation while they are subject to a safeguarding investigation.

Family members of the Trust employee over 16 must inform the Trust HR Department of any information which comes to light since their last DBS clearance so that a DBS request can be resubmitted and a revised licence to occupy issued.

9. Governors and Trustees

Governors and Trustees will be expected to submit to a Disclosure Check.

10. Duty to refer

The Safeguarding Vulnerable Groups Act (SVGA) 2006 places a duty on employers of people working with children or vulnerable adults to make a referral to the DBS in certain circumstances. This is when an employer has **dismissed or removed** a person from working with children or vulnerable adults (or would or may have if the person had not left or resigned etc.) because the person has:

1. Been cautioned or convicted for a relevant offence; or
2. Engaged in relevant conduct in relation to children and/or vulnerable adults [i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm]; or
3. Satisfied the Harm Test in relation to children and/or vulnerable adults. [i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists].

The relevant SMT/TLT member is responsible, in consultation with the Head of Safeguarding and Head of HR (or their nominated deputies) for ensuring that the referral to the DBS is made as soon as possible of the decision to permanently dismiss or remove the person from working with children or vulnerable adults for the reasons stated above. A referral should also be made as soon as possible if an employee is removed from regulated activity by temporary suspension following information that suggests one of the criteria has been met.

In cases of suspension, where any of the referral criteria are met The Head of Safeguarding must inform those governors with specific safeguarding responsibilities whenever a referral to the DBS is made.

A copy of the referral form will be placed on the employees HR file.

In the event that the Head of Safeguarding or Head of HR is dismissed or removed from regulated activity for these reasons, the Principal or Chief Executive as relevant will consult as they consider necessary and inform governors. They are responsible for ensuring a referral is made.

If the Principal is dismissed or removed from regulated activity for these reasons the Chief Executive is responsible for ensuring a referral to DBS is made in consultation with the Head of Safeguarding and the Head of HR.

If the Chief Executive is dismissed or removed from regulated activity for these reasons the Principal is responsible for ensuring a referral to DBS is made in consultation with the Head of Safeguarding and the Head of HR.

Detailed advice on the referral process and referral form can be found at <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about#referrals>

11. Secure Handling of Information: Storage, Handling, Retention and Disposal of Disclosures and Disclosure Information

11.1 Storage and Access

Disclosure certificates and information are kept separately from the applicant's personnel file and securely, in a lockable, non-portable, storage container with access strictly controlled and limited to those who are entitled to see it as part of their duties.

11.2 Handling and Usage

In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties.

Disclosure information must only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given. It is a criminal offence to pass this information to anyone who is not entitled to receive it.

11.3 Retention

Once a recruitment (or other relevant) decision has been made, we do not keep certificate information for any longer than is necessary. Treloar's keeps Disclosure certificate for a maximum period of six months, to allow for the consideration and resolution of any disputes or complaints.

Disclosure information held within a positive risk assessment will be retained for six months or as long as the risk assessment is in place; whichever is longer.

11.4 Disposal

Once the retention period has elapsed, Treloar's must ensure that any disclosure information is suitably destroyed as soon as possible by secure means, such as by shredding, pulping or burning.

We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. Treloar's will, however, keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the Disclosure certificate number and the details of the recruitment decision taken.

11.5 Umbrella Bodies

If a DBS check is processed through an umbrella body (a registered body which countersigns applications and receives certificate information on behalf of other employers or recruiting organisations), Treloar's will take all reasonable steps to satisfy ourselves that they will handle, use, store, retain and dispose of certificate information in full compliance with the code of practice and in full accordance with this policy.

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12. Implications of Policy/Procedure

12.1 Policy Implementation

- Training Requirements – All managers and members of HR department should be made aware of and/or trained on this policy.
- Communication Requirements – The policy will be uploaded on SharePoint, so accessible to all staff.

12.2 Communication Requirements

How will the Policy/procedure be communicated:	The policy will be uploaded on SharePoint, so accessible by all staff.	
Who will ensure the above communication is carried out::	Head of HR HR Business Partners PA to the Finance and Resources Director	
Do the changes made to this policy/procedure affect any other policies/procedures? If yes, has this been communicated to the policy/procedure author/owner		Yes – Safer Recruitment Policy and Procedure, Volunteer Procedure.

12.3 Inclusive Communications

If you require this document in an alternative format, such as large print, audio description, or a coloured background, please contact Jo Cox at jo.cox@treloar.org.uk

13. Monitoring and Review

The effectiveness of this policy will be reviewed by:

- Monthly data report – number of policies in/out of date
- Ofsted and CQC inspections
- Treloar Leadership Team (TLT)
- Safeguarding Manager

14. Links to other related policies, procedures or documents (internal)

Safer Recruitment Policy and Procedure - HR 30/PR 01
Volunteering Procedure – HR 12/PR 01
Trust Occupancy Agreement (Holybourne)

15. Further sources of information (external)

Disclosure & Barring Service
Rehabilitation of Offenders Act
General Data Protection Regulations

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16. References

Disclosure & Barring Service

<https://www.gov.uk/disclosure-barring-service-check>

Referrals Process

<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about#referrals>

17. Definitions

None

18. Revision History

Listed below is a brief audit trail, detailing amendments made to this policy in last 4 years

Page/para No.	Brief description of the change(s)	Change made by	Date
3/10	If HR is not on the panel, the interviewing manager must ask about convictions or cautions pending.	G Flower	11 April 2016
4/2	Ex-employees rejoining the Trust only require another DBS if they left more than six months ago.	G Flower	11 April 2016
4/3	Applicants who have lived abroad in the last two years only require an international police check if they lived abroad for three or more months. It is the responsibility of the applicant to obtain the international police certificate.	G Flower	11 April 2016
4/2	Positive DBS checks require a risk assessment	G Flower	2 July 2018
4/4	Applicants who have lived abroad for 3 or more months in the last 5 years (previously 2 years) require an international police check. If this cannot be obtained due to issuing country restrictions a risk assessment must take place.	G Flower	2 July 2018
4/5	Manager not required to call educational establishment to confirm suitability. Supervisor assigned.	G Flower	2 July 2018
5/6	Referrals should be made asap rather than within 6 weeks. A referral should also be made if a temporary suspension is put in place and one of the criteria is met.	G Flower	2 July 2018
6/3	If the Chief Executive dismissed or removed from regulated activity the	G Flower	2 July 2018

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	Principal should make the referral.		
6/7	Retention of Disclosure certificates changed from 12 months to 6 months. Disclosure information in positive DBS risk assessments will be kept for 6 months or as long as the risk assessment is in place, whichever is longer.	G Flower	2 July 2018
11-17	Appendix 1 added – risk assessment template for positive DBS checks	G Flower	2 July 2018
Section 3	Added section on suitability of ex-offenders	G Flower	25/11/19
Section 11	Updated Secure handling section under handling, disposal and umbrella bodies to be more reflective of updated DBS guidelines	G Flower	25/11/19
Policy Aim & Comms	Updated that the policy is accessible to potential applicants on request	G Flower	25/11/19
Section 2.2	Added section on rechecking	G Flower	09/06/2020
Section 2.1	Added Safeguarding Manager / Recruiting Manager to those who may see the certificate.		09/06/2020
Section 4	Change to 3 months from 6 months	G Flower	09/06/2020

19. Other Implementation Requirements

Policy Communication and Implementation Action Plan		
	Action	Responsibility
1	Ensure that all managers, employees and volunteers of Treloar Trust have access to the policy.	Head of HR
2	Ensure that all new employees, staff and volunteers are made aware of the policy, understand their responsibilities and know where to access a copy.	All Managers
3	Ensure HR team are aware that potential applicants and an umbrella company used by Treloar Trust can access this policy on request	HR Team

IMPORTANT NOTES:

It is essential for those with designated responsibilities to familiarise themselves with the sources of information, referred to above.

Policy documents describe mandatory minimum standards and will be subject to audit and review. Line managers are required to ensure suitable and sufficient arrangements are in place to meet policy requirements, including the provision of information and instruction to staff.

APPENDIX 1

Treloar Trust

Recruitment and Retention Guidance

Risk assessment for positive DBS check 2018-2019

Risk Assessment for positive DBS check

This template should be completed by the responsible line manager (in conjunction with the Head of HR and Head of Safeguarding) to assess and where appropriate manage the risk associated with the receipt of a positive DBS check. It should be authorised by the manager before the person can start or continue working with children and/or young adults. The completed risk assessment form will be held in the HR office separate to the individual's personnel file and will be disposed of after 6 months as long as all risk assessment actions have been completed and no extension is required.

Please note the following:

3.11 Providers must tell staff that they are expected to disclose any convictions, cautions, court orders, reprimands and warnings that may affect their suitability to work with children (whether received before or during their employment at the setting). Providers must not allow people, whose suitability has not been checked, including through a DBS, to have unsupervised contact with children being cared for.

3.15 A registered provider or a childcare worker may also be disqualified because they live in the same household as another person who is disqualified, or because they live in the same household where a disqualified person is employed.

Consideration should be given to the following as part of recruitment policy and process;

- Government guidance - DBS check guidance and referrals
- Home Office – overseas applicants
- Safe network guidance – positive risk assessments
- ACAS – information and advice for employers
- Safeguarding Vulnerable Groups Act 2006

How to use this audit tool

Make sure you....

1. ask questions which are designed to consider all relevant components.

2. answer all the questions and record the responses, then tick the appropriate box.

3. specifically consider the assessment in line with the individual's job role and the context within which it is performed.
4. consider the risk of the magnitude of impact should the individual re-offend and the likelihood of the individual re-offending.
5. understand the details of all offences committed outside of the UK and whether they would be lawful within the UK.

The manager's declaration

The risk assessment should include the following statements confirming the manager's discussions and future involvement:

- I accept responsibility for managing this individual's work.
- I confirm that the plan to minimise the risk associated with employing this individual will be implemented and monitored.
- I confirm that I have discussed the disclosure with the individual and am satisfied, as far as possible, that they understand and will comply with the attached plan.
- Responsible Manager to date and sign risk assessment

If the risk assessment confirms the candidate as a middle to high risk you should consider not progressing their application for employment. If this is a current employee, you must contact the LADO team as soon as reasonably practicable, and Ofsted at the latest within 14 days of the date of being made aware of the information.

Ofsted disqualification waiver

Ofsted may grant a full or partial waiver that would allow an individual to work in a setting. The disqualified employee only can apply to Ofsted for a waiver. They can request a form by emailing Ofsted directly.

Whilst a waiver is under consideration for a current employee, they must remain suspended from work on full pay.

Risk Assessment Tool

PART ONE

Key details	
Employee name:	Date of birth:
Job title:	Place of work/department:
Proposed start date:	Manager/s conducting assessment:

Background candidate check	
Application Form - check gaps, discrepancies or anomalies	
Appropriate and satisfactory references	
Give details where you have obtained clarification or missing information on the applicant or verification of the referees position in the organisation.	
Qualifications – Do the candidate's qualifications fulfil the requirements in the selection criteria?	
Confirm that you have actively asked the person if they have any convictions, cautions, reprimands, warnings, bind-overs, pending prosecutions or disqualifications.	
Have you seen and verified asylum and immigration checks?	
Have satisfactory health checks been received.	

Assessing the risk

DBS		
Did the applicant declare the matters on the application form?	Yes / No If 'No' state reason	
Does the individual agree that the information detailed on the DBS Certificate is correct?	Yes/ No If 'No' what do they think is incorrect and why?	
Were any offences work-related or committed within the context of a work setting?	Yes/No If 'Yes' give details	

Review each statement to determine level of risk

Factor	Low to Medium Risk	Medium to High Risk
Whether the offence or information provided is related to children	Not at all or indirectly related to children	Directly related to children
Does the offence/information include any of the following: <ul style="list-style-type: none"> - Sexual offences - Drugs - Mental Health Issues - Theft where the post involves contact with vulnerable adults - Fraud or pecuniary advantage where the post involves contact with vulnerable adults - Violence /Assaults - Arson 	No	Yes
The relevance of the offence to the duties required of the post-holder:	Indirect or no relevance to the duties of the post-holder	Direct relevance to the duties of the post-holder

- Will there be unsupervised access to children? - Does the post involve financial or property responsibilities? - Will there be access to sensitive personal data?		
Is the conviction 'spent' under the Rehabilitation of Offenders Act 1974?	Yes	No
Whether the offence appeared to be a one-off or part of a history of offending	Single or small number of offences	Long history of re-offending
If the offence was committed in another country, whether it is an offence in England and Wales	No	Yes
Have you checked qualifications	Yes	No
Have you received x2 references	Yes - satisfactory	No or unsatisfactory

Summary

Please summarise discussion with the individual and any other discussions you may have had with other team members involved in the recruitment process.

Examples of information /issues to be discussed and recorded

The circumstances, which led to the offence being committed; whether the individual circumstances have changed since the offence was committed making re-offending less likely. The degree of remorse, or otherwise, expressed by the individual and their motivation to change. Exceptionally, further information may be explored with local police records via the Safeguarding Team.

Conclusion of risks

Having considered the answers to the questions, please use this box to indicate any identified hazards and your assessment of any risks.

If you have decided to withdraw a conditional offer please say when this was undertaken. If the employee is already confirmed in post please indicate whether you are recommending redeployment or any other action.

Name of manager:

Manager's signature:

Date:

IMPORTANT NOTE: A signed copy of this plan must be passed to the Head of HR and will be held in the HR Office.