



# **DBS POLICY**

**September 2021**

Date for Review: September 2022

**James Montgomery Academy Trust**

## Statement of intent

**The James Montgomery Academy Trust (thereafter referred to as JMAT)** is committed to promoting the welfare of our staff, pupils and visitors. Ensuring the safety of our school community is of paramount importance and, as a result, this policy has been created in order to establish a safe environment where pupils are cared for appropriately and are free from harm.

For certain roles, the school is required to request a Disclosure and Barring Service (DBS) check as part of its recruitment process. This check may also include barred list information held on the DBS barred lists (children and vulnerable adults), as well as any information held by the police which is relevant to the role applied for.

DBS checks allow the school to ascertain an individual's suitability to work with children in an educational environment. This policy will ensure that all staff, pupils and parents/carers are aware of the measures taken by the school to promote the welfare of the school community.

## Legal framework

This policy has due regard to statutory legislation including, but not limited to, the following:

- The Protection of Freedoms Act 2012
- The Rehabilitation of Offenders Act 1974
- The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2015)
- The Police Act 1997
- The Police Act 1997 (Criminal Records) (Registration) Regulations 2006
- The Data Protection Act 2018 (GDPR)
- The Safeguarding Vulnerable Groups Act 2006
- The School Governance (Constitution) (England) Regulations 2012 (as amended in 2016)
- The Education (Independent School Standards) Regulations 2014
- The Equality Act 2010

This policy also has due regard to statutory guidance, including, but not limited to, the following:

- Home Office (2015) 'Revised Code of Practice for Disclosure and Barring Service Registered Persons'
- DfE (2021) 'Keeping children safe in education'

## Roles and responsibilities

The **Headteacher** is responsible for:

- Ensuring that they are aware of any posts in the school that are subject to a DBS check.
- Maintaining an up-to-date single central record.
- Ensuring that any job descriptions and person specifications for any posts within the school indicate whether an individual will require a DBS check, as well as what level of check is required.
- Taking reasonable steps to make sure that any individual who is not an employee, but who is covering an existing post or other work within the school, holds the appropriate level of DBS check.
- Ensuring that all members of staff hold current, acceptable DBS checks according to the appropriate level required, and that upcoming renewals are applied for prior to the renewal date.
- Ensuring that new employees are aware of the update service and encouraging them to subscribe to this.
- Making decisions in regards to disclosure information concerning existing and prospective employees.
- Ensuring that any disclosure containing convictions for an existing or prospective employee is discussed with the JMAT before deciding on their suitability for employment.

- Ensuring that current and prospective employees do not commence or continue their practice without a satisfactory DBS check and an appropriate risk assessment on their suitability to work with children.
- Ensuring that this DBS Policy and the Staff Code of Conduct is adhered to at all times.
- Ensuring that the identity of any existing or prospective employee is confirmed and verified beyond doubt before commencing or continuing employment
- Informing the JMAT of any decisions made regarding disclosure information.

**Please note: administrative staff who check the DBS must ensure they check all pages of the document.**

## **Regulated activity**

**For the purpose of this policy, engaging in “regulated activity” involves any individual who:**

- Will be responsible for teaching, training, instructing, caring for or supervising children at the school.
- Will carry out paid or unsupervised, unpaid work regularly at the school, and where that work provides an opportunity for contact with children.
- Engages in intimate or personal care or overnight activity, even if this happens only once.

Regulated activity is described as being “regular” if it is carried out by the same person and is conducted:

- Once a week or more often.
- On four or more days in a 30 day period.
- Overnight (between 2am-6am).

## **DBS procedures for staff**

- All those in regulated activity, as defined above, are required to obtain an enhanced DBS check with barred lists information.
- Staff in management roles are required to obtain an additional check to ensure they are not prohibited under section 128 provisions.
- Only members of staff who have the opportunity for regular contact with children, but who would not be engaging in regulated activity, are required to obtain an enhanced DBS certificate that does not include a barred list check.
- In accordance with the School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016, all governors at the school are required to obtain an enhanced DBS check (this does not include a barred list check).
- The school will carry out all “relevant checks”, including an enhanced DBS certificate with barred list check, for existing staff where:
  - There are concerns about a staff member’s suitability to work with children.
  - A person moves from a post that was not regulated activity into work that is regulated activity.

The school will not obtain enhanced DBS checks for appointees from another school, who, **in the previous 12 months**, have worked within the JMAT.

When employing agency staff from a third-party organisation, the school will obtain written notification that the organisation has carried out the relevant checks, including a barred lists check, prior to their appointment where necessary.

Any contractors who have the opportunity for regular contact with children, but who would not be in regulated activity, will be required to obtain an enhanced DBS check.

The school will check that the individual presenting themselves for work is the same person for whom the checks have been made when employing any member of staff.

The school will only check the status of any DBS certificates if this is legally required for a new role or a change in roles. The individual's consent will be gained before the DBS certificate status is checked.

### **Barred list checks**

KCSIE 2021 has added to the guidance explaining when separate barred list checks should be carried out. These checks **must only** be carried out:

- for newly appointed staff who are engaging in regulated activity, pending the receipt of an Enhanced certificate with barred list information from the Disclosure and Barring Service (DBS)
- where a person has worked in a school or college in a role that brought them into regular contact with children and young people, and this role ended not more than three months prior to their new appointment

### **Updating DBS for existing staff**

It may be necessary at times to update the records of existing employees. Existing employees who are found to have criminal records will not be dismissed as a matter of course. Each case will be considered on its merits through a discussion with the Headteacher, and an assessment of risk if necessary.

### **DBS procedures for contractors, supply and agency staff**

All contractors, supply and agency staff entering school for the first time will be asked by reception staff to show photo identification – this may take the following forms:

- Driving licence
- Passport

Contractors and supply staff will also be expected to have a current enhanced DBS check, and supply reception staff with the DBS number.

However professionals from outside agencies, such as social care and health, will not be expected to produce their DBS when visiting school premises, as long as they produce the appropriate ID.

### **DBS procedures for visitors and volunteers**

- The Headteacher will use their professional judgement when deciding whether visitors and volunteers (including parents) will need to be escorted or supervised.
- An enhanced DBS check with barred lists information (both child and adult barred lists) will be obtained for volunteers (including parents) who will work regularly with children.
- Under no circumstances will a visitor or volunteer in respect of whom no DBS checks have been obtained, be left unsupervised or allowed to work in regulated activity.
- The school will undertake a risk assessment ([see Appendix 2](#)) for all supervised volunteers to decide whether an enhanced DBS check is required, with consideration for:
  - The nature and regularity of the volunteer's work with children.
  - What the school knows about the volunteer.
  - Whether the volunteer has referees who can advise on his or her suitability.
  - Whether the role is eligible for an enhanced DBS check.
- If the school has any concerns regarding a volunteer that may pose a risk to pupils, and as result the volunteer is removed from the school, a referral will be made to the DBS by the Headteacher
- The school will not conduct any DBS checks for any volunteers who are under the age of 16.
- When allowing any visitors or volunteers to work at the school, the Headteacher will check that the individual presenting themselves for work is the same person for whom the checks have been made. These checks will include photo identification such as driving licence, passport or other certified identification.

### **Disclosures containing criminal information**

A DBS check is considered to contain criminal information if it includes details of the following:

- A police record of convictions, cautions, reprimands and final warnings
- DBS Barred Lists
- Any other relevant criminal information obtained by the police

The individual will be required to attend a meeting with the Headteacher to confirm that the convictions are theirs. If the individual denies that the convictions relate to them, the Headteacher will contact the DBS to carry out an investigation.

If it is established by the DBS that the convictions do concern the individual, the Headteacher will explore the circumstances surrounding these and their suitability to work with children, in the one or more of the following ways:

- Disclosure interview with individual
- Completion of a disclosure interview form
- Risk assessment ([see Appendix 1](#)) if necessary
- Discuss the disclosed information with the governing body if necessary and agree a course of action regarding any prospective or existing employee.

For prospective employees, all posts will remain pending whilst meetings and investigations take place.

For current employees, the Headteacher will consider whether adjustments will need to be made whilst meetings and investigations take place, including:

- Whether the employee can continue their practice.
- Whether closer supervision is required of the employee.
- Whether the employee should be temporarily transferred to other duties.
- Whether the employee should be dealt with in accordance with the Staff Disciplinary Policy and suspended with entitlement to full pay.

An exception to the above is if the Headteacher was already aware of the employee's convictions and had previously decided they were still suitable for their appointment, or, if it is revealed that the convictions do not relate to the individual concerned.

## **Making a decision**

The Headteacher will consider the magnitude of any DBS disclosures.

Major disclosures will result in the prospective employee being automatically unsuitable for the role. These include where the adult is named on the following lists:

- Children's Barred List (all staff)
- Adults' Barred List (all staff)

Serious disclosures which involve criminal activity, but do not pose a risk to pupils, will be discussed with the Headteacher prior to the prospective employee being accepted for the role.

The Headteacher will endeavour to ascertain the relevant facts from the individual and decide upon a conclusion. Following this, the prospective employee will receive a rejection or acceptance letter.

When deciding to accept or reject a prospective employee, the school will consider the following information:

- The relevance of the disclosure in relation to the position applied for
- The nature of the offence or other matters revealed
- The length of time since the offence or other matters occurred

- Whether there is a pattern of offending behaviour
- Whether the candidate's circumstances have changed since the offending behaviour or other matters occurred
- Any extenuating circumstances surrounding the offence and explanations offered

A risk assessment (**Appendix 1**) will be conducted by the headteacher following a positive disclosure, before deciding on the applicant's suitability.

A record of all recruitment decisions following positive DBS disclosures will be kept by the school business manager.

Depending on the circumstances of each case, the chair of the governing body may be asked to countersign the form recording the decision.

### **Overseas applicants**

A candidate from overseas will be checked in the same way as other candidates in line with the procedures outlined in this policy.

The DBS cannot obtain police records from overseas; however, a check will be conducted to establish whether the individual has disclosed any criminal convictions during their time in the UK.

As the DBS cannot provide details of police records for overseas applications, the school is aware that the DBS information may not provide a complete picture of an applicant's criminal record.

In relation to the above, the school will conduct additional recruitment checks such as obtaining a certificate of good conduct from relevant embassies or the police.

The school will be extra vigilant when considering an applicant from overseas and will obtain additional references to ensure their suitability for the role.

### **KCSIE January 2021 update (post-Brexit) - Individuals who have lived and/or worked outside the UK**

From 1 January 2021 the TRA Teacher Services will no longer maintain a list of those teachers sanctioned in EEA member states. If applicable, schools must make further checks on a teacher's past conduct which could include the following:

- Criminal records checks for overseas applicants
- If the applicant has applied for a teaching position, a letter of professional standing from the professional regulating body of the country where the applicant has worked.

### **Recruitment of ex-offenders**

Due to recent changes in the filtering rules for DBS (effective from 28 November 2020), information that an applicant is legally obliged to disclose under the self-disclosure scheme may not necessarily appear on their DBS certificate.

Youth (under 18) reprimands, youth warnings, or youth cautions will no longer be disclosed.

Automatic disclosure of all convictions where an individual has more than one conviction will no longer apply. Instead, each individual conviction will be assessed against the appropriate rules.

On application, short-listed candidates are signposted to seek further advice regarding the disclosure of criminal convictions. Candidates will only be asked to provide details of convictions and cautions that the school is legally entitled to consider when recruiting candidates.

Post-recruitment a candidate's application form should be referred to in conjunction with the DBS form.

The school is aware of its responsibility under the Police Act 1997 not to discriminate applicants on the

basis of their criminal record.

The school selects all candidates for interview based on their skills, qualifications and experience.

All job application forms, job adverts and recruitment briefs that require a DBS check, will outline that an application for a DBS certificate will be submitted for all candidates once they have been offered the position.

During the recruitment process, the school will ensure that a discussion takes place to evaluate any offences or other matters relevant to the position.

Candidates will be informed that failure to reveal any information which is directly related to the post could result in withdrawal of an offer of employment.

Any DBS certificates that reveal criminal information will be discussed with the individual, and their eligibility for the position will be reviewed in accordance with this policy.

### **Data handling**

As DBS certificates are covered by the Data Protection Act 1998 & 2018, DBS information will be stored in accordance with the school's Data Protection Policy, and will be stored in a securely locked and non-portable cabinet which is located in the school office.

DBS certificate information will only be used for the specific purpose for which it was requested and for which the individual's full consent has been given.

The school will not keep DBS certificates for any longer than is necessary once a recruitment decision has been made – usually, for no longer than **six** months to allow for the consideration and resolution of any disputes or complaints.

In exceptional circumstances, the school may decide to retain DBS certificates for longer than **six** months. In such cases, the school will consult the DBS and will have due regard to the data protection and human rights of the individual concerned.

DBS certificates will be returned to the employees or, in other circumstances, be disposed of securely such as by shredding, pulping or burning.

Although the school will not keep any copy of the certificate, a record will be kept of the following:

- The date of issue of the certificate
- The name of the subject
- The type of certificate requested
- The position for which it applied to
- The unique reference number
- The details of the final recruitment decision

### **Monitoring, Evaluation and Policy review**

The policy will be promoted and implemented throughout the JMAT schools.

This policy will be assessed for its implementation and effectiveness **annually** by the **DSL**.

The scheduled review date for this policy is **September 2022**.



## DISCLOSURE OF CRIMINAL RECORDS FROM DBS RECORD OF DISCUSSION AND RISK ASSESSMENT

|  |  |
|--|--|
| <b>Name of school</b>                            |  |
| <b>Name of person completing risk assessment</b> |  |

|  |
|--|
| <b>Employee personal details</b>   |
| Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other: <input type="checkbox"/> |
| <b>Full name:</b>  |
| <b>Position held/applied for:</b>  |
| <b>Date of risk assessment:</b>  |

**Please note** - the information obtained from this risk assessment process will form the main basis for deciding whether proposed employment continues/is granted; therefore, it is in the best interests of all parties (both the applicant and manager/headteacher) that the risk assessment form is completed in full and that a full account is given of any matters which have been disclosed.

| Question  | Applicable  | Comments |
|---|---|----------|
| Did the applicant declare the matters on the DBS disclosure application form and/or the application form?     | Yes <input type="checkbox"/> No <input type="checkbox"/>  |          |
| Does the individual agree that the information detailed on the DBS certificate is correct?                    | Yes <input type="checkbox"/> No <input type="checkbox"/>  |          |
| Has the individual expressed regret at their actions? Would they do anything differently now?                 | Yes <input type="checkbox"/> No <input type="checkbox"/><br>Not applicable <input type="checkbox"/> |          |
| Have the individual's circumstances changed since the conviction, e.g. location, friends, partner, education? | Yes <input type="checkbox"/> No <input type="checkbox"/><br>Not applicable <input type="checkbox"/> |          |



|   |   |  |
|---|---|--|
| Are/Were there any mitigating circumstances, e.g. peer pressure, financial need or lack of judgement?         | Yes <input type="checkbox"/> No <input type="checkbox"/><br>Not applicable <input type="checkbox"/> |  |
| Do the matter(s) disclosed form any pattern, e.g. is there a cycle or history, reoccurrence, repeat offences? | Yes <input type="checkbox"/> No <input type="checkbox"/><br>Not applicable <input type="checkbox"/> |  |
| What is the nature of the contact the individual has with children and vulnerable adults?                     |   |  |
| Can any safeguards be implemented to reduce/remove any risk, e.g. no unsupervised contact?                    | Yes <input type="checkbox"/> No <input type="checkbox"/><br>Not applicable <input type="checkbox"/> |  |
| Will the nature of the post present any realistic opportunities for re-offending?                             | Yes <input type="checkbox"/> No <input type="checkbox"/><br>Not applicable <input type="checkbox"/> |  |

**Declaration by applicant and any additional comments in support of their employment**

I understand that any offer of employment (paid or voluntary) will be subject to the information I have supplied and that this is complete and correct. False information, or a failure to supply the details required, could make an offer of employment invalid or lead to termination of employment.

Signature of applicant:

Date:

Additional comments from the Headteacher:



### DBS Risk Assessment Checklist

#### Starting work prior to DBS Certificate being seen

This risk assessment should be completed when considering whether to allow a new member of staff to start work before a new DBS certificate has been seen by the school.

Name of Person .....

Role .....

Interview Date .....

Proposed Start Date .....

DBS Check application date .....

[The person must not start without an application being made]

Is the person in 'Regulated' Activity? Yes  No

#### Reason for starting without seeing a new DBS Check

- Continuity of the school's provision to pupils
- Other (please state).....

#### Known Information

Have all the following checks been satisfactorily completed?

- Identity check (photographic) [Essential]
- Verification of current address [Essential]
- Barred lists check (if legally appropriate) [Essential]
- Prohibition check (for teachers) [Essential]
- Overseas checks (where relevant)
- Right to Work in the UK [Essential]
- Confirmation of qualifications [Essential]
- Two references [Essential]

Any other information (please state).....  
.....

## Previous DBS Certificate

If the person has a previous DBS, on what date was it issued? .....

When was the person's last day at work in their previous school or college? .....

*If the person's proposed start date and their last day at their previous school or college are less than three months apart, then a new Enhanced DBS check is not required in law, although most schools will instigate a new one. Therefore, given that there is sufficient other information, the person could be assessed to be of low risk.*

## Decision

- High Risk** – Person **should not** be allowed to start without a new Enhanced DBS, as there has been a break in service of more than three months (or they do not have an Enhanced DBS certificate) and/or there is insufficient information about the person in the 'Known Information' list above.
- Medium Risk** – Person may start work and although there is sufficient other information listed above, because there is a gap in service of three months or more (or they do not have an Enhanced DBS certificate), the person must be supervised\* at all times and **should not** undertake 1:1 work, personal care activities or residential visits. (\* The unchecked person must always be 'within sight and hearing' of a person with an Enhanced DBS check).
- Low Risk** – Person may start work, without additional supervision, as they already hold an Enhanced DBS check and there is no break in service of three months or more and all other checks have been satisfactorily completed.

## Authorisation

Headteacher (Print Name) .....

Headteacher (Signature).....

Date .....

Chair of Governors (Print Name) .....

Chair of Governors (Signature).....

Date