

Company Name:	Addysg Seren Education ('the Company')
Topic:	Enhanced DBS and Update Service checks Policy
Date:	05.11.2021
Version:	2

DBS caseworkers make decisions about who should be placed in the child barred list and/or adults barred list and are prevented by law from working with children or vulnerable groups.

It is a requirement that all new work seekers hold an Enhanced Disclosure and Barring Service (Enhanced DBS) check is required. These DBS checks are done at Registration/Face to Face interview where the original copy of the Enhanced DBS is checked by an Addysg Seren Education Consultant.

A new DBS is required when

- The DBS isn't an Enhanced check
- An Enhanced DBS is dated more than 1 year from issue date (the Enhanced DBS check can be printed by another company) and isn't registered onto the update service.
- If the DBS was processed by Addysg Seren Education and exceeds the 1 year anniversary and isn't registered onto the update service. Addysg Seren Education will accept the DBS while a new Enhanced DBS is being processed.

Update Service

It is a requirement that all Enhanced DBS's are registered onto the update service. If a candidate has an Enhanced DBS from another Company and is registered onto the update service, Addysg Seren Education will accept this as a valid Enhanced DBS for their records.

Consent is granted by the work seeker at registration for Consultants to access their update service records firstly when they register with Addysg Seren Education and then on the anniversary of the issue date of the Enhanced DBS, more frequently if requested by the client, however, no more than four times a year.

Children's Barred List checks:

This check is only applicable prior to placement where an Enhanced DBS application is in progress and all other checks are done and that the client agrees to the placement.

Positive Enhanced DBS checks

If Addysg Seren Education sees a candidate suitable for a placement and holds a positive Enhanced DBS, the document will be emailed to the client school.

Unsuitable Workers

The Conduct Regulations 2003 - unsuitable workers

The Conduct Regulations under Regulation 20 places agencies and employment businesses under an obligation to act if they find out a work seeker is unsuitable. This obligation is slightly different for employment agencies (introducers of permanent candidates) and employment businesses (suppliers of temporary workers). The obligations are set out below:

Unsuitability of permanent candidates

If, within three months from the date of introduction of a work seeker to a hirer (probably the date the work seeker starts working for the client) we receive or obtain information which indicates that the work seeker is or may be unsuitable for that position we are obliged to inform the hirer without delay i.e. on the same day or the next business day if that is not reasonably practicable. For example if we take up a reference or otherwise hear of information that would make the candidate unsuitable we are obliged to inform the hirer.

Unsuitability of Temporary Workers

Where we receive or obtain information during the course of an assignment that gives us reasonable grounds to believe that a worker supplied to a hirer is unsuitable (see above) we are obliged to inform the hirer without delay and end the assignment.

If the information only indicates that the work seeker may be unsuitable but is insufficient to give us reasonable grounds to believe that s/he is in fact unsuitable we are obliged to commence such enquiries as are reasonably practicable and inform the hirer of the information received and the enquiries being made. If as a result of those enquiries we have reasonable grounds to believe s/he is unsuitable we are then obliged to inform the hirer without delay and end the assignment.

Unsuitability and the Data Protection Act

The sort of information that might indicate a worker is unsuitable will depend on the circumstances but may be a relevant criminal conviction that should have been disclosed; qualifications found to be false; or a medical condition that means the worker may either be at risk by performing the work or s/he may be placing others at risk. It should be information that would mean we would not have put the work seeker forward in the first place, and must be more than just gossip.

It is likely that processing of data to comply with regulation 20 will have a lawful basis under the General Data Protection Regulation (GDPR). Article 6 of the GDPR sets out that processing will be lawful based on six possible bases, including where it is "necessary for compliance with a legal obligation to which the controller is subject" and where it is "necessary for the purposes of the legitimate interests pursued by the controller or a third party" (although there are exceptions to the latter of these). It is likely that as we are processing the data to comply with the Conduct Regulations this will be a

sufficient legal obligation, but there is also a point to be made that the processing of this data is in our client's legitimate interest as it will affect their engagement of the individual.

However we are obliged to check the accuracy of any information we receive as the communication of any false or misleading information prejudicial to the worker could give rise to a possible claim for damages for defamation. We are obliged therefore to ensure that if this situation does arise that we do not disclose more information to the client than is necessary. It may be sufficient where we have supplied a temporary worker to simply state that "the worker is being withdrawn pending" investigations into their suitability without stating what the allegations are.

Since supplying a supply worker, the worker has become unsuitable.

Where we receive or obtain information during the course of an assignment that gives us reasonable grounds to believe that a worker supplied to a hirer is unsuitable we are obliged to inform the hirer without delay and end the assignment.

If the information only indicates that the work seeker may be unsuitable but is insufficient to give us reasonable grounds to believe that s/he is in fact unsuitable we are obliged to commence such enquiries as are reasonably practicable and inform the hirer of the information received and the enquiries being made. If as a result of those enquiries we have reasonable grounds to believe s/he is unsuitable we are then obliged to inform the hirer without delay and end the assignment.

Reporting and referrals

Parents or members of the public who are concerned about someone working with children or vulnerable adults should contact the police, social services or the person's employer.

Employers must refer someone to DBS if they:

- sacked them because they harmed someone
- sacked them or changed their role because they might have harmed someone
- were planning to sack them for either of these reasons, but they resigned first

Adult and child workforce checks:

Child workforce checks are the norm for this sector and adult workforce checks are only needed for very specific types of work. Addysg Seren Education do not require to conduct Adult workforce checks.

Recruitment of Ex-Offenders

- as an organisation assessing applicants' suitability for positions which are included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order using criminal record checks processed through the Disclosure and Barring Service (DBS), Addysg Seren Education Limited complies fully with the code of practice and undertakes to treat all applicants for positions fairly

- Addysg Seren Education undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed
- Addysg Seren Education can only ask an individual to provide details of convictions and cautions that Addysg Seren Education are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended, and where appropriate Police Act Regulations as amended)
- Addysg Seren Education can only ask an individual about convictions and cautions that are not protected
- Addysg Seren Education is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background
- Addysg Seren Education has a written policy on the recruitment of ex-offenders, which is made available to all DBS applicants at the start of the recruitment process
- Addysg Seren Education actively promotes 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
- Addysg Seren Education select all candidates for interview based on their skills, qualifications and experience
- an application for a criminal record check is only submitted to DBS after a thorough risk assessment has indicated that one is both proportionate and relevant to the position concerned. For those positions where a criminal record check is identified as necessary, all application forms, job adverts and recruitment briefs will contain a statement that an application for a DBS certificate will be submitted in the event of the individual being offered the position
- Addysg Seren Education ensures that all those in Addysg Seren Education who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences
- Addysg Seren Education also ensures that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974
- at interview, or in a separate discussion, Addysg Seren Education ensures 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
- Addysg Seren Education makes every subject of a criminal record check submitted to DBS aware of the existence of the [code of practice](#) and makes a copy available on request
- Addysg Seren Education undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

Disqualified under the Child act 2006

The 2018 regulations are made under section 75 of the Childcare Act 2006 (“the 2006 act”). They set out the circumstances in which an individual will be disqualified for the purposes of section 75 of the act.

Section 76(2) of the 2006 act, provides that a person who is disqualified under the 2018 regulations may not:

- provide relevant childcare provision
- be directly concerned in the management of such provision

Under section 76(3) schools are prohibited from employing a disqualified person in connection with relevant childcare provision in the settings set out in the [relevant offences](#) and orders section of this guide, unless the individual in question has been granted a waiver by Ofsted for the role they wish to undertake. An employer commits an offence if they contravene section 76(3), except if they prove that they did not know, and had no reasonable grounds for believing, that the person they employed was disqualified.

Disqualification criteria

The criteria for disqualification under the 2006 act and the 2018 regulations include:

- inclusion on the Disclosure and Barring Service (DBS) Children’s Barred List
- being found to have committed certain violent and sexual criminal offences against children and adults which are referred to in regulation 4 and Schedules 2 and 3 of the 2018 regulations (note that regulation 4 also refers to offences that are listed in other pieces of legislation)
 - certain orders made in relation to the care of children which are referred to in regulation 4 and listed at Schedule 1 of the 2018 regulations
 - refusal or cancellation of registration relating to childcare (except if the refusal or cancellation of registration is in respect of registration with a child minder agency or the sole reason for refusal or cancellation is failure to pay a prescribed fee under the 2006 act (regulation 4(1) of the 2018 regulations)), or children’s homes, or being prohibited from private fostering , as specified in paragraph 17 of Schedule 1 of the 2018 regulations
 - living in the same household where another person who is disqualified lives or is employed (disqualification ‘by association’) as specified in regulation 9 of the 2018 regulations (note that regulation 9 only applies where childcare is provided in domestic settings, defined as ‘premises which are used wholly or mainly as a private dwelling’ in section 98 of the act, or under a domestic premises registration, including non-domestic premises up to 50% of the time)
 - being found to have committed an offence overseas, which would constitute an offence regarding disqualification under the 2018 regulations if it had been committed in any part of the United Kingdom

The above list is only a summary of the criteria that lead to disqualification. Further details about the specific orders and offences, which will lead to disqualification, are set out in the 2018 regulations.

Signed 
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Rhiannon Jones (Aug 9, 2024 10:05 GMT+1)

Name Rhiannon Jones (Director)

Aug 9, 2024
Review Date

DBS Policy 2024

Final Audit Report

2024-08-09

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