

DBS – Disclosure and Barring Service Policy

Malvern Special Families ensures particular rigour and vigilance when recruiting and employing people to work with children aged under 18 and adults considered vulnerable.

We use the government's Disclosure and Barring checking service, DBS, formerly CRB checking service, to check our volunteers' and employees' criminal record.

DBS checks

DBS checking is the government's process for providing information to employers and organisations about whether an individual is suitable for particular types of work. It is carried out by the Disclosure and Barring Service, who also keep a list of 'Barred' individuals, who are forbidden from doing certain types of work with children and adults.

Regulated activity

Some work with children and vulnerable adults is known as "regulated" activity. It is our legal responsibility to make sure that anyone taking part in regulated activity is not barred from doing such work. It is a criminal offence to knowingly employ someone (including as a volunteer) in a regulated activity from which they are barred from working.

Regulated Activity for Children

A person can be in regulated activity because of what they do (activities), where they work (establishments) or who they are (specified position). A child is anybody who is under 18 years old.

Malvern Special Families staff fall into the category of regulated activity because they either:

Provide personal care – physical assistance (or prompting with supervision or training or providing advice or guidance) with eating or drinking because of illness or disability, physical assistance (or prompting with supervision or training or providing advice or guidance, with going to the toilet, washing or bathing or dressing because of age, illness or disability.

Or - Day to day management or supervision of individuals carrying out regulated activity relating to children.

Regulated Activity for Adults

The definition of regulated activity for adults defines the activities provided to any adult as those which, if any adult requires them, will mean that the adult will be considered vulnerable at that particular time. An adult is a person aged 18 years or over.

Our staff at the clubs fall into the category of regulated activity because they either:

Providing personal care (for example help with washing and feeding)

Or - A person whose role includes the day-to-day management or supervision of any person engaging in Regulated Activity is also in Regulated Activity.

Using Disclosure Information

- Decisions will be made based on a thorough assessment of the risk involved in each different role, and that individuals will only be refused work based on their criminal record where this is directly relevant to the role being applied for.
- Disclosure information will be stored in the staff members file in a locked filing cabinet in the main office, and on the MSF DBS record which is password protected. Photocopies of DBS certificates will be kept for a maximum of 6 months and then shredded.

Reporting to the DBS- making a referral

- Malvern Special Families has a legal obligation to inform the DBS if an employee or volunteer has harmed or posed a risk to a child or vulnerable adult whilst working with our group.
- We must make a referral when we permanently remove a member of staff from regulated activity, when that person has either:
 - Engaged in relevant conduct, (**Relevant conduct** is conduct (i.e. an action or inaction / neglect) that has harmed a child or vulnerable adult or put them at risk of harm. In other words it is something a person has done that has caused harm or posed a risk of harm to a child or vulnerable adult.

or

•Satisfied the harm test, (A person satisfies the **harm test** if they may harm a child or vulnerable adult or put them at risk of harm. In other words it is something a person may do to cause harm or pose a risk of harm to a child or vulnerable adult.)

or

•Received a caution, conviction or relevant offence

A referral should be made using the DBS referral form using guidance available on the DBS website. The form should be completed, signed and posted together with all of the information requested. In this case Malvern Special Families would keep a copy for our records.

The DBS disclosure process

Malvern Special Families is legally required to apply for DBS disclosures for our volunteers and employees.

- Malvern Special Families uses Online Disclosures (formerly TMG CRB) as our umbrella body for DBS checks.
- TMG CRB provides us with a copy of the DBS Code of Practice, forms and guidelines on how to complete them.
- The person going through a DBS check (the 'applicant') - must give their employer original documents proving their identity. The documents needed depend on the route the application takes. **Appendix A.** The applicant must try to provide documents from Route 1 first.
- The play services coordinator will need to verify that the forms of identification provided are genuine and enter the information online with TMG CRB.
- Completed forms are then sent off online with payment. Disclosures are free for volunteers. However, for paid employees the DBS charge £44 for an Enhanced Disclosure. A Barring list check is free for people in regulated activity when getting an Enhanced Disclosure. A fee of £12.60 is payable to TMG CRB on top of the payment to the DBS (for volunteers as well as paid employees).
- The DBS will carry out their checks. Their stated aim is to complete standard disclosures in 2 weeks and enhanced disclosures in 4 weeks, but the online service returns them much quicker than this.
- When the DBS has completed its checks it will send one copy of the disclosure to the individual (at their home address) and one to TMG CRB who request the check. TMG CRB send MSF a statement of whether the individual is suitable for work in our organisation.
- When we receive the results of the DBS disclosure, we will make a decision about whether the volunteer or paid employee is suitable for the post working with children or vulnerable adults. TMG CRB will follow their own suitability policy when advising us about whether someone is suitable for work with our organisation.
- If a decision is made that an individual is not suitable for the work, this decision will be discussed with them, and the reasons for the decision made clear.
- In all cases the DBS Code of Practice should be followed. This governs the use of DBS disclosure information. www.gov.uk/government/publications/dbs-code-of-practice
- **Storage and access** -DBS Certificate information will be kept in a locked cabinet with access strictly limited to those who are entitled to see it as part of their duties. It is a criminal offence to pass this information to anyone who is not entitled to receive it.
- **Usage** - Certificate information is used only for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- **Retention** - Once a recruitment decision has been made, we retain DBS Certificate information generally for a period of up to six months. This is to allow time to consider and resolve any disputes or complaints. If, in exceptional circumstances, it is considered necessary to keep the information for longer, we will consult the DBS, taking data protection and human rights issues into consideration.
- **Disposal** - Once the retention period has elapsed, any Certificate information will be destroyed by shredding. We will not keep a copy of the Certificate. We will, however, keep a record of the date of issue of a Certificate, the name of the subject, the type of Certificate requested, the position for which it was requested, the unique reference number of the Certificate and the details of the recruitment decision taken.

Update Service

The DBS operate an "Update Service". This is a way that organisations can see if new information has been issued about an individual since their DBS certificate was issued. It can be used to get instant up to date information without having to go through the whole process of applying for a new check.

In order to do this, the individual themselves has to be registered with the update service. This costs £13 for a year, and allows them to give permission for as many organisations as they like to check their DBS information. Organisations are only eligible to check people's information if the role the individual will take is eligible for a DBS check.

Filtering

On 29 January 2013 judges ruled that CRB checks are 'incompatible' with the Human Rights Act and consequently there was revised legislation.

Filtering is the term that the DBS uses to describe the process which will identify and remove convictions and cautions which should no longer be disclosed on DBS certificates due to changes to legislation.

From 29 May 2013, legislation came into force that allows certain old and minor cautions and convictions to no longer be subject to disclosure under the Exceptions Order.

In addition employers will not be able to take certain old and minor cautions and convictions into account when making decisions about any individual. Under these provisions all cautions and convictions for specified serious violent and sexual offences and other specified offences of relevance for posts concerned with safeguarding children and vulnerable adults will remain subject to disclosure. In addition, all convictions resulting in a custodial sentence will remain subject to disclosure. If a person has more than one offence, then details of all their convictions will always be included.

Filtering Rules for criminal record check certificates

For those 18 or over at the time of the offence:

An adult conviction will be removed from a DBS certificate if:

11 years have elapsed since the date of conviction; and

It's the persons only offence, and

It did not result in a custodial sentence

An adult caution will be removed after 6 years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.

For those under 18 at the time of the offence:

A conviction will be removed from a DBS certificate if:

5.5 years have elapsed since the date of conviction; and

It's the persons only offence, and

It did not result in a custodial sentence

A caution will be removed after 2 years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.

Malvern Special Families will only ask an individual to provide details of convictions and cautions that we are legally entitled to know.

We will only ask an individual about convictions and cautions that would fall under the rules described above. That means only those convictions and cautions that would be disclosed on a DBS certificate.

We will not take into account a conviction or caution that would not have been disclosed as this would be acting unlawfully under the Rehabilitation of Offenders Act 1974.

Check on staff recruited from abroad

If an applicant has not previously lived in the UK, no purpose will be served by seeking a DBS check on arrival. The person will not have a criminal record in this country, nor will he/she appear on List 994

Or the Protection of Children's Act List.

Where a DBS Disclosure would provide insufficient information for overseas applicants or candidates, it is best to obtain a 'Certificate of Good Conduct' in addition to any other references that may be available. The standard of foreign police checks vary. To find out just how good they are and where to obtain these certificates, you should contact the relevant Embassy.

Contact details for Embassies and High Commissions in the UK may be found on the Foreign & Commonwealth Office (FCO) website: www.fco.gov.uk/en/travel-and-living-abroad/foreign-embassy-in-the-uk/

Renewal of DBS Certificates

The DBS Certificate does not recommend a specific renewal interval for DBS checks. However, Malvern Special Families staff provide annual declarations stating that no further criminal convictions and/or other investigations have occurred since their original clearance or previous annual declaration. In the event that new information has come to light they are required to disclose details.

Related Policies

Safeguarding Children and Vulnerable Adults
Staff Employment, Recruitment and Selection

Policy to be reviewed annually.

Next review date: April 2016

Appendix A

Route 1

The applicant must be able to show:

- 1.) document from Group 1, below
- 2.) other documents from either Group 1 or Group 2a or 2b, below

At least 1 of the documents must show the applicant's current address.

Route 2

If the applicant doesn't have any of the documents in Group 1, then they must be able to show:

- 1.) document from Group 2a
- 2.) other documents from either Group 2a or 2b

At least 1 of the documents must show the applicant's current address. The organisation conducting their ID check must then also use an appropriate external ID validation service to check the application.

Route 3

Route 3 can only be used if it hasn't been possible to process the application through Routes 1 or 2.

For Route 3, the applicant must be able to show:

- 1.) a birth certificate issued after the time of birth (UK and Channel Islands)
- 2.) 1 document from Group 2a
- 3.) 3 further documents from Group 2a or 2b

At least 1 of the documents must show the applicant's current address. If the applicant can't provide these documents they may need to be fingerprinted.

Group 1: Primary identity documents

Document	Notes
Passport	Any current and valid passport
Biometric residence permit	UK
Current driving licence – photo card with counterpart	UK/Isle of Man/Channel Islands (full or provisional)
Birth certificate - issued at time of birth	UK and Channel Islands – including those issued by UK authorities overseas, eg Embassies, High Commissions and HM Forces

Group 2a: Trusted government documents

Document	Notes
Current driving licence – old-style paper version	UK
Current photo driving licence	Non-UK licences must be valid for up to 12 months from the date the applicant entered the UK
Birth certificate – issued after time of birth	UK and Channel Islands
Marriage/civil partnership certificate	UK and Channel Islands
Adoption certificate	UK and Channel Islands
HM Forces ID card	UK
Firearms licence	UK, Channel Islands and Isle of Man

Group 2b: Financial and social history documents

Document	Notes	Issue date and validity
Mortgage statement	UK or EEA	Issued in last 12 months
Bank or building society statement	UK and Channel Islands or EEA	Issued in last 3 months
Bank or building society account opening confirmation letter	UK	Issued in last 3 months
Credit card statement	UK or EEA	Issued in last 3 months
Financial statement, eg pension or endowment	UK	Issued in last 12 months
P45 or P60 statement	UK and Channel Islands	Issued in last 12 months
Council Tax statement	UK and Channel Islands	Issued in last 12 months
Work permit or visa	UK	Valid up to expiry date
Letter of sponsorship from future employment provider	Non-UK or non-EEA only - valid only for applicants residing outside of the UK at time of application	Must still be valid
Utility bill	UK – not mobile telephone bill	Issued in last 3 months
Benefit statement, eg Child Benefit, Pension	UK	Issued in last 3 months
Central or local government, government agency, or local council document giving entitlement, eg from the Department for Work and Pensions, the Employment Service, HMRC	UK and Channel Islands	Issued in last 3 months
EU National ID card	-	Must still be valid
Cards carrying the PASS accreditation logo	UK and Channel Islands	Must still be valid
Letter from Head Teacher or College Principal	UK - for 16 to 19 year olds in full time education - only used in exceptional circumstances if other documents cannot be provided	Must still be valid