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1 BACKGROUND

- 1.1. Keeping Children Safe in Education makes clear the expectations on schools and colleges to use appropriate checks when recruiting staff.
- 1.2. The following provisions, which were part of the previous procedures, remain:
 - It is a criminal offence for a barred person to work, or volunteer, in regulated activity.
 - It is a criminal offence for an employer to knowingly employ (either on a paid or voluntary basis) a barred person in regulated activity.
 - Where a person is removed from regulated activity by an employer because the person has caused harm to a child or vulnerable adult, or it is believed that they pose a threat of significant harm, a referral must be made to the Disclosure and Barring Service.
- 1.3. When employing a person, or engaging a volunteer, to engage in regulated activity a school or college must carry out an appropriate DBS check.

2 PURPOSE

- 2.1 It is important that the college has robust recruitment procedures that deter and prevent people who are unsuitable to work with children from applying for or securing employment or volunteering opportunities.
- 2.2 The policy also covers workers and volunteers who are not directly employed by the college.

3 REGULATED ACTIVITY

- 3.1 The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012. HM Government has produced a factual note on regulated activity in relation to children. The definition of regulated activity is shown at Appendix 1.
- 3.2 Under the terms set in the legal definition of regulated activity, the college is a 'specified place'. This means that all staff who are employed by the college are subject to an enhanced DBS check with barred list information (as set out in the current Keeping Children Safe in Education document). Please read the separate Staff - Volunteer Policy for details of DBS checks for volunteers. A Flowchart of DBS checks is shown at Appendix 2.

4 EQUALITY OF OPPORTUNITY

- 4.1 The College aims to promote equality of opportunity and diversity in its workforce and recognises that those with certain criminal records should be treated fairly

and given every opportunity to establish their suitability for employment. The College therefore selects for appointment based on skills, qualifications and experience. Criminal records will be considered for recruitment and selection purposes only when they are relevant.

- 4.2 The College requires applicants to complete the colleges job application form for all roles. The application form asks questions about their academic and full employment history and their suitability for the role (in addition all applicants are required to account for any gaps or discrepancies in employment history). Applicants submitting an incomplete application form will not be shortlisted.
- 4.3 The application form will include the applicant's declaration regarding convictions and working with children and will make it clear that the post is exempt from the provisions of the Rehabilitation of Offenders Act 1974. CVs will not be accepted in place of a job application form which must always be completed.

5 RECRUITMENT, SELECTION AND PRE-EMPLOYMENT VETTING

- 5.1 As per the Resourcing Policy and Process, the college will ensure that at least one person on any interview panel has undertaken safer recruitment training.
- 5.2 Candidates should be asked at least one question around the subject of safeguarding at interview.
- 5.3 It is the responsibility of the Human Resources department to ensure that all the necessary safeguarding checks are in place for new appointments. To enable this to happen it is the Line Manager's responsibility to notify HR of any person working in their area **prior** to their start date. Failing to notify HR is gross misconduct and will be subject to the College's disciplinary procedure.
- 5.4 Candidates who are shortlisted for interview will be asked to complete a self-declaration of their criminal record or information that would make them unsuitable to work with children. The purpose of the self-declaration is to give candidates the opportunity to share relevant information and allow this to be discussed and considered at interview before the DBS certificate is received. Any candidate who does not complete the confidential self-declaration form will not be interviewed.
- 5.5 A member of the interview panel or Human Resources team should carry out the necessary document checks for the following:
 - Verification of the candidate's identity through photographic ID and proof of address
 - Verification of the candidate's right to work in the UK
 - Supporting documents for the candidate's DBS application
 - Verification of the candidate's professional qualifications

These checks should be made prior to the candidate's start date and ideally at interview. Only original documents can be accepted, scanned or photocopies are not acceptable. It is HR's responsibility to ensure the documents are presented in a timely manner for the DBS application to be processed. A full list of current acceptable documents is given to all applicants. For the latest version please refer to the GOV.UK website.

- 5.6 If the employee is registered with the Update Service then HR can access their record upon witnessing the original DBS certificate, with the employee's permission. A new application for a DBS certificate would not be necessary. This should be actioned prior to the employee's start date.
- 5.7 HR will commence the DBS application process through the eSafeguarding portal. This will generate an email to the applicant's home email address. If the employee fails to complete the application in good time before their employment commences then this may lead to withdrawal of the conditional offer of employment.
- 5.8 In the event that an applicant does not have access to email then a paper application form will be issued. The form must be returned to HR within seven days of issue and the certificate within five days of receipt. Failure to comply with either of these conditions may lead to withdrawal of the conditional offer of employment or disciplinary action if the employee has been permitted to commence employment before the certificate has been received.
- 5.9 In certain circumstances and, with appropriate risks assessed, an employee may be permitted to commence their employment prior to their DBS check being received. The risk assessment (Appendix 3) should state the safeguards that will be put in place whilst the College is waiting to receive the DBS check. An example of a safeguard would be for the new staff member to be shadowed by a person who is in regulated activity until the DBS certificate arrives. A separate barred list check will also be completed via the Teaching Regulation Agency's Employer Access Service. The employee must have provided their evidence of identification and have had their application for a DBS check submitted before they commence employment in regulated activity. See section 8 for guidance on dealing with DBS certificates containing information.
- 5.10 KCSiE guidance states that there is no requirement to obtain an enhanced DBS certificate or carry out checks for events that may have occurred outside of the UK if, within the three months prior to their appointment, the applicant has worked:
 - in a school in England in a post which brought them into regular contact with children aged under 18; or
 - in an institution within the further education sector in England or in a 16-19 Academy, in a post which involved the provision of education which brought the person regularly into contact with children or young persons

Nevertheless, it is College policy that all new employees will undergo an enhanced DBS check. However, if an employee terminates their employment with Shrewsbury Colleges Group and returns in any capacity within a 3 month period, the College will not apply for a new DBS check but reserves the right to do so should it be deemed necessary.

- 5.11 Individuals who have lived or worked outside of the UK must undergo the same checks as all other staff in schools or colleges. This includes an enhanced DBS certificate including barred list information, even if the individual has never been to the UK. Any further checks deemed relevant will also be carried out. Following the UK's exit from the EU, schools and colleges will apply the same approach for any individuals who have lived or worked outside of the UK regardless of whether or not it was in an EEA country or the rest of the world.

These checks **could** include, where available:

- a criminal records check for overseas applicants
- a letter from the professional regulating authority in the country in which the applicant has worked confirming that they have not imposed any sanctions or restrictions, and/or that they are not aware of any reason why they may be unsuitable to teach.

Where this information is not available the college will seek alternative methods of checking suitability and/or undertake a risk assessment on whether to proceed with the appointment.

6 ADDITIONAL PRE-EMPLOYMENT CHECKS FOR TEACHING STAFF

6.1 Teacher Prohibition Orders

Secretary of State Teacher prohibition and interim prohibition orders prevent a person from carrying out teaching work in schools, sixth form colleges, 16 – 19 academies, relevant youth accommodation and children's homes in England. A person who is prohibited from teaching must not be appointed to a role involving teaching in such a setting. A check of any prohibition should be carried out using the Teaching Regulation Agency's Employer Access Service. The TRA can also be used to check historic General Teaching Council for England Sanctions and Restrictions and Secretary of State section 128 directions.

6.2 Teacher Health Questionnaire

The college will seek to verify a successful candidate's mental and physical fitness to perform in a teaching role. An Occupational Health Questionnaire will be emailed to the candidate's home email address for completion. The candidate should submit the questionnaire directly to the Occupational Health team at Shropshire Council and not the college.

7 EMPLOYMENT HISTORY AND REFERENCES

7.1 The College will request written information about previous employment history on all short-listed candidates, including internal candidates, before interview. Any issues of concern will be explored with the candidate at interview. If a candidate for a teaching post is not currently employed as a teacher, the College will request a reference from the most senior person within the school or college at which they were most recently employed to confirm details of their employment and their reasons for leaving. The college will:

- not accept an open reference.
- not accept a reference submitted directly from the applicant or rely on the applicant to obtain their own reference.
- ensure the reference is obtained from the current employer and by the most senior person.
- obtain verification of the individuals most recent employment where they are not currently employed.
- secure a reference from the relevant employer from the last time the applicant worked with children, if they are not currently working with children.
- always verify information with the person who provided the reference.
- ensure electronic references originate from a legitimate source.
- contact referees to clarify content where information is vague or insufficient.
- compare the reference with the information provided on the application form and follow up discrepancies.
- establish the reason for the candidate leaving their current or most recent post.
- ensure concerns are resolved satisfactorily before the appointment is confirmed.

7.2 Any gaps in employment history should be explored with the candidate at interview.

8 CRIMINAL CONVICTIONS AND THE REHABILITATION OF OFFENDERS ACT 1974

8.1 The Rehabilitation of Offenders Act 1974 does not apply to positions which involve working with or having access to students. Therefore, any convictions and cautions that would normally be considered 'SPENT' must be declared when applying for any position at the college. Applicants do not have to disclose a

caution or conviction for an offence committed in the United Kingdom if it has been filtered in accordance with DBS filtering rules.

Guidance on the new filtering rules for DBS certificates from 28 November 2020 onwards can be found on the GOV.UK website, along with a list of offences that can never be filtered.

- 8.2 If a DBS check reveals information, the Line Manager and Vice Principal - People will complete a risk assessment which considers the following:
- Whether the information revealed is relevant to the position in question, or the context in which that position operates.
 - The seriousness of any offence or other matter revealed.
 - The level of supervision the person would be subject to.
 - The length of time since the offence or other matter occurred.
 - The circumstances surrounding the offence.
 - Whether the applicant has a pattern of offending behaviour or the other relevant matters.
 - Whether the offence has since been decriminalised by Parliament.
 - The explanation offered by the applicant.
 - Information within references provided.
- 8.3 There will be no formulaic approach to making a decision. The Vice Principal – People will use their judgement in considering each of the above factors. Where there is conflict or potential conflict between seeking to protect young people/vulnerable adults and providing employment to those with criminal records, the college will always seek to put the protection of young people/vulnerable adults first. No-one with a conviction for a sex offence or whose name appears on the Barred Lists of those considered unsuitable to work with children or vulnerable adults will be employed by the college.
- 8.4 If the DBS check reveals information deemed sufficiently serious to withdraw an offer of employment the College will confirm the offer is withdrawn to the applicant in writing. The applicant has the right to appeal against this decision to the principal. The appeal must be made in writing within seven days of the date of the withdrawal notification. The decision of the principal will be communicated in writing and is final.

9 EXISTING EMPLOYEES

- 9.1 There is no legal obligation to carry out a DBS check on employees appointed prior to March 2002 and who have remained continuously employed by the College. However, the College reserves the right to carry out a DBS check on such employees.

- 9.2 If it is discovered or genuinely believed that an existing employee has failed to declare a spent or unspent conviction, caution, reprimand or final warning, whether prior to or during the course of their employment, the college will check for changes to their DBS check. Failure to inform the college of such matters may lead to summary termination of employment for gross misconduct, managed in line with the college's Disciplinary Procedure.

10 AGENCY WORKERS AND SUPPLY STAFF

- 10.1 The college must have written confirmation from an agency or third-party organisation that they have carried out the same checks as the college would perform on any individual who is going to be working at the college, including through online delivery. The agency or third-party organisation must provide written notification that the enhanced DBS certificate has been obtained by them or another similar business. In certain circumstances the member of staff may be permitted to commence work under a risk assessment.
- 10.2 If the Enhanced DBS certificate has disclosed any matter or information, the college **must** be provided with a copy of the certificate by the agency or organisation.
- 10.3 The agency worker or supply staff should provide photographic evidence of their identity on their first day. Upon receipt of this evidence, they will be issued with an Agency lanyard (white lanyard and card holder) by Human Resources.

11 GOVERNORS

- 11.1 Governors who are volunteers in schools and sixth form colleges should be treated on the same basis as other volunteers, that is, an enhanced DBS check (which includes a barred list check) should only be requested if the governor will be engaging in regulated activity. An enhanced DBS check without a barred list check can be requested on an individual as part of the appointment process for governors.

12 PERIPATETIC STAFF/PREFERRED PARTNERS

- 12.1 Peripatetic staff/preferred partners are external worker who carry out work on site, such as local authority care workers. They are not DBS checked by the College and service level agreements capturing vetting arrangements are in place. Their checks are supplied by their employer. Evidence will be obtained by the college that the checks have taken place. These staff are expected to sign in at Reception and show identification. Once evidence that the checks have taken place has been received, they are issued with a Preferred Partner lanyard.

13 CONTRACTORS

- 13.1 Contractors must always sign in to college and show identification. Agreements exist with each contract company regarding vetting arrangements. Contractors wear a contractor badge with a black lanyard.
- 13.2 If the contractor is engaging in regulated activity (that gives opportunities for working with children once a week or more than 4 times in any 30 day period) they require an enhanced DBS check (with barred list information) and the college needs to be able to show evidence that this check has been completed.
- 13.3 If the activity is not carried out regularly but is not constantly supervised and gives opportunities for contact with children, an enhanced DBS check (without barred list information) should be in place and confirmation of this on record. The Estates team hold a database of contractors vetting information.
- 13.4 No certificate is required if the contractor is always supervised or works exclusively out of college hours when no students are in the building.
- 13.5 Staff employed by contractors to work in the college (e.g., cleaning and catering) or in a role which will involve unsupervised access to children (e.g., sports coaches), should have their own DBS checks issued from their parent organisation and the college is not required to undertake a further DBS check.
- 13.6 If a contractor requires a DBS certificate and is self-employed the college should work to process this on the contractor's behalf.

14 TRAINEE TEACHERS

- 14.1 Please refer to the Staff - Volunteer Policy for guidance on trainee teachers.

15 RECORD KEEPING

- 15.1 The Single Central Record (SCR) is maintained by Human Resources. It includes details of pre-appointment checks for all members of staff who work in the College plus volunteers, agency workers/supply staff working in regulated activity.
- 15.2 Information included on the register is:
- Identification/Right to Work/DBS documentation checks.
 - Reference checks.
 - DBS certificate number and date of issue.
 - Date of barred list check.
 - Date of prohibition check where applicable.
 - Date of risk assessment where applicable
 - Professional qualifications.
 - Checks for employees living or working outside of the UK.

16 DATA PROTECTION

- 16.1 The college recognises that inappropriate sharing of a DBS check is a criminal offence under section 124 of the *Police Act 1997*. The College will regard this as a serious offence and will take appropriate disciplinary action.
- 16.2 The college will comply with its obligations under GDPR legislation and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of disclosures and certificate information. Copies of DBS certificates and records of criminal information disclosed by candidates are covered by UK GDPR/DPA 2018 Article 10. If the college chooses to retain a copy of a certificate, there should be a valid reason for doing so and it should not be kept for longer than six months.
- 16.3 Disclosure information will only be used for the specific purpose for which it was requested and for which the applicant's consent has been given. Disclosure information will only be passed to those who are authorised to receive it in the course of their duties.

APPENDIX 1 - DEFINITION OF REGULATED ACTIVITY (KEEPING CHILDREN SAFE IN EDUCATION SEPTEMBER 2023)

Regulated activity

The full legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012.

HM Government has produced [Factual note on regulated activity in relation to children: scope](#).

Regulated activity includes:

- a. teaching, training, instructing, caring for (see (c) below) or supervising children if the person is unsupervised, or providing advice or guidance on physical, emotional or educational well-being, or driving a vehicle only for children;
- b. work for a limited range of establishments (known as 'specified places', which include schools and colleges), with the opportunity for contact with children, but not including work done by supervised volunteers.

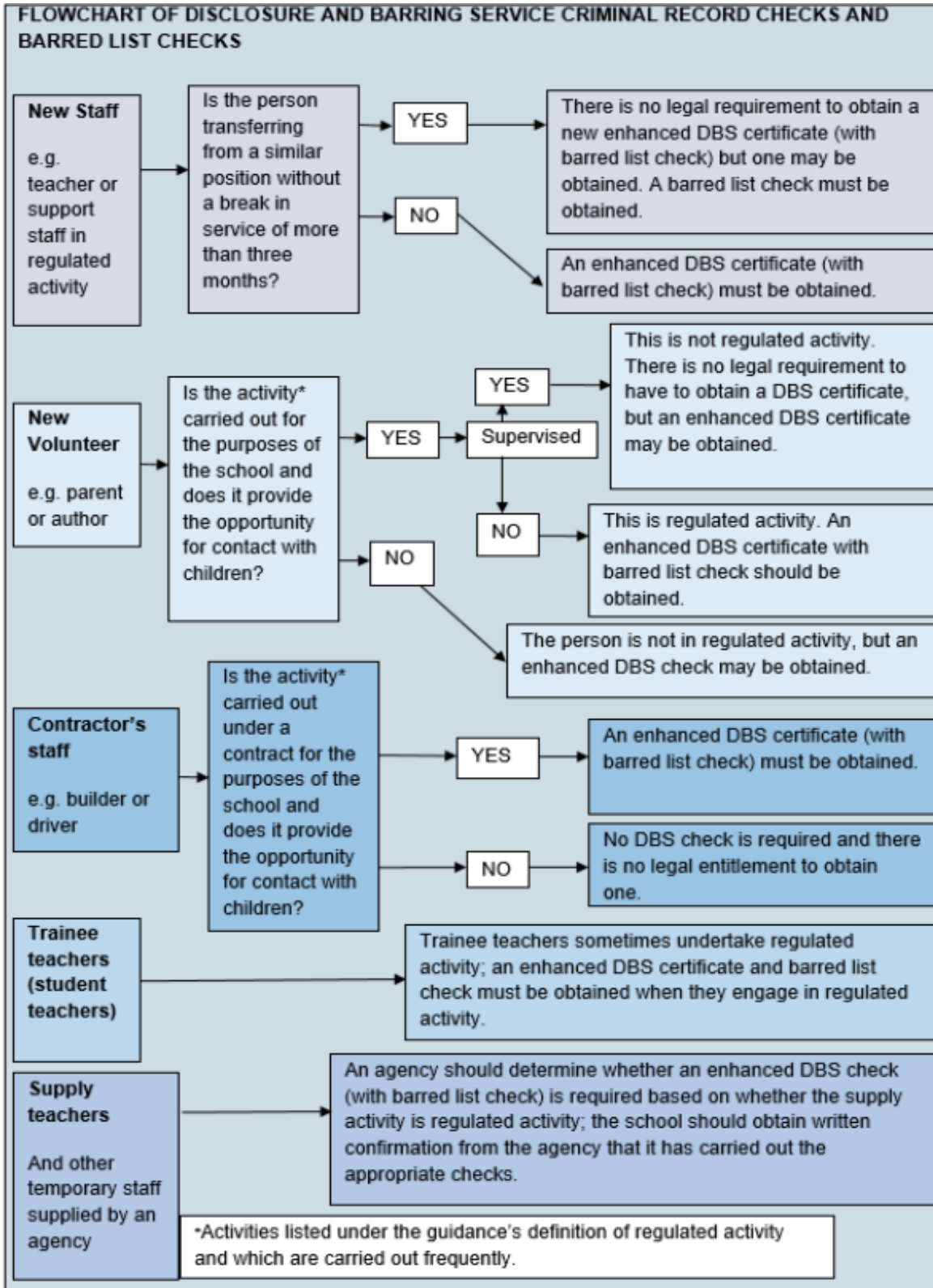
Work under (a) or (b) is regulated activity only if done regularly.⁷³ Some activities are always regulated activities, regardless of frequency or whether they are supervised or not. This includes:

- c. relevant personal care, or health care provided by or provided under the supervision of a health care professional:
 - o personal care includes helping a child with eating and drinking for reasons of illness or disability or in connection with toileting, washing, bathing and dressing for reasons of age, illness or disability;⁷⁴
 - o health care means care for children provided by, or under the direction or supervision of, a regulated health care professional.

Regulated activity will not be:

- paid work in specified places which is occasional and temporary and does not involve teaching, training; and
- supervised activity which is paid in non-specified settings such as youth clubs, sports clubs etc.

APPENDIX 2 - FLOWCHART OF DBS CRIMINAL RECORD CHECKS AND BARRED LIST CHECKS (KEEPING CHILDREN SAFE IN EDUCATION SEPTEMBER 2023)



APPENDIX 3 - RISK ASSESSMENT FOR STAFF COMMENCING EMPLOYMENT PENDING RECEIPT OF ENHANCED DBS DISCLOSURE

RISK ASSESSMENT FOR EMPLOYEES COMMENCING EMPLOYMENT PENDING RECEIPT OF ENHANCED DBS DISCLOSURE

In exceptional circumstances it may be necessary for an applicant to start employment in regulated activity before a DBS certificate is available. The guidance provided in Keeping children safe in education states:

“Where a school or college allows an individual to start work in regulated activity relating to children before the DBS certificate is available, it should ensure the individual is appropriately supervised and that they carry out all other checks, including a separate children’s barred list check.”

This Risk Assessment applies to all staff. The decision to allow an applicant to start before a DBS certificate is available can only be made by the Vice Principal – People.

Section A – to be completed by Human Resources

Name of applicant:	
Position applied for:	

Pre-employment checks

Have any questions been answered ‘Yes’ on the confidential self-declaration form?	
If yes, have these been discussed with the applicant?	
Has a reference from their current or most recent employer been received?	
If no, have any references been received?	
Have any gaps in employment or education been checked?	
Does the applicant have the right to work in the UK?	
Has a separate barred list check been carried out?	

STAFF – SAFER RECRUITMENT & VETTING POLICY

What date was the DBS check applied for and what is the status of the check?	
Completed by	
Date	

SECTION B – TO BE COMPLETED BY THE LINE MANAGER

<p>Whilst waiting for the DBS check, the employee must be always accompanied, including when walking around the campus and during breaks.</p> <p>The employee must sign in at Reception each day and wear a visitor badge at all times.</p> <p>This Risk Assessment must be reviewed after 28 days.</p>
<p>Additional information Are there any additional measures specific to the role that should be in place before the applicant can start employment?</p>
<p>Level of Risk High/Medium/Low</p>
<p>As the manager with responsibility for the employee, I understand I am responsible for ensuring the risk assessment.</p>
<p>Signed:</p>
<p>Date:</p>

SECTION C – DECISION

Risk Assessment approved/not approved
Start date of risk assessment:
Risk assessment valid until:
Signed (Vice Principal – People)

Once the DBS certificate has been received and is satisfactory, HR will notify the line manager and the risk assessment will be removed.

Details of review and extension dates:
Date satisfactory DBS certificate received: