

# BACKGROUND CHECKS - POLICY & PROCEDURE



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<b>Summary</b>	This document sets out Mears Group policy and procedure on background checks in relation to Labour Standards
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## 1 INTRODUCTION

This policy provides guidance to managers on the process of obtaining background checks where appropriate. It applies to all parts of Mears Group with the exception of the Care business and should be read and applied in conjunction with other associated policies e.g. Recruitment and Selection, Equalities, Safeguarding, Security Vetting.

Mears Group has a duty of care to protect the well-being of the people of Mears Group and, in particular, those groups or individuals in its care who are considered to be especially vulnerable or at risk, such as young people, the elderly and those with disabilities. Mears Group will take all reasonable steps to ensure that those of its employees, volunteers and contractors who work with or otherwise come into contact with these vulnerable groups are suitable to undertake the work.

Mears Group currently undertakes background checks using an organisation called Disclosure Scotland, via an electronic application process (except for PVG checks which are via a paper based application process). There are a number of different levels of checks that can be undertaken, depending on the position held. A summary of the content of these checks and examples of where they apply is shown in Appendix A.

N.B. any position involving access to sensitive official information will require additional security vetting such as Baseline Personnel Security Standard (BPSS) security clearance, Counter-Terrorist Check (CTC) or Security Check (SC) clearance. Currently this applies to positions relating to MOD contract work – please refer to the Security Vetting Policy for more details about this.

This policy applies equally to internal candidates (i.e. those currently employed by Mears) and external candidates being considered for employment or volunteer positions. It will also apply where external agencies recruit and employ staff to carry out contract work on behalf of Mears Group or where external agencies supply staff to work within Mears. As a responsible employer, Mears Group will ask successful candidates to undertake an appropriate background check when applying for positions.

## 2 LEGISLATION

This policy has been written with regard to the following legislation:

- The Protection of Freedoms Act 2012
- Human Rights Act 1998
- Data Protection Act 1998
- The Police Act 1997

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- The Safeguarding Vulnerable Groups Act 2006
  - The DBS Code of Practice
  - The Rehabilitation of Offenders Act (ROA) 1974
  - The Criminal Justice and Court Services Act 2000

### **3 SECURE HANDLING OF INFORMATION**

Mears Group has a policy statement regarding the storage, handling, use, retention and disposal of background check applications and certificate information available on the document library.

### **4 RECRUITMENT**

Whenever a vacancy arises for a position that will be subject to a background check, the following will always be observed:

- Human Resources will be responsible for ensuring the process is consistent, equitable and fair for all candidates.
- The recruitment advertisement and any supporting information sent to prospective candidates will clearly state that the post is subject to a background check and the level/type.
- Only the successful candidate will be required to apply for a background check.
- An offer of employment can be made subject to a background check.

### **5 RECRUITMENT OF EX-OFFENDERS**

As an organisation using background checks to assess candidates' suitability for positions of trust, Mears Group complies fully with the DBS Code of Practice and undertakes to treat all candidates fairly. It undertakes not to discriminate unfairly against any subject of a background check on the basis of conviction or other information revealed.

Mears Group is committed to the fair treatment of its staff, potential staff or users of its services, regardless of age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or offending background. We actively promote 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.

We select all candidates for interview based on their skills, qualifications and experience. For those positions where a background check is required, all application forms, job adverts and recruitment briefs will contain a statement that a check will be requested in the event of the individual being offered the position. Where a background check is to form part of the recruitment process,

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we encourage all candidates called for interview to provide details of their criminal record at an early stage in the application process.

The appointing officer will pose this question to candidates during the interview process. Unless the nature of the position allows Mears Group to ask questions about a candidate's entire criminal record we only ask about unspent convictions as defined in the Rehabilitation of Offenders Act 1974.

All appointing officers as part of Mears Group recruitment process have access to guidance and expertise from suitably trained officers to identify and assess the relevance and circumstances of offences.

## **6 DBS BARRED LISTS**

The DBS children's barred list contains details of those individuals barred from working with children and replaces List 99, the **POCA** list and disqualification orders. The DBS adult's barred list contains details of those individuals barred from working with vulnerable adults (replacing the **POVA** list).

When recruiting to posts which undertake "regulated activities" with one or both vulnerable groups, Mears Group will request checks to be made against the relevant barred list(s) as part of a DBS check. It is a criminal offence for individuals barred by the ISA to work or apply to work with children or vulnerable adults in a wide range of posts including most social care posts, those in education, childcare, NHS and posts in the Prison Service. Employers also commit a criminal offence if they knowingly employ a barred individual in such posts. Further information about regulated activities and levels of DBS checks can be found in the DBS Guidance

## **7 RE-CHECKING EXISTING EMPLOYEES**

Any existing employee who is offered a new position within Mears Group will be required to undertake a new background check application if the post involves greater access to, or responsibility for vulnerable groups, or working with a different client group regardless if they have been subject to a previous background check application. Mears Board have confirmed that existing Mears Group employees, who have previously undertaken a background check application relevant to their current post, will be required to undertake a new background check application on a three-yearly basis.

Existing employees who have not previously been subject to a background check application may, as a result of changes in legislation, regulations or working practices, be required to undertake an application during the course of their employment with Mears Group. All employees will be expected to comply and any employee refusing to comply with the request for an application will be

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advised that their deliberate and unreasonable refusal to carry out lawful and safe instructions issued and/or to comply with a contractual agreement, will lead to the employee being subject to a disciplinary investigation. In addition to the requirement to complete a new background check application every three years, Mears Group reserves the right to ask existing employees in relevant positions to apply for a certificate if their actions or activities give cause for concern. The grounds for this could include but are not limited to, allegations of suspicious or inappropriate behaviour made to an individual in a vulnerable group or a colleague, parent, carer or member of the public.

In such instances a full investigation will be conducted and Mears Group may ask for a new application to be carried out. If as part of the re-checking process, a background check certificate is deemed unsatisfactory, a full investigation will be undertaken which may result in a member of staff being dismissed or re-deployed.

## **8 EMPLOYING PEOPLE WITH CRIMINAL RECORDS**

Possessing a criminal record is not necessarily a bar to working for Mears Group, but it may preclude working in certain positions. This will depend on the nature of the position and the circumstances and background of the offences committed. An application to Disclosure Scotland will be requested at a level where this is considered relevant to the post and is permitted under the Exceptions Order to the Rehabilitation of Offenders Act 1974.

Some levels of background checks are not applicable to some positions and should therefore not be applied. To do so could be an offence under Section 123 (2) of the Police Act 1997 in respect of posts which are not included in the Exceptions Order of the Rehabilitation of Offenders Act 1974. Mears Group only applies for background checks at the appropriate level, as defined by the relevant legislative guidelines. Further guidance can be obtained from the DBS Lead Signatory or the HR/Legal departments.

For all members of staff or individuals with an offer of employment, in the event of a certificate returned from Disclosure Scotland highlighting either a disclosed or undisclosed conviction or other causes for concern the Lead Signatory must be informed. However, HR will have responsibility for ensuring that the employee is notified of the conviction or concerns, and will provide guidance to the manager on determining the employment status of the individual to ensure consistency across Mears Group.

Where the manager disagrees with the determination, they should appeal to the Group HR Director (appeals process) who will have the final say.

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## 9 RISK MANAGEMENT

Assessing and managing the risk of employing a person with a criminal record, or about whom positive information has been revealed following a check, means comparing the candidate's skills, experience and conviction circumstances against the risk criteria identified for the job and deciding on the relevance of the conviction or other information.

Having a criminal record will not necessarily bar someone from employment with Mears Group. This will depend on the background to the offence(s) and the nature of the position being sought.

### 9.1 Considerations

Addressing issues relating to criminal offences needs an objective common sense approach which takes account of the following:

- The employer's duties in law
- The nature of the crime
- When it happened
- The circumstances involved
- The sentence
- Patterns of offending
- Efforts to avoid re-offending
- Job requirements
- Safeguards against offending at work
- Possible reactions of employees, customers etc., objectively assessed.

### 9.2 Candidate awareness

Applicants should be forewarned that enhanced checks might include non-conviction information such as details of cautions, reprimands or warnings and may include police intelligence relating to ongoing investigations and relationships with any known or suspected criminals.

As highlighted above the fact that someone has a criminal record will not necessarily lead to a bar in employment with Mears Group, and an interview will be arranged to discuss the nature of the criminal record with the applicant who has disclosed they have a criminal record. During the interview, the applicant should be able to give a full account of the circumstances of the offence(s), any extenuating circumstances and of their efforts to avoid re-offending.

Where assessment against the risk criteria indicates that the applicant could be employed on a conditional basis provided that extra safeguards are put into place, the appointing officer should discuss these with the applicant and explain

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the reasons for them. Failure to reveal criminal history could lead to withdrawal of the conditional offer of employment.

## **10 OVERSEAS CANDIDATES**

All persons appointed to a post, or seeking to volunteer with children and/or vulnerable adults who have lived outside the United Kingdom must undergo a background check regardless of their length of stay in the UK.

## **11 VOLUNTEERS AND STUDENTS**

### **11.1 Volunteers**

Mears Group will ensure DBS checks are applied for where volunteers work in positions that are eligible for this. This check will normally be free, however, not all people who work free of charge are classed as a volunteer with the DBS. To qualify for a free DBS check, the role must meet the DBS's definition of a volunteer which is a person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than, or in addition to, a close relative". Therefore students gaining credits towards qualifications, people on work experience, carers, etc. must pay for their checks.

### **11.2 Student Placements**

Mears Group requires new background check applications to be undertaken for all students prior to the student starting placement.

## **13 AGENCY AND CONTRACTORS**

Those responsible for hiring agency or contract workers on behalf of Mears Group must ensure that the requirement for such individuals to have completed appropriate levels of background checks (and that such certificates are satisfactory) forms part of any contractual agreement.

## **14 MONITORING AND REVIEWING**

Mears Group will monitor and review this policy on a regular basis in order to ensure ongoing compliance with legislation and effective operational practice. Mears Group reserves the right to alter and amend this policy in accordance with any recommendations, changes in law or other related legislation following consultation with relevant parties.



# BACKGROUND CHECKS - POLICY & PROCEDURE

## APPENDIX A - DISCLOSURE SCOTLAND – CHECK TYPES, APPLICABILITY AND THE INFORMATION CONTAINED ON CERTIFICATES

	Basic Disclosure	Standard	Enhanced	Enhanced with lists check	PVG Scheme Record	PVG Short Scheme Record	PVG Scheme Membership Statement*
Unspent convictions	✓	✓	✓	✓	✓	✗	✗
Relevant spent convictions	✗	✓	✓	✓	✓	✗	✗
Unspent cautions	✗	✓	✓	✓	✓	✗	✗
Membership status	✗	✗	✗	✗	✓	✓	✓
Consideration status	✗	✗	✗	✓	✓	✓	✓
Suitability information	✗	✗	✗	✓	✗	✗	✗
Prescribed court orders & sex offenders notification requirements	✗	✗	✗	✓	✓	✗	✗
Sex offenders notification requirements	✗	✓	✓	✗	✗	✗	✗
Other relevant information	✗	✗	✓	✓	✓	✗	✗

✓ Information included on Certificate    
 ✗ Information NOT included on Certificate

\*checks completed as per PVG Scheme Record but only those indicated with ( ✓ ) are shown on the certificate

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## APPENDIX A continued

### **Check Types – summary information about applicability**

**Basic Disclosure** – Most roles that are neither positions of trust, nor involve working with children or protected adults, are eligible for a Basic Disclosure Certificate. This level of check makes up the majority of those currently requested by Mears Group

**Standard Disclosure** – Normally applied to positions of trust (examples include but are not limited to roles such as accountant, firearms dealer, & night club steward).

**Enhanced Disclosure** – Normally applied to positions that work with or otherwise come into contact with vulnerable groups such as children or protected adults.

**Protecting Vulnerable Groups (PVG)** – Most roles that were previously entitled to an Enhanced Disclosure Check now require PVG Scheme Membership. This level of check is mainly (but not exclusively) used by Mears Group in relation to a number of roles within Mears Facilities Management, including but not limited to those working in school premises.

Further information, including lists of positions entitled to the different levels of background checks listed above, can be found on the Disclosure Scotland website at [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk)

For BPSS, CTC or SC information please refer to the Security Vetting Policy.