

# **COLAT Policy Statement on the Recruitment of Ex-Offenders**



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## 1. Introduction

City of London Academies Trust (COLAT) has a commitment to safeguard and promote the welfare of children, young people and vulnerable adults. The Trust has a Safer Recruitment and Selection Policy with robust processes and procedures to reduce risk and continuously promote a positive culture of safeguarding amongst its workforce.

COLAT actively promotes equality of opportunity for all with the right mix of talent, skills and potential and welcomes applications from candidates, including those with criminal records, and selects all candidates for interview based on skills, qualifications and experience.

The Code of Practice published under Section 122 of the Police Act 1997 advises that it is a requirement that all registered bodies must treat Disclosure and Barring Service (DBS) applicants who have a criminal record fairly and not to discriminate automatically because of a conviction or other information revealed.

COLAT has adopted the Disclosure and Barring Service's Code of Practice on the use and handling of Disclosure information and will adhere to it in all circumstances. The Code of Practice also obliges registered bodies to have a written policy on the recruitment of ex-offenders; a copy of this policy is available to all and is provided to applicants at the outset of the recruitment process.

A copy of the code is available at <https://www.gov.uk/government/publications/dbs-code-of-practice>

## 2. Conviction Information

Filtering rules were first introduced on 29 May 2013 when amendments were made to legislation that affected both what an employer can ask an individual in relation to convictions and cautions (for example a self-declaration on an application form of 'do you have any convictions'), and what is disclosed on a Standard or Enhanced DBS certificate.

These rules were updated on 28th November 2020 as follows:

- warnings, reprimands and youth cautions will no longer be automatically disclosed on a DBS certificate
- the multiple conviction rule has been removed, meaning that if an individual has more than one conviction, regardless of offence type or time passed, each conviction will be considered against the remaining rules individually, rather than all being automatically disclosed

All cautions and convictions for specified offences, which can be found on the list of [specified offences](#) maintained by the DBS, will remain subject to disclosure. This list includes offences which are serious such as violent and sexual offences, and other specified offences of relevance for posts concerned with safeguarding children and vulnerable adults. In addition, all convictions resulting in a custodial sentence, whether or not suspended, will remain subject to disclosure.

Applicants may be directed to obtain guidance and criteria which explains the filtering of old and minor cautions and convictions which are "protected" and no longer subject to disclosure to employers, further guidance can be found at: <https://www.gov.uk/government/publications/dbs-filtering-guidance>

## 3. Scope

COLAT assess 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. The Trust complies fully with the Code of Practice and undertakes to treat all applicants for all positions fairly.

COLAT undertakes not to discriminate unfairly against any subject of a criminal record check based on a conviction or other information revealed.

COLAT will only ask an individual to provide details of convictions and cautions that we are legally entitled to know about. This is where a DBS certificate at either standard or enhanced level can legally be requested in line with the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 where the position is one that is included, as amended, and where appropriate Police Act Regulations as amended.

COLAT will only ask an individual about convictions and cautions that are not protected.

COLAT is committed to the fair treatment of its staff, potential staff or users of its service, regardless of race, gender, religion, sexual orientation, and responsibilities for dependants, age, physical/mental disability or offending background.

#### **4. Practice**

COLAT selects 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.

COLAT makes every effort to ensure that everyone involved in the recruitment process will have been suitably trained to identify and assess the relevance and circumstances of offences. COLAT ensures that staff will 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. All those involved in recruitment are reminded to seek advice from the COLAT Central Human Resources Team.

At selection interview, or in a separate discussion, COLAT will ensure that an open and meaningful discussion takes place on the subject of any offences or other matters that might be relevant to the position. Failure to reveal information at the point of application that is directly relevant to the position sought could lead to withdrawal of an offer of employment.

COLAT undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

COLAT makes every subject of a criminal record check submitted to DBS aware of the existence of the DBS code of practice and will provide a copy upon request.

#### **5 Policy Statement**

Ex-offenders must disclose information about spent, as well as unspent convictions other than those deemed 'protected' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020), if the job for which they are applying is exempted from the Rehabilitation of Offenders Act.

All school-based jobs are exempt from the Rehabilitation of Offenders Act as the work brings employees into contact with children who are regarded by the Rehabilitation of Offenders Act as a vulnerable group.

Applicants for school-based jobs **must** disclose all spent and unspent convictions, other than those deemed 'protected' under the Rehabilitation of Offenders Act.

The amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) provides that when applying for certain jobs and activities, certain convictions and cautions are considered 'protected'. This means that they do not need to be disclosed and if they are disclosed, the Trust cannot take them into account. Guidance about whether a conviction or caution should be disclosed can be found on the Ministry of Justice website at: <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

All applicants who are offered employment within COLAT will be subject to a criminal record check from the Disclosures and Barring Service before an appointment is confirmed. This will disclose details of cautions, reprimands and warnings as well as spent and unspent convictions. An enhanced disclosure may also provide non-conviction information from local police records which a Chief Police officer thinks may be relevant.

The successful applicant will not be eligible to start work until notification from the DBS has been received.

Having a criminal record will not necessarily bar someone from working within a school setting.

Criminal records will be taken into account for the recruitment purposes only when the conviction is relevant.

COLAT undertakes to not discriminate unfairly against any subject of disclosure, on the basis of description or other information revealed.

When reaching a recruitment decision, the following factors will be considered:

- Whether the conviction or other matter revealed is relevant to the position in question
- The seriousness of any offence or other matter revealed
- The length of time since the offence and the matter occurred
- Whether the applicant has a pattern of offending behaviour or other relevant matters
- Whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters
- The circumstances surrounding the offence and the explanation(s) offered of the offending person

There are, offences that automatically prevent an offer of employment in a school being confirmed and these are:

- Rape
- Incest
- Unlawful sexual intercourse
- Indecent assault
- Gross indecency
- Taking and distributing indecent photographs

Other offences which make it unlikely (although not automatic) for an offer of employment to be confirmed include:

- Violent behaviour towards children or young people
- A sexual or otherwise inappropriate relationship with a pupil (regardless of whether the pupil is over the legal age of consent)
- A sexual offence against someone over the age of 16
- Any offence involving sexual violence
- Drug trafficking and other drug related offences
- Stealing school property or monies

- Deception in relation to employment as a teacher or at a school, for example false claims about qualifications, or failure to disclose past convictions
- Any convictions which result in a sentence of more than 12 months imprisonment
- Repeated misconduct or multiple convictions unless of a very minor nature

If appropriate, applicants will be invited to discuss disclosure information before a final recruitment decision is made.

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, and an assessment of risk and relevance will be undertaken.