

Manor Hall Academy Trust



DISCLOSURE OR DISCOVERY OF A CRIMINAL CONVICTION POLICY

Responsibility for monitoring and reviewing this policy lies with the Central Trust Team and Directors. A review of this policy and recommendations for change should be presented to the Directors of the trust for verifications and consulted on with unions.

The Directors of the trust, in line with the Scheme of Delegation and Articles of Association have overall responsibility for the effective operation of MAT policies, but has delegated day to day responsibility to the Headteacher and LAB.

Directors will take account of recommendations from individual schools in review of this policy and seek HR advice as to such revisions.

Date	Version	Reason For Change	Overview of Changes Made	Source
Summer 23	1	New Policy	To consolidate the information into a central trust policy	Directors
Summer 24	2	Amended Policy	Following a review of the Key article, some further strengthening of the area of Data Protection, KCSIE and what to do if the disclosure is different from the DBS record	J Plant

Contents

Manor Hall Academy Trust	1
1. Introduction	4

2. Rehabilitation of Offenders Act 1974 and Exceptions Order 1975	4
3. Situations where a person is automatically barred	4
4. Pre-employment checks	5
5. The Disclosure and Barring Service (“DBS”) check	6
6. Where a criminal conviction is declared by a current employee	6
7. Failure to declare a conviction when employed.....	6
8. Where a self-disclosure does not match the DBS record	7
9. Risk Assessment.....	7
10. DBS Storage of Data and Retention.....	8
11. Renewal of the DBS	9
12 Contractors	10
13. Agency/Supply Staff	10
14. Single Central Records.....	10
15 Links to other policies	11
Appendix A – Manor Hall Academy Trust Statement.....	12
Appendix B: Self Declaration form alongside the application form.....	13
Appendix C– Criminal Record Assessment.....	17
Appendix D: Positive DBS Risk Assessment and Guidance – Originally produced by Insight HR	23
Appendix E – Sample Letter of Assurance	27

1. Introduction

Manor Hall Academy Trust is an inclusive employer who aims to support and nurture its employees as well as encouraging persons who share our ethos to apply to join the Trust. Our ethos is to celebrate our pupil's successes by building relationships and promoting their progress and we believe that by having colleagues who feel valued, appreciated and supported this will only help us deliver this ethos.

Manor Hall Academy Trust is also a realistic employer and is aware that some colleagues may disclose a criminal conviction either at the application progress or once employed. Criminal convictions can also be highlighted during a Disclosure Barring Service ("DBS") check.

The DBS mandates that Manor Hall Academy Trust will have a policy which will detail how we would respond to such a declaration.

2. Rehabilitation of Offenders Act 1974 and Exceptions Order 1975

The Rehabilitation of Offenders Act 1974 allows a person who has been convicted of a crime but whose conviction has subsequently become spent to not declare that conviction. Therefore when applying for a job, some roles only require a person to declare their unspent convictions.

However, there are some sectors which are subject to an exception to the Rehabilitation of Offenders Act 1974. These sectors are described under Annex A of the Exceptions Order 1975 and therefore a person who is applying for a role in these sectors is required to disclose a conviction whether it is spent, or not.

Paragraph 1 of Annex A of the Exceptions Order 1975 states:

Regulated activity with children and other activities which involve working closely with children such as caring for, training, supervising or being solely in charge of children under 18 (including adoption, fostering, day care and childminding).

Therefore if a person wishes to apply for a role with Manor Hall Academy they are required to declare a conviction even if it is spent. They are also required to declare any subsequent convictions if they are already employed when this occurs. However declarations are considered in a fair, reasonable and consistent way.

For most convictions it does not mean that there is an automatic prohibition and therefore a decision will be made on a case-by-case basis. A professional discussion will therefore take place concerning any declaration so that any decisions are fairly made.

3. Situations where a person is automatically barred

There are some situations where a person would be automatically barred from working with children, they are:

- Listed on the barred list meant that they are banned from working with children or vulnerable adults. There are two lists, one for children and one for vulnerable adults and a person can be placed on both lists.

- They would be working with children under 8 and have committed offences that disqualify them from doing so. This is a disqualification under the Childcare Act 2006.
- They are subject to a direction under s128 of the Education and Skills Act 2006. This prevents them from operating in a management position in an academy, free school or an independent school.

4. Pre-employment checks

Manor Hall Academy Trust requires new employees to complete a form to support their application for employment. In this application form, the applicants are asked to complete a standardised Safeguarding Self-Declaration and to submit this alongside the application form. This information should be placed in a separate sealed envelope and the applicant should place their name on the front of the envelope. We use a form produced by Insight HR and a copy can be found in Appendix B

If a person declares a conviction, but it is not one which would automatically, prohibit them from working for us, then their application can be considered. Instead the conviction will be assessed, and one of the ways that a conviction can be assessed is by reference to the Rehabilitation of Offenders Act 1974. Any declarations will be confidentially handled as we are aware of our obligations under the Data Protection Act 2018 and the UK General Data Protection Regulations.

When drafting their application form, the applicant should ensure that any “specified offences” should be declared. A specified offence is a serious offence and which relates to areas such as sexual offending, violent offending which are either relevant to safeguarding children and vulnerable adults.

In addition, spent convictions must be declared if they meet the following criteria

Disposal	Age when given/sentenced	How long since given/sentenced?
Caution for specified offence	18 or over	Any time
Caution for non-specified offence	18 or over	Less than 6 years
Conviction for specified offence	Any age	Any time
Conviction resulting in custodial sentence	Any age	Any time
Conviction for non-specified offence	18 or over	Less than 11 years
	Under 18	Less than 5 and a half years

Should an applicant fail to declare a conviction, which they know that they should have done, the application may be rejected or if an offer of employment has been given this may be withdrawn. If a person is currently employed this may constitute gross misconduct and disciplinary action may be taken under the disciplinary policy.

5. The Disclosure and Barring Service (“DBS”) check

Before an offer of employment is confirmed, all applicants will need to complete a DBS application for an enhanced disclosure and we will need to have had sight of this. If a conviction is highlighted via this search, this will be clearly considered and a decision will be made using an assessment form as to whether the appointment can continue. This form will allow those who are responsible for the decision to make a reasonable and evidenced decision. At all stages we will follow the DBS Code of Practice.¹

Manor Hall Academy Trust therefore uses conditional offer when appointment new employees. This allows us to assess items such as the results of the enhanced DBS as well as other areas such as reference and information concerning qualifications.

All applications will be completed using a format which we have adopted from the DBS. When an offer is made, we will send out the details of how to complete the DBS as soon as is practicable so that it can be processed as soon as possible and so that there is no unnecessary delay.

6. Where a criminal conviction is declared by a current employee

Manor Hall Academy Trust recognises that employees may be charged with a criminal offence and then may be convicted of the offence. Employees are encouraged to liaise with the Headteacher to discuss this scenario. A record of the conversation and the assessment of the decision will be documented.

A Fixed Penalty Notice may not need to be declared unless it is directly related to the role, this includes a Fixed Penalty Notice for speeding if the employee’s role involves driving. This would include on any person who drives on behalf of the school or the Trust, or who travels as part of their role.

Manor Hall Academy Trust would encourage its employees to let us know as soon as possible where there is a risk that they may be barred from the profession so that appropriate further action can be taken. Headteachers are recommended to consult the disciplinary policy concerning whether sanctions such as suspension are appropriate.

If an employee is in their probationary period, we will use the same system of assessment and documentation of the decisions and actions. To declare a criminal conviction in the probation period would not automatically mean that you would fail your probation as it would be carefully assessed for areas such as nature, seriousness and relevance to the role.

The Headteacher should seek out advice from HR. Where there is a safeguarding concern the Local Authority Designated Officer (“LADO”) may also be advised and we will seek further advice from them, if this is appropriate.

7. Failure to declare a conviction when employed

Manor Hall Academy Trust prides itself on being a good and supportive employer and that it builds good and trustful relationship with its employees. We therefore consider that it would

¹ DBS [Code of Practice](#)

be a breach of that trust to not declare a conviction and could result in further action being taken in line with our disciplinary policy.

Manor Hall Academy Trust will also carefully review any conviction will may come to light for any employee who is currently in their probationary period.

8. Where a self-disclosure does not match the DBS record

Manor Hall Academy Trust is aware that there can be occasions where an applicant's self-disclosure does not match the result of a DBS check. This may be because they are filtered out because of their nature and do not need to be disclosed. It could also be because the applicant has made an error when applying.

If there is a discrepancy it is best practice to speak with the candidate so that queries can be satisfied. It does not automatically mean that the candidates has not been truthful but it is imperative that the queries are remedied.

9. Risk Assessment

As part of the assessment concerning a conviction, Manor Hall Academy Trust has adopted the Key Document – Criminal Record Assessment – Template². This template was produced in conjunction with Unlock who are an independent award-winning charity who provides a voice and support for people with conviction who are facing stigma and obstacles because of their current record. Therefore, Manor Hall Academy Trust believes that this is the fairest way of assessing convictions.

The criteria focus on six factors:

- Relevance
 - Would there be an opportunity for reoffending?
- Nature, is it:
 - A financial crime
 - Violent offending
 - Drug related
 - Gang Related, for example County Lines
- Seriousness
 - How serious was the offence?
 - Where there any aggravating or mitigating features
- Pattern
 - Does it show a consistent pattern of behaviour or was it a one-off
- Age/Time
 - How long ago was the offence
 - How old was the applicant
- Circumstances
 - Where there any aggravating or mitigating circumstances?

² [Key Document – Criminal Record Assessment](#)

A copy of this form is attached as Appendix C

This risk assessment will help you determine the seriousness and relevance of the offence and inform any further discussions that you will have with the employee or the candidate. It will help the interview panel to make a reasonable, informed and evidenced decision

- Where a person is an applicant, either;
 - Continue and appoint
 - Terminate the offer
- Where a person is already employed, either
 - Commence disciplinary action as part the disciplinary policy
 - To review the matter in an informal way
 - To take no further action

HR advice should be sought if a panel is unsure about any part of this or if they feel that further action is required to make a decision.

Paragraph 245 of Keeping Children Safe in Education states that you should take the person's explanation of events into account, including:

- The seriousness of any offence and relevance to the post applied for
- How long ago the offence occurred
- Where it was one-off incident or a history of incidents
- The circumstances around the incident
- Whether the individual accepted responsibility for their actions.

10. DBS Storage of Data and Retention

As a data controller, Manor Hall Academy Trust is aware that it needs to ensure that all data is handled in a way which complies with the Data Protection Act 2018 as well as the UK General Data Protection Regulations. We are also aware that the Information Commissioner's Office is able to pursue enforcement action where there are breaches of this legislation.

Manor Hall Academy Trust have a Data Protection and a Data Retention Policy which details how we handle data, including the storage, handling, usage and retention of data.. We have also drafted the following in line with the information published by Staffordshire County Council

- **Storage:**
 - Not contained within the personnel file and is therefore kept separate in a secure facility
 - Secure means that it is lockable, non-portable where access to the information is strictly controlled to those who are authorised.
- **Handling**
 - A record is maintained to show whether information has been revealed so that we can satisfy the requirement that it is not passed onto anyone who is not entitled to have received this.
- **Usage**

- Can only be used for the specific person requested and with the applicant's full consent
- **Retention**
 - The Information should only be retained for as long as is necessary, our experience is that this is a period of six months. This will allow for time to resolve any complaints. If further time is required we will seek out professional assistance concerning whether this is appropriate.
- **Disposal**
 - This should be disposed of securely using a cross cut shredder and must be handled securely until they are disposed.
- **Sharing**
 - Information concerning a disclosure must not be shared with colleagues
- **Right to rectification**
 - there is a right to request documentation relating to the criminal conviction and a right to have inaccuracies amended and where information is incorrect, for that information to be deleted. We will however seek further information to verify before this decision is made so that our records are accurate.

11. Renewal of the DBS

The Trust recommends that employees renew their DBS licence on a three-year basis and no longer than five years since the last check. The Trust believes that this is a reasonable request for all employees but that it will liaise with colleagues if they have comments or queries. Employees are reminded of the importance of safeguarding and adherence to the Statutory Guidance – Keeping Children Safe in Education and therefore it is strongly recommended.

If there is a notification of a criminal offence during this renewal process an interview will be set up with the employee to discuss this. A form has been created by Insight HR³ to record this, a copy of this can be found at Appendix D. Although the meeting will not be a way to accuse the employee, instead there will be a conversation concerning the findings and an opportunity will be allowed for the employee to present their comments.

The head will then consider this and whether further action is required. At this stage, the Headteacher may wish to liaise with HR for further support.

If an employee changes their role within Manor Hall Academy Trust, a new DBS will only be required if the DBS requirement are different. For example if an employee's current role requires an Enhanced DBS but the new role requires an Enhanced DBS plus barring then a new DBS check will need to be completed. If you are unsure, please contact your HR Support who will be able to direct you further.

If you are using the DBS Update Service, which can make your DBS portable across multiple appointments, you will need to ensure that you notify the DBS Update Service. This is in addition to notifying the school and/or Manor Hall Academy Trust.

At all stages we will use the DBS Code of Practice when making decisions.

³ Insight HR – Positive DBS risk assessment

12 Contractors

Manor Hall Academy Trust is aware that there will be times where contractors will be required to visit schools in order to assess or complete repairs or to provide other professional guidance. Schools must therefore ensure that any contractors who are there to complete work

Schools should therefore take reasonable steps to assure themselves that contractors do not pose a safeguarding risk to pupils. This could be by ensuring that staff have a DBS check, where there are on site on a regular basis or by supervising them while they are completing their work.

For example you may wish to have a DBS check in place for a person who acts as a cleaner as they will visit the school on a periodic basis but you may wish to supervise a person who is completing a one-off repair to your heating system.

A sample letter of assurance, which is recommend that you complete can be found at Appendix E.⁴

13. Agency/Supply Staff

Manor Hall Academy Trust is keenly aware that our schools will use agency or supply staff. Schools should however ensure that they have checked with the agency that the person has an enhanced DBS certification and has written evidence to support this.

Where the role requires that the person is checked against the barred list, this should also be requested and verified by the school. Schools should take reasonable steps to ensure that the checks which have been completed are for the person who has presented themselves as the agency or supply person.

You may wish to utilise the sample letter of assurance as a way of centrally recording your checks and decisions.

14. Single Central Records

Statutory Guidance called Keeping Children Safe in Education requires that the Trust and its schools keep and maintain a single central record which contains details of staff. This will also contains details relating to the DBS check and, where appropriate, whether a check has been made concerning the Barred List. The date to be added is where the school has had sight of the DBS certificate. All tabs of the Single Central Record must be completed and non-applicable (n/a) should not be used.

This record should contain the details of:

- All staff including teacher trainees on salaried routes,
- Agency staff
- Third party supply staff
- Regular volunteers
- LAB Members

⁴ Letter of Assurance

15 Links to other policies

- [Disciplinary Policy](#)
- [Code of Conduct Policy](#)
- [Volunteer working in a school Policy](#)
- [Probationary Periods Policy](#)

Appendix A – Manor Hall Academy Trust Statement

- 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), Manor Hall Academy Trust ("MHAT") complies fully with the [code of practice](#) and undertakes to treat all applicants for positions fairly
- MHAT undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed
- MHAT can only ask an individual to provide details of convictions and cautions that MHAT 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)
- MHAT can only ask an individual about convictions and cautions that are not protected
- MHAT 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
- MHAT 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
- MHAT 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
- MHAT 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
- MHAT ensures that all those in MHAT who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences
- MHAT 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, MHAT 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
- MHAT 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
- MHAT undertakes to discuss any matter revealed on a DBS certificate with the individual seeking the position before withdrawing a conditional offer of employment.

Appendix B: Self Declaration form alongside the application form

Safeguarding Self Declaration

Please complete this Self-Declaration Form and place it in a **separate sealed envelope** with 'Safeguarding Self Declaration Form' and **your name** on the front.

Private and Confidential

All information will be treated as confidential and managed in accordance with relevant data protection legislation and guidance. You have a right of access to information held on you under the Data Protection Act 2018.

Section A - Declaration of Criminal Convictions

This post is covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. You are therefore required to declare whether you have any criminal convictions (or cautions, reprimands or warnings) including those which are 'spent'. 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 to employers, and if they are disclosed, employers cannot take them into account. **Details of the filtering rules can be found on www.gov.uk/dbs**

Do you have any cautions, convictions, reprimands, final warnings or other penalties or do you have any criminal investigations ongoing/ charges pending?	Yes / No
---	----------

If yes, please provide details:

Have you ever been barred or restricted from working with children and/or vulnerable adults?	Yes / No
--	----------

If yes, please provide details:

Have you been prohibited from teaching?	Yes/ No
---	---------

If yes, please provide details:

Have you been prohibited from taking part in the management of an independent school (including in an academy trust)?	Yes/ No
---	---------

If yes, please provide details:

Have you ever been convicted of any criminal offence in any other country in line with the law as applicable in England and Wales? (not the law in your country of origin or where you were convicted)	Yes/ No
--	---------

If yes, please provide details:

Are you known to the police and/ or children's social care?	Yes/ No
---	---------

If yes, please provide details:

Have you been the subject of any formal action, disciplinary investigation and/or sanction by any organisation due to concerns about your behaviour towards children that were found to be 'substantiated'?	Yes/ No
---	---------

If yes, please provide details:

Have you ever been dismissed for misconduct from any employment, volunteering, or other position previously held by you, in circumstances which may have bearing on your suitability for this position?	Yes/ No
---	---------

If yes, please provide details:	
Are you currently subject to any fitness to practise investigations or proceedings by a regulatory, governing, or licensing body in any country, which may have bearing on your suitability for this position?	Yes/ No
If yes, please provide details:	
Have you lived or worked overseas for three months or more during your adult life?	Yes/ No
If yes, please provide details:	

SECTION B - Childcare Disqualification Declaration

If the following does not apply to you, please move on to section C

[Disqualification under the Childcare Act 2006](#) applies to all schools and settings who provide childcare and/or are directly concerned with the management of early years childcare (up to the age of 5) or later years childcare (children above reception age but have not attained the age of 8).

Have you ever been disqualified from caring for a child, including your own child?	Yes / No
Have you ever had your registration refused or cancelled relating to childcare, or children's homes, or been prohibited from private fostering?	Yes / No
Do you have any convictions for certain violent and sexual criminal offences against children and/or adults?	Yes / No
Have you ever committed an offence overseas which would constitute an offence regarding disqualification under the 2018 Regulations if it had been done in any part of the United Kingdom?	Yes / No

SECTION C - Further Information and Declaration

If you have answered yes to any of the above questions, please provide further information below (or continue on a separate sheet):

(For candidates as part of the recruitment process):

I agree that the information provided here may be processed in connection with recruitment.

I agree to provide a valid DBS certificate for viewing and consent to the organisation clarifying any information provided on the disclosure with the agencies providing it.

(For candidates as part of the recruitment process, and for existing employees repeating this disclosure):

I accept that if any of the information is found to be false or misleading, or I fail to declare any information as requested, now or at any future time during my employment with the organisation, then this may be regarded as an act of gross misconduct which may lead to disciplinary action and potential dismissal from my position.

I understand that I have a duty to inform my employer should any of this information change at any time during my employment.

I agree to inform the organisation if I am subsequently investigated by any agency or organisation in relation to concerns about my behaviour towards children or young people.

I understand that the information contained on this form, the results of the DBS check and information supplied by third parties may be supplied by the organisation to other persons or organisations in circumstances where this is considered necessary to safeguard children.

Signature.....
.....

Print Full Name.....
.....

Date.....
.....

Thank you for taking the time to complete this form. Please return this form in a sealed envelope.

Please note that it is an offence to apply for the role if you are barred from engaging in regulated activity relevant to children. We are committed to safeguarding and promoting the welfare of children and young people and expect all staff and volunteers to share this commitment.

Appendix C– Criminal Record Assessment

NAME OF APPLICANT:	
ROLE APPLIED FOR:	
DATE OF ASSESSMENT:	
NAMES OF STAFF MEMBERS PRESENT:	
NAME OF HR REPRESENTATIVE PRESENT:	

FACTORS	GUIDANCE	CONVICTION 1	CONVICTION 2
Relevance	<p>Consider whether the offence is relevant to the role. Every role is different.</p> <p>Do any of the convictions listed on the DBS certificate relate to, or impact on, the responsibilities of the role?</p> <p>Would the role provide opportunities for re-offending?</p>		

FACTORS	GUIDANCE	CONVICTION 1	CONVICTION 2
Nature	<p>Consider not just the category of the offence, but what the offence involved.</p> <p>For instance:</p> <ul style="list-style-type: none"> • Financial offences – was it theft or fraud? • Violent offences – was it against a vulnerable person? • Drugs offences – was it possession or supply? 		
Seriousness	<p>You can get the details you need about the seriousness of an offence from the DBS certificate, or from a disclosure discussion following a self-disclosure.</p> <p>How serious the offence is, as determined by the charge and sentence, may help you determine whether an offence is relevant when balanced against other factors.</p> <p>But consider:</p> <ul style="list-style-type: none"> • Just because something appears on a DBS check doesn't always mean it's very serious • Sentencing is not always uniform or consistent, so don't rely on previous examples of similar convictions to inform your decision, and take into account the circumstances around the offence 		

FACTORS	GUIDANCE	CONVICTION 1	CONVICTION 2
Pattern	<p>Consider whether the person committed a single offence, or whether there is/was a pattern of offending.</p> <p>Think about the following:</p> <ul style="list-style-type: none"> • If they committed a number of offences, is there a significant gap between them? • Were the offences committed over a particular period of time? • How much time has elapsed since the last offence? • Have their circumstances or motivation changed? (see below) <p>Those with a pattern of offending up until quite recently may not be able to demonstrate that they have stopped offending.</p> <p>Clear evidence of a break in the pattern of offending can be important, especially for drink and drug-related offences.</p> <p>It may also be true that someone with a single offence (committed quite recently) won't be able to demonstrate sufficient change.</p>		

FACTORS	GUIDANCE	CONVICTION 1	CONVICTION 2
Age/Time	<p>Look at:</p> <ul style="list-style-type: none"> • The person's current age • Their age when the offence was committed • The length of time since the offence was committed <p>Remember: conviction dates can often be much later than when the offence was committed.</p>		

FACTORS	GUIDANCE	CONVICTION 1	CONVICTION 2
Circumstances	<p>You may not need to consider the circumstances around every offence (such as minor offences dealt with by way of a caution or fine) If you do need to understand the circumstances, consider what you learned from the disclosure discussion about:</p> <ul style="list-style-type: none"> • What happened • Who was involved • Why it happened <p>Think about any aggravating or mitigating circumstances, such as issues with:</p> <ul style="list-style-type: none"> • Accommodation • Education or employment • Finances • Lifestyle and associates • Relationships • Drug and alcohol use • Health • Emotional or mental wellbeing <p>Also take into account:</p> <ul style="list-style-type: none"> • Whether their circumstances have changed • Whether they have addressed the reason for their offending 		

FACTORS	GUIDANCE	CONVICTION 1	CONVICTION 2
	<ul style="list-style-type: none"> Whether they have taken responsibility for their actions 		

Appendix D: Positive DBS Risk Assessment and Guidance – Originally produced by Insight HR

Employee's name/ Applicant's Name:	
Job title:	
Date of engagement: Date sick assessment/interview completed	
Manager:	
Disclosure Date Disclosure Ref number	
	Comments
Pattern to Offence(s)?	Yes/ No. If Yes, give details
Nature of Offence(s) similar?	Yes/ No. If Yes, give details
Length of time since last offence?	
What is the person's explanation of the circumstances relating to the offences?	
Is the behaviour which constituted the offence(s) a cause for concern and if so why? Give details below, if yes	

Yes/ No. If Yes, give details	
Is/Are the offence(s) related to the type of work to be undertaken (consider job description)?	
Yes/ No. If Yes, give details	
Will the person pose a risk to pupils, parents or colleagues? (Seek advice from LADO and HR, if applicable re: transferrable risk, particularly if the offence(s) are not linked to employment)	
Yes/ No. If Yes, give details	
Will the applicant be offered employment?	
Yes/ No. Please explain the decision; including any mitigating action e.g. – increased supervision, limiting access to vulnerable groups	
Signed:	
Print Name:	
DBS Certificate Seen/ e-bulk date:	
Date:	

GUIDANCE

How does a Manager decide whether a person's criminal record is relevant?

An applicant's suitability must be judged in the light of the results of all the relevant pre-appointment checks carried out on him or her. The fact that a person has a criminal record does not automatically make them unsuitable. Managers must make a judgement about suitability, taking into account only those offences which may be relevant to the particular job or situation in question. In deciding the relevance of convictions a number of points should be considered, after providing the individual the opportunity to discuss the details of the disclosure to understand the context of the offences:

- 1) **Honesty:** did the applicant self-disclose prior to completion of the DBS application? Failure to disclose could be considered a breach of trust and confidence and could be significant cause for concern.
- 2) **Context:** was there a geographic, social, financial or relationship issue which contributed to the offence; if circumstances have changed does that reduce the risk of re-offending?
- 3) **The nature of the offence:** In general, convictions for sexual, violent or drug offences will be particularly strong contra-indications for work with vulnerable groups; however, remember that offences vary, and offences can become decriminalised. Offences abroad will require further investigation due to significant cultural differences regarding criminal convictions. Keeping Children Safe in Education, updated 1 September 2020, Part Four, Paragraph 211 refers to "Transferable risk" – i.e. *"Where a member of staff or volunteer is involved in an incident outside of a school or college which did not involve children but could have an impact on their suitability to work with children."* The example provided in the guidance is domestic violence incidents. Ask yourself 3 questions:
 1. What happened?
 2. Why did it happen (what was the trigger)?
 3. Could that same trigger be pulled in school?

If the answer to question three is yes, then there may be transferrable risk and it might be helpful to seek advice from the LADO and/or HR.

4) **The nature of the appointment:** Often the nature of the appointment will help to assess the relevance of the conviction. For example, serious sexual, violent, drug or drink offences would give rise to particular concern where a position was one of providing care. Driving or drink offences would be relevant in situations involving provision of transport;

5) **The age of the offence:** Offences which took place many years in the past may often have less relevance than recent offences. However, convictions for serious violent or sexual offences or serious offences involving substance abuse are more likely to give cause for continuing concern than, for instance, an isolated case of dishonesty committed when the person was young. The potential for rehabilitation must be weighed against the need to protect the vulnerable;

6) **The frequency of the offence/s:** a series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.

7) **The degree of remorse;** or otherwise, expressed by the applicant and their motivation to change.

Anyone who is barred from working with children commits an offence if they apply for, offer to do, accept or do any work in a regulated position.

It is also an offence for an employer knowingly to offer work in a regulated position to an individual who is barred from working with the client group, or to fail to remove such an individual from such work.

The DBS inform the police if a barred person attempts to obtain work in a regulated position. The www.gov.uk website provides guidance for employers on employment of ex-offenders: <https://www.gov.uk/DBS-criminal-records-bureau-check/arranging-checks-as-an-employer>

Appendix E – Sample Letter of Assurance

LETTER OF ASSURANCE

Name of employer: Name of employee: Job role of employee:	
DBS Certificate Number	
Date of DBS Certificate and date original Certificate seen and by which employee	Date: _____ Name: _____
Level of DBS Certificate (please tick)	Basic: <input type="checkbox"/> Standard: <input type="checkbox"/> Enhanced: <input type="checkbox"/>
Any other checks (please tick if appropriate) DBS Children's Barred List: <input type="checkbox"/> Date: _____ DBS Adults' Barred List: <input type="checkbox"/> Date: _____ I confirm that all appropriate vetting procedures (including appropriate ID checks, confirmation of address and proof of right to work in the United Kingdom) have been carried out and that the above-named employee has a DBS Enhanced Certificate (including a Barred List Check) if required, a Certificate of Good Conduct if required (where an employee has lived abroad in the previous 5 years) and qualifications required for the role. <input type="checkbox"/> Date: _____ Teaching Regulation Agency Checks (for teaching staff and relevant Teaching Assistants / Higher Level Teaching Assistants) including: Prohibition Order Check; Teachers sanctioned in other EEA Member States; Teachers who have failed Induction or probation; General Teaching Council for England (GTCE) sanctions <input type="checkbox"/> Date: _____ Childcare (Disqualifications) Regulations 2018 (where working with children under age 8) <input type="checkbox"/> Date: _____ Relevant qualifications have been checked and verified where required in order to undertake the above job role: <input type="checkbox"/> Date: _____ Relevant references have been obtained and verified in order to undertake the above job role: <input type="checkbox"/> Date: _____	

- * I confirm that this organisation complies fully with the DBS Code of Practice: www.dbs.gov.uk
- * I agree to advise the School / Council (as appropriate) of any concerns we may have about the above-named employee and any information on any of the above vetting checks.
- * I confirm that the above-named employee will adhere to the School's / Council's safeguarding policies.
- * I declare that the above Disclosure/Teaching Regulation Agency/Childcare (Disqualification) Regulations 2018 Checks /Qualifications – as appropriate – have been obtained and that any information about the above individual has been shared and discussed with the School/Council. I shall contact the School/Council immediately if there is any information on any future relevant DBS Certificates /Teaching Regulation Agency Checks/Childcare Disqualifications Checks (as appropriate) received in respect of the above employee.

Signed:

Date:

Position in Company:

Name: (Please print)

The School/Council reserves the right to terminate the existing contract/arrangements if the above organisation has not completed any relevant vetting checks as detailed above.