



PolyMAT

EMPLOYING STAFF WITH A CRIMINAL RECORD POLICY

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Introduction

This policy outlines the Trust's policy on asking questions about a prospective (or existing) member of staff's criminal record and carrying out Disclosure and Barring Service (DBS) checks. We comply with the provisions of the DBS Code of Practice, a copy of which is available on request.

This policy does not form part of any employee's terms and conditions of employment and is not intended to have contractual effect. It is provided for guidance to all members of staff at the Trust who are required to familiarise themselves and comply with its contents, including volunteers, apprentices, agency workers, workers and employees. Prospective candidates will also have access to this policy. The Trust reserves the right to amend its content at any time.

This policy sets out our commitment to comply with our obligations under the DBS Code of Practice, to treat prospective staff fairly and not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed. Its purpose is to also set out how we comply with our data protection obligations in respect of criminal records information and seek to protect such information, and to ensure that staff understand and comply with the rules governing the collection, use and deletion of criminal records information to which they may have access in the course of their work.

Purpose and Scope of this Policy

The Trust welcomes applications from a wide range of applicants. Having a criminal record will not necessarily prevent you from working with us. We will take into account the circumstances and background of any offence(s) and whether it or they are relevant to the position in question, balancing the rights and interests of the individual, our employees, pupils/parents, school community, third parties and the public

We will treat all applicants, employees, staff and volunteers fairly but reserve the right to withdraw an offer of employment if you do not disclose relevant information, or if an Enhanced DBS check reveals information which we reasonably believe would make you unsuitable for the role.

We are committed to providing equality of opportunity to all and aim to select people for employment on the basis of their individual skills, abilities, experience, knowledge and, where appropriate, qualifications and training.

Criminal Record Check

Certain criminal convictions as defined in the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975), prohibit those individuals from attempting to engage in regulated activity involving children. We therefore ask candidates about whether they have any criminal convictions that would prevent them from fulfilling the role. This is to ensure the candidate is suitable to work for the Trust. The Trust is also required to carry out a DBS check in order to determine your suitability for the role.

The type of check that may be requested from the DBS will depend on the nature of the position. If the candidate is applying for a position that may provide them with an opportunity to engage in regulated activity with children, then an Enhanced Check including child and adult's barred list information will be required. This check will contain

details of all spent convictions and adult cautions (except those which are "protected" as defined in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 and amended 2020) held on the Police National Computer. This check will also reveal whether the individual is barred from working with children by virtue of their inclusion in the lists of those considered unsuitable to work with children.

An Enhanced Check may also contain non-conviction information from local police records and/or protected information (as defined above) which the police consider may be relevant to the work the individual will be undertaking.

Candidates with recent periods of overseas residence and those with little or no previous UK residence may also be asked to apply for the equivalent of a Disclosure if one is available in the relevant jurisdiction(s).

The safeguarding of children and vulnerable adults is of paramount importance to us and consideration of any unspent conviction or caution, or spent conviction or adult caution (except those which are "protected" as defined in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 and amended in 2020) is an essential and non-negotiable part of the pre-employment check process.

The Trust will, however, consider any person with a criminal record for employment on a case-by-case basis.

Rehabilitation of Offenders Disclosure

In view of the fact that all positions within the Trust will amount to "regulated positions", all applicants for employment must declare all unspent convictions and cautions and all spent convictions and adult cautions (except those which are "protected" as defined in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 and amended in 2020).

The Trust will therefore ask shortlisted candidates to disclose all cautions or convictions but will not ask shortlisted candidates questions about criminal history that would be filtered or protected, nor expect them to disclose any protected convictions or cautions. The Trust will not ask job applicants questions about criminal history that would be filtered or protected, nor expect them to disclose any protected convictions.

The Trust will not unfairly discriminate against any applicant for employment on the basis of conviction or other details revealed. The Trust makes appointment decisions on the basis of merit and ability.

If an applicant has a criminal record this will not automatically debar them from employment within the Trust. Instead, each case will be decided on its merits in accordance with the objective assessment criteria and will carry out a risk assessment (see the section Assessing the relevance of criminal records below) where applicable.

A failure to disclose an unspent conviction or caution or a spent conviction or adult caution (that is not "protected") may lead to an application being rejected, an offer of employment being withdrawn or, if the failure is discovered after employment has started, may lead to summary dismissal on the grounds of gross misconduct. A failure to disclose a previous conviction may also amount to a criminal offence.

Under the relevant legislation, it is unlawful for the Trust to employ anyone who is included on the lists, maintained by the DfE and the Department of Health, of individuals who are considered unsuitable to work with children. In addition, it will also be unlawful for the Trust to employ anyone who is the subject of a disqualifying order made on being convicted or charged with the following offences against children: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence.

It is a criminal offence for any person who is disqualified from working with children to attempt to apply for a position within the Trust.

If the Trust:

- receives an application from a person who is barred from engaging in regulated activity with children;
- is provided with false information in, or in support of, an applicant's application; or
- has serious concerns about an applicant's suitability to work with children,

it will report the matter to the Police, DBS and/or the DfE.

Recruitment of Staff with a Criminal Record

Once the Trust has chosen a successful candidate, we will make a conditional offer employment; whereby receipt of a satisfactory Enhanced DBS check, including child and adult's barred list information, where applicable to the role, will be required.

Where the individual is a member of the DBS update service in the relevant workforce and at the required level, the Trust will, with the individual's permission, carry out a status check on any current certificate.

Once criminal records information has been verified through a DBS check, the Trust will:

- give the candidate the opportunity to provide an explanation of any inconsistencies between the information they have provided and the information in the DBS check at a post-interview meeting.
- record the information in accordance with the section titled, 'Retention and Security of Disclosure Information' below.

Assessing the relevance of criminal record

Having a criminal record will not necessarily bar you from working for the Trust. The Trust will take into account the circumstance and background of any offences and whether they are relevant to the position in question, balancing the rights and interests of the individual, or employees, students and their parents, suppliers, the public and any other third party. An assessment of skills, experience and conviction circumstances will be weighed against the risk assessment criteria for the job.

A candidate's criminal record will be assessed in relation to the tasks they will be required to perform and the circumstances in which the work is to be carried out. The following will be considered when deciding on the relevance of offences to particular posts:

- Does the post involve one-to-one contact with children or other vulnerable groups as employees, customers and/or clients or does it involve management of such posts?

- What level of supervision will the post holder receive?
- Does the post involve any direct responsibility for finance or items of value?
- Does the post involve direct contact with the public?
- Will the nature of the job present any opportunities for the post holder to re-offend in the place of work?

The answers to such questions will help the Trust to determine the relevance of convictions to specific posts. For shortlisted candidates who are assessed as meeting the requirements of the position in question, who then disclose relevant information (whether in relation to previous convictions or otherwise) voluntarily during the recruitment process or obtained through a disclosure check, the recruiting manager will ensure an open and fair discussion takes place and considers the following factors before reaching a final recruitment decision:

- whether the conviction or other matter revealed is relevant to the position in question;
- The seriousness of the offence or other matter revealed and its relevance to the safety of other employees, students, and property;
- The length of time since the offence or other matter occurred;
- Any relevant information offered by the candidate about the circumstances which led to the offence being committed, for example, the influence of domestic problems, financial difficulties, drug/alcohol dependency or mental illness;
- Whether the offence was a one-off, or part of a pattern of offending behaviour or other relevant matters;
- Whether the candidate's circumstances have changed since the offending behaviour or other relevant matters were committed, making re-offending less likely;
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person.
- The country in which the offence was committed - for example, some activities are offences in Scotland and not in England and Wales, and vice versa;
- Whether the offence has since been decriminalised by Parliament;
- The degree of remorse, or otherwise, expressed by the applicant and their motivation to change.

If the post involves regular contact with children, it is our normal policy to consider it high risk to employ anyone who has been convicted at any time of any the following offences against:

- adults: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence;
- children or adults: serious class A drug-related offences, robbery, burglary, theft, deception or fraud.

If the post involves access to money or budget responsibility, it is our normal policy to consider it a high risk to employ anyone who has been convicted at any time of robbery, burglary, theft, deception or fraud.

If the post involves some driving responsibilities, it is our normal policy to consider it a high risk to employ anyone who has been convicted of drink driving within the last 10 years.

We will treat all applicants, employees, and volunteers fairly but reserve the right to withdraw an offer of employment if relevant information is not disclosed or if a DBS check reveals information which we reasonably believe would make you unsuitable for the role.

Assessment Procedure

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, we will carry out a risk assessment by reference to the criteria set out above. The assessment form must be signed by the Headteacher before a position is offered.

If an applicant wishes to dispute any information contained in a Disclosure, they can do so by contacting the DBS directly. In cases where the applicant would otherwise be offered a position were it not for the disputed information, we will, where practicable, defer a final decision about the appointment until the applicant has had a reasonable opportunity to challenge the Disclosure information.

Reviewing policies and procedures

Criminal record information must be used in a way that protects the vulnerable, is fair and improves the overall recruitment and retention process. In particular, the Trust will:

- Review new posts to assess whether they involve any risk.
- Ensure staff involved in the recruitment and selection process have been trained to identify and assess the relevance and circumstances of offences and have received appropriate guidance and training in the relevant legislation relating to the employment of candidates with a criminal record e.g. the Rehabilitation of Offenders Act 1974.
- Provide information to staff involved in the recruitment and selection process, on training and employment programmes for the unemployed, including those programmes that work specifically with candidates with a criminal record.
- Provide relevant feedback related to their convictions to all unsuccessful candidates.

Retention and Security of Disclosure Information

The Trust is committed to ensuring that all information provided about an individual's criminal record, including any information released in disclosures, is used fairly and stored and handled appropriately and in accordance with the provisions of relevant data protection legislation. Data held on file about an individual's criminal convictions will be held only as long as it is required for employment and/or safeguarding purposes and will not be disclosed to any unauthorised person.

The Trust's policy is to observe the guidance issued or supported by the DBS on the use of disclosure information. In particular, the Trust will:

- store disclosure information and other confidential documents issued by the DBS in locked, non-portable storage containers, access to which will be restricted to members of the Trust's senior leadership team and the Head Teacher's personal assistant;

- not retain disclosure information or any associated correspondence for longer than is necessary. In most cases, the Trust will not retain such information for longer than 6 months although the Trust will keep a record of the date of a disclosure, the name of the subject, the type of disclosure, the position in question, the unique number issued by the DBS and the recruitment decision taken;
- ensure that any disclosure information is destroyed by suitably secure means such as shredding; and
- prohibit the photocopying or scanning of any disclosure information.