

# Priestley Primary School

## Recruitment & Selection Policy

Reviewed Spring 2022



### Policy Statement

Employees are a school's most important resource. In serving the needs of its pupils, the school can only be as effective as the people it employs.

Successful and thorough recruitment and selection has a fundamental role to play in ensuring the people with the right combination of knowledge, competencies and personal attributes are appointed.

Under section 175 of the Education Act 2002, Governing Bodies of maintained schools are required to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children. It is vital that schools adopt recruitment and selection procedures that help deter, reject or identify people who might abuse children or are otherwise unsuited to work with them, in order to safeguard children.

The governing body has overall responsibility for staffing matters at a school. The governing body decides the number of staff (both teaching and support staff). When a member of staff leaves, the governing body will decide whether or not to replace him or her. Due regard must be also given to the provisions of the School Staffing (England) Regulations 2009 which came into force on 2nd November 2009.

The governing body may delegate staffing functions to the headteacher, or an individual governor or committee of governors working with or without the headteacher.

The normal expectation is for the headteacher to lead the process of making staff appointments outside the leadership group (i.e. other than headteachers, deputy headteachers and assistant headteachers). The governing body should delegate these functions to the head teacher unless there are good grounds not to do so. The guidance of the Secretary of State for Education on this head teacher responsibility, which includes the circumstances in which these matters are not delegated to the head teacher, is contained in section 1 of the statutory Staffing Guidance.

The governing body of a community or Voluntary Controlled school should invite a representative of the Local Authority to attend and offer advice on headteacher appointments. Any advice given must be considered by those concerned before making a decision on the appointment. In respect of Voluntary Controlled Schools which are Church of England or Roman Catholic schools and where agreed by the governing body, the appropriate diocese authority should be granted the same advisory rights as the Local Authority.

The governing body of a Foundation or Voluntary Aided school may also agree to give the Local Authority rights to attend and offer advice on head teacher appointments. Where the Local Authority is so invited under a relevant agreement, any advice given must be considered by those concerned before making a decision. Where appropriate the governing bodies of Church of England or Roman Catholic schools may agree to afford the relevant diocesan authority the same advisory rights as the Local Authority.

### Scope

This procedure is recommended to Governing Bodies for adoption by all schools.

It is vital that measures described in this guidance are applied thoroughly whenever someone is recruited to work in a school. Those are not only people who regularly come into contact with children or are responsible for children, but who regularly work in a setting where nevertheless, they will be seen as safe and trustworthy because of their regular presence.

**The Local Authority will not accept liability for any actions, claims, costs or expenses arising out of a school's decision not to follow this recommended policy or procedure, where it is found that the school's Governing Body has been negligent or has acted in an unfair or discriminatory manner.**

## **The Policy**

This policy and procedure have been designed to provide detailed guidance to schools to develop and maintain high standards of professional and effective recruitment practice.

The policy guides schools in planning, monitoring and carefully undertaking recruitment.

Priestley Primary School is committed to safeguarding and promoting the welfare of children and young people in its recruitment practice and expects all school-based employees and volunteers to share this commitment.

Good practice and equality of opportunity are integral to Priestley Primary School's recruitment and selection processes. Recruitment and selection in Priestley Primary School shall be approached in a fair, consistent, equitable, transparent and effective manner, with due regard for Equal Opportunities legislation including the Equality Act 2010.

In cases of redundancy and redeployment, alternative recruitment practices will apply.

## **Guiding Principles**

Guiding principles, which reflect good employment practice and appropriate employment legislation, are those minimum principles established by the Local Authority, in consultation with Headteachers and the recognised Trade Unions and Professional Associations. These principles must be observed in recruitment and selection in schools.

These principles are highlighted as key steps in the following procedure Recruitment & Selection Toolkit.

These principles should be viewed as minimum 'must dos' designed to assist schools in making sound, informed employment decisions. The standards ensure measures to safeguard children.

Schools may introduce further standards, providing they do not conflict with these essential requirements.

## **Responsibilities**

The Headteacher and the Priestley Primary School Governing Body will be responsible for the management and implementation of this policy.

They will ensure that managers/supervisors and where appropriate, governors involved in recruitment and selection in Priestley Primary School are aware of their responsibilities within this policy.

The school is responsible for providing a regular report to the governing body on the equality monitoring of its recruitment and selection decisions as well as reports on the composition of its workforce including anonymised analysis of any data held for monitoring purposes on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Schools HR Advisory Team of the Local Authority will be responsible for ensuring that this policy continues to reflect the requirements of employment legislation and good practice. The Schools HR Advisory Team of the Local Authority will advise schools accordingly of any changes.

## Recruitment and Selection Toolkit

A comprehensive toolkit is provided only to client schools of the HR Advisory service to support this Recruitment and Selection Policy and Procedure, it contains:

No.	Title	Content
1.	<b>Equal Opportunities – The school’s statement of commitment</b>	<ul style="list-style-type: none"> <li>Your Commitment to Equality &amp; Diversity</li> <li>Your Equal Opportunities responsibilities</li> </ul>
2.	<b>Planning flowchart</b>	<ul style="list-style-type: none"> <li>Step by step recruitment planning guide</li> </ul>
3.	<b>Establishing the need for the role</b>	<ul style="list-style-type: none"> <li>The stages of recruitment</li> <li>Establishing the vacancy</li> <li>Establishing the procedures</li> <li>Who should be involved?</li> <li>Planning</li> </ul>
4.	<b>Designing the Job Description</b>	<ul style="list-style-type: none"> <li>Content of the Job Description</li> <li>Writing the Job Description</li> <li>Equal opportunities &amp; Job Descriptions</li> <li>Job Evaluation/Grading of the role (non-teaching)</li> </ul>
5.	<b>Drawing up the Person Specification</b>	<ul style="list-style-type: none"> <li>What is the person specification used for</li> <li>How to write a person specification</li> <li>Equal opportunities and the person specification</li> </ul>
6.	<b>Recruitment checklist</b>	<ul style="list-style-type: none"> <li>Checklist for recruitment preparation</li> </ul>
7.	<b>Advertising the vacancy</b>	<ul style="list-style-type: none"> <li>Advertising process</li> <li>Equal opportunities and advertising</li> </ul>
8.	<b>Selection methods</b>	<ul style="list-style-type: none"> <li>Advice on selection methods</li> <li>Application forms</li> <li>How to draw up a shortlist                             <ul style="list-style-type: none"> <li>a) Shortlisting applicants with disabilities</li> <li>b) note- keeping</li> </ul> </li> <li>Equal opportunities and shortlist</li> <li>Interviews</li> <li>Practical tests</li> <li>Psychological tests</li> </ul>
9.	<b>Shortlist checklist</b>	<ul style="list-style-type: none"> <li>Checklist for short-listing process</li> </ul>
10.	<b>Interviewing guidance</b>	<ul style="list-style-type: none"> <li>Aims of the interview</li> <li>The informal interview</li> <li>Preparation for the interview</li> <li>Use of assessment form</li> <li>Structure of the interview</li> <li>Role of the chairman</li> <li>Interview Questions</li> <li>Making the selection decision</li> <li>Informing the successful candidate</li> <li>Informing unsuccessful candidates</li> <li>Issue of Formal Contract of Employment</li> <li>Equal opportunities and interviews</li> </ul>
11.	<b>Selection process checklist</b>	<ul style="list-style-type: none"> <li>Checklist for Selection Process</li> </ul>
12.	<b>Pre-employment checks</b>	<ul style="list-style-type: none"> <li>Use of Medical questionnaires under the Equality Act 2010</li> <li>References</li> <li>The relevance of Criminal Records in Recruitment &amp; Selection</li> <li>Good recruitment practice on age issues</li> <li>Disqualification by association checks</li> <li>Prohibition of teacher checks</li> </ul>

13.	<b>Preferred candidate checklist</b>	<ul style="list-style-type: none"> <li>• Checklist for Preferred Candidate Process</li> </ul>
14.	<b>Legal requirements to follow in recruiting and selecting staff</b>	<ul style="list-style-type: none"> <li>• The Data Protection Act 1998</li> <li>• The Asylum &amp; Immigration Act 1996</li> <li>• Employment of Children</li> </ul>
15.	<b>Induction and probation</b>	<ul style="list-style-type: none"> <li>• Responsibility for initial induction</li> <li>• Probationary Review and Confirmation of Appointment non-teaching staff</li> <li>• Newly Qualified Teachers (NQT's)</li> </ul>
16.	<b>Equal Opportunities in the recruitment and selection process</b>	<ul style="list-style-type: none"> <li>• Forms of discrimination to avoid under the Equality Act 2010</li> <li>• Genuine Occupational Requirements 'OGRs'</li> <li>• What is 'Positive Action'</li> <li>• Employment of people with disabilities</li> <li>• Widening employment opportunities</li> </ul>
17.	<b>Examples of adverts</b>	<ul style="list-style-type: none"> <li>• Samples</li> </ul>
18.	<b>Person Specification/Short-listing Form</b>	<ul style="list-style-type: none"> <li>• Pro-forma</li> </ul>
19.	<b>How to use the Interview Assessment Form</b>	<ul style="list-style-type: none"> <li>• Pro-forma</li> </ul>
20.	<b>Interview Assessment Form</b>	<ul style="list-style-type: none"> <li>• Pro-forma</li> </ul>
21.	<b>Sample Interview Assessment Form completed with questions and scores</b>	<ul style="list-style-type: none"> <li>• Sample</li> </ul>
22.	<b>Safer recruitment planning record</b>	<ul style="list-style-type: none"> <li>• Pro-forma</li> </ul>
23.	<b>Sample letters – including reference requests</b>	<ul style="list-style-type: none"> <li>• Templates</li> </ul>
24.	<b>Pre-employment Health Declaration</b>	<ul style="list-style-type: none"> <li>• Health screening questionnaire (PEHD2) &amp; guidance (PEHD1)</li> </ul>

This policy should be read alongside the following other school policies:

**(Safeguarding, Child Protection, Prevent, Whistleblowing Policies)**

**To be reviewed Spring 2023**



## Introduction

This DBS checks policy and procedure:

- outlines the school's procedure for obtaining disclosure and barring service (DBS) checks.
- confirms the school will undertake enhanced DBS checks as part of its pre-employment processes for all posts.
- confirms there is no automatic update for current DBS checks / former CRB checks unless new information is added to the employee's criminal record due to a new warning, caution, reprimand or conviction.

## Scope

### Who is included in these arrangements?

This policy applies to anyone applying for or working for Priestley Primary School.

It also applies to proprietors of the school and volunteers.

### Who is excluded from these arrangements?

Ordinary visitors to the school although visitors must be accompanied at all times when on visit.

### Commitment to safer recruitment and safeguarding

The Governing body of the school is committed to safer recruitment and safeguarding.

The school is committed to promoting the safety and wellbeing of all pupils and employees, particularly those who would be incapable of protecting themselves from physical or sexual abuse, financial exploitation, or where there is a potential danger that their will or moral wellbeing may be subverted or over-powered.

The school is committed to safer recruitment practices when recruiting new employees to work for the school or when using volunteers.

Enhanced disclosure and barring service checks are required for all roles at the school as they are all regulated activities, and for proprietors of the school. DBS checks are only one element of a wider framework of safer recruitment practices the school undertakes.

### Working with children and young people

The school will ensure all employees, temporary staff and volunteers act in accordance with the "guidance for safer working practice for adults who work with children and young people" document.

<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

### Regulated activity at the school

Regulated activity relating to children is defined as work that a barred person must not do.

Regulated activity includes:

- a) Teaching, training, instructing, caring for or supervising children in an unsupervised capacity;
- b) Providing advice/guidance on well-being to children in an unsupervised capacity;
- c) Driving a vehicle for children only in an unsupervised capacity
- d) Work for a limited range of establishments (specified places which include schools and colleges) with opportunity for contact with children.

Work under (a), (b), (c), or (d), is regulated activity only if done regularly. This is work that is done on a 'regular' basis i.e.

one or more times a week or on 3 or more days in a 30-day period. Some activities are always regulated activities, regardless of frequency or whether they are supervised or not. This includes:

e) Relevant personal care, or health care:

- Personal care includes helping a child, for reasons of age, illness or disability, with eating or drinking, or in connection with toileting, washing, bathing and dressing.
- Health care means care provided by, or under the direction or supervision of, a regulated health care professional.

A supervised volunteer is not in regulated activity. The school may carry out an enhanced DBS check, without barred list information, for volunteers who are not engaging in regulated activity.

Further information can be found in

[Eligibility guidance for enhanced DBS checks - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

### **Obtaining DBS checks**

In order to carry out thorough DBS disclosure checks, the school will need to know any names, name changes, or aliases by which the applicant may have been known in the past, including maiden names, assumed name of step parent, change of name by deed poll, etc. The applicant will be required to produce originals of three documents from two specific lists, including an original copy of their birth certificate.

The DBS check will be received by the applicant / employee in hard-copy form. The Wiltshire Council recruitment team (or insert umbrella body if not Wiltshire) does not receive a copy of the DBS check from the DBS.

The Headteacher is responsible for asking candidates/employees to bring in their copy of the DBS certificate to be checked as part of the safer recruitment process. This will be checked before the applicant / employee can begin work.

For employees who choose to subscribe to the DBS update service the school will ask for permission to check their DBS check online.

### **DBS Re-checks**

As good practice the school re-checks DBS's every three years.

The school will monitor the renewal date of DBS checks for employees and volunteers (including governors).

The employee will be required to complete the necessary forms and agree to checks being carried out. Where an employee/volunteer subscribed to the DBS update service, the school will apply for an update on their DBS check status. A re-check will include checks against the barred lists.

If the school is concerned about an existing employee or volunteer's suitability to work with children, the school may carry out a DBS re-check, in addition to all other relevant checks as appropriate, at any point.

### **The DBS update service**

At the point of having a DBS check the employee can opt to subscribe to the DBS's [online update service](#) which has an annual subscription fee payable by the employee. For volunteers (including governors) there is no annual subscription fee, so is free. A DBS check from a previous role or employer within the same workforce will be portable if the employee has subscribed to this online DBS update service. 'Within the same workforce' means within and across schools and academies.

For all employees who have subscribed to the DBS online update service, the school will request permission from the employee to check the status of their DBS check, which is carried out online. The school will apply for a new DBS check if additional information has been added to the DBS check since it was last issued. Additional information means:

- a new caution
- a new warning
- a new reprimand
- been banned from working with children or vulnerable adults or both

- A new conviction
- Any new, relevant, police information.

For employees who are not subscribed to the online update service the school will apply for a DBS check in the usual way via the ebulk service which the school has access to.

### **Agency workers**

The Headteacher will be responsible for checking that the agency (as the agency worker's employer) has carried out an up to date DBS check for the role. The Headteacher will need to obtain written notification from the agency, or the third-party organisation, that they have carried out the required checks (in respect of the enhanced DBS certificate, written notification that confirms the certificate has been obtained). The headteacher must also check that the person presenting themselves for work is the same person on whom the checks have been made.

The headteacher should also ask to have sight of the DBS certificate and/or ask the agency to confirm the date of the DBS check and that it was obtained in relation to the role the agency worker will be carrying out with the school.

Advice will be sought from the Wiltshire Council recruitment team as required.

### **TUPE transfers**

Where employee(s) transfer to the school as part of a service transfer under the Transfer of Undertakings (TUPE) Regulations, the DBS checks of such employee(s) will transfer to the school.

### **Transgender applicants**

Transgender applicants may make use of the special application procedure established by the DBS so that their previous name is not disclosed to the school. The contact details for the confidential DBS sensitive applications for transgender applicants are 0151 676 1452 or email [sensitive@db.gov.uk](mailto:sensitive@db.gov.uk) for further advice about completing the form.

### **The role of the Wiltshire Council DBS team**

The recruitment team will continue to work with the disclosure and barring service and will comply with the DBS guidelines and regulations as part of its role as a registered body.

The recruitment team will strive at all times to ensure that all applications are legitimate applications based on the specific DBS category codes. Refer to [DBS eligibility guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/db-eligibility-guidance)

### **Information required from the applicant**

In order to carry out thorough DBS disclosure checks, the school will need to know any names, name changes, or aliases by which the applicant may have been known in the past, including maiden names, assumed name of step parent, change of name by deed poll, etc. The applicant will be required to produce originals of three documents from two specific lists, including an original copy of their birth certificate. The school will also need to see the applicant's original DBS certificate, if one was previously issued.

This information is required as part of the recruitment procedure to meet with obligations under the Asylum Act 2002.

For employees who choose to subscribe to the DBS online service the school will ask for permission to check their DBS check online.

### **Overseas candidates**

If a candidate has not previously worked in the UK, or has lived overseas for some time, they must have the same checks as all other staff, including obtaining a DBS certificate, even if the individual has never been to the UK. In addition, schools must make any further checks they think appropriate so that any relevant checks that occurred outside the UK can be considered. These checks could include, where available:

- An overseas criminal record check or 'certificate of good conduct' from their country of origin. The process for obtaining such a certificate varies from country to country. Further information can be found here – [Criminal records checks for overseas applicants - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/criminal-records-checks-for-overseas-applicants) .

- Obtaining a letter of professional standing from the professional regulating authority in the country in which the applicant has worked. Further advice is available from the National Recognition Information Centre for the United Kingdom, [UK ENIC](#).

### **Ex-service personnel who have served abroad**

Where an offer of employment is made to a member of the armed forces it will be necessary to not only carry out a DBS check into the successful candidate's background, but also to ask for the relevant branch of the armed forces (RAF, Army, Navy) to confirm in writing whether the candidate has a criminal record.

Partners of former armed forces personnel who are returning to work in the UK from abroad at the school will need to supply a 'certificate of good conduct' from the country they were based in. (See Overseas Candidates section above).

### **DBS check application forms**

The school's administrator will complete the relevant sections of the DBS check application form to confirm specific details about the position for which the DBS check is required.

### **Regulated activity at the school**

Regulated activity relating to children is defined as work that a barred person must not do. All posts at a school are considered regulated activity. Enhanced DBS checks are required for all posts within the school and for proprietors of the school.

A DBS check is not required in respect of the activities above if the person undertaking these activities is a supervised volunteer.

### **Headteacher's role – checking the DBS check**

The Wiltshire Council recruitment team does not receive a copy of the DBS check from the DBS. The Headteacher is responsible for asking candidates/employees to bring in their copy of the DBS certificate to be checked.

Further advice can be found in the document "Wiltshire school's guidance for schools on checking a DBS disclosure".

<http://rightchoice.wiltshire.gov.uk/Page/10821>

### **Disclosure of past convictions – for all roles exempted from the Rehabilitation of Offenders Act 1974**

Where a role is exempted from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 the applicant / employee is required to be completely honest in disclosing all convictions throughout their entire life, from the age of criminal responsibility (10 years).

All posts at the school are exempted from the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and no conviction will ever be considered spent and applicants / employees must declare it, unless it is a 'protected conviction/caution' (see below).

Applicants / employees need to be informed that if they have accepted a caution, warning or reprimand from the Police these must be declared as relevant offences.

### **Protected convictions/cautions**

All roles at a school are exempted from the Rehabilitation of Offender Act 1974 (Exceptions) Order 1975. Applicants are required to be completely honest in disclosing all convictions and cautions throughout their entire life, from the age of criminal responsibility (10 years) except for protected convictions or protected cautions.

Where an applicant or employee has accepted a caution, warning or reprimand from the police then these must be declared as relevant offences.

A conviction is a "protected conviction" if:

- It does not relate to a "listed offence", such as violent and sexual offences.

- No custodial sentence was imposed.
- The individual has no other convictions. (Where the individual has more than one conviction, all convictions will be included on the certificate.)
- It was received by a person aged under 18 at the time of the conviction and **five and a half years or more** have elapsed.
- It was received by a person aged 18 or over at the time of the conviction and **11 years or more** have elapsed.

A caution is a protected caution if:

- It does not relate to a listed offence.
- It was given to a person aged under 18 at the time of the caution and **two years or more** have elapsed.
- It was given to a person aged 18 or over at the time of the caution and **six years or more** have elapsed.

### **The employment of ex-offenders**

The school is committed to equality of opportunity and recognises its responsibilities under the rehabilitation of offenders at work act. Unlawful treatment of ex-offenders, i.e. failure to employ an ex-offender without lawful justification, where this cannot be justified by the nature of the work, will not be tolerated. Refer to the recruitment of ex-offenders' policy.

All roles at the school are exempted from the Rehabilitation of Offender Act 1974 (Exceptions) Order 1975. Applicants are required to declare:

- All unspent convictions and conditional cautions
- All spent convictions and adult cautions that are not protected (i.e. that are not filtered out) as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2020).

'Protected' means that they do not need to be disclosed, and if they are disclosed, the school cannot take them into account. Protected cautions and convictions are filtered out of DBS checks. For more information refer to the government's [DBS filtering guidance](#).

### **Barred Lists**

The children's barred list is held and administered by the disclosure and barring service. Wiltshire council's recruitment team on behalf of the school; will continue to work with the DBS to check applicants / employees against the names of individuals appearing on these lists.

All applicants / employees are required to declare if they are barred from working in any roles.

There are some offences which may result in a person having been made subject of a Disqualification Order (DO). It is an offence for this person to apply for a post that is restricted under the (DO). If a person is subject to a DO and they apply for a restricted post, the school will report them to the police.

Any person who has been convicted of an offence under Schedule 1 of the Children and Young Persons Act 1933 (as amended by subsequent legislation) they will not be eligible to apply for a restricted post.

A person will never be allowed to work or volunteer at the school if they have been barred from carrying out a restricted post.

For more information, refer to [The Disqualification under the Childcare Act 2006 guidance](#).

### **Prohibition orders - teachers**

Every time a teacher commences employment at the school (for a supply teacher this will be for each time they undertake a period of supply work), the school must check whether the teacher is the subject of a prohibition order by checking the employer access online site which is maintained by the National College of Teaching and Learning (NCTL).

Prohibition orders are an additional check to that undertaken as part of the enhanced DBS check.

## **Handling of DBS data**

### **Secure storage and handling of data**

Any information provided by the DBS as part of a DBS disclosure will be securely stored and handled and the content will be confidential to the Headteacher of the school who is authorised to fulfil this role.

The school will observe the DBS code of practice including the opportunity for person to appeal to the DBS about the check information provided. Refer to the school's "Data Handling Policy"

## **Policy Issues**

### **The Disciplinary Policy**

For any employee who does not comply with the terms of the school's DBS checks policy and where the school feels they have behaved in a way which is felt to be dishonest in respect of this policy or which brings the school's reputation into question, the employee may be subject to the school's disciplinary policy. This could result in a dismissal from employment with the school.

### **New offences for existing employees**

All employees at the school are required as part of their contract of employment to inform the head teacher (in the case of the head teacher the chair of governors) of any police investigation, charge, caution, reprimand, warning, fine or conviction against them immediately. All such disclosures will be handled in accordance with the relevant procedure, and consideration will be given as to whether suspension from duties is required while an investigation takes place.

## **Roles and Responsibilities**

### **Applicant and employee responsibilities:**

- To be completely honest in declaring all unspent convictions and conditional cautions and all spent convictions and adult cautions that are not protected before employment.
- To be completely honest in declaring subsequent convictions after having been employed.
- To provide such information as is requested in order for a DBS check to be carried out.
- For those who choose to subscribe to the DBS online checking service, to notify the head teacher and to give permission to carry out an online check either when joining the school for the first time or when a subsequent recheck is to be carried out.
- To bring in their DBS check to be checked by the headteacher.

### **Headteacher or Line manager responsibilities**

To ensure that the need for a DBS check is recorded on the Job Evaluation Questionnaire (JEQ) and job description for the role when the JEQ for a new role is submitted for evaluation or re-evaluation.

When information is received regarding a candidate's offending background, to confirm with an Education HR Advisor whether the information is relevant to the role being applied for.

Not to make a decision not to employ a candidate on the basis of a DBS check outcome without first discussing this with the candidate and an Education HR case adviser.

Not to unfairly discriminate against an applicant with a criminal record.

To assess whether safeguarding training is required for employees or volunteers and ensure they attend such training and any refresher courses.

To undertake safeguarding training themselves and any refresher courses.

To check the information appearing on the DBS check in accordance with the guidance for head teacher to checking a DBS check.

To confirm on all recruitment materials relevant to a role whether it is exempt from the Rehabilitation of Offenders Act (under the Rehabilitation of Offenders Act (Exceptions) Order 1975), and that an enhanced DBS disclosure will be required for the successful candidate.

To undertake all safer recruitment reference checking including DBS checks.

#### **Related Information**

- Safeguarding Vulnerable Groups Act 2006
- Police Act 1997
- Rehabilitation of Offender's Act 1974
- Rehabilitation of offenders (exceptions) order 1975
- Guidance on the rehabilitation of offender's act 2014
- Section 142 of the Education Act 2002
- Section 15 of the teaching and higher education act 1998
- Section 6 of the protection of children act 1999
- Sections 35 and 36 of the criminal justice and court services act 2000
- Data Protection Act 2018
- Education (school teachers' qualifications) (England) regulations 2003
- Education (specified work and registration) (England) regulations 2003
- Education (prohibition from teaching or working with children) regulations 2003
- School staffing (England) regulations 2009
- Protection of Freedoms Act 2012
- Equality Act 2010
- Keeping Children Safe in Education
- Immigration (Employment of Adults Subject to Immigration Control) (Maximum Penalty) (Amendment) Order 2014
- Immigration (Restrictions on Employment) (Codes of Practice and Amendment) Order 2014.

**To be reviewed Spring 2023**



#### What is it?

This policy outlines the School's procedure for the employment of ex-offenders.

#### Who does it apply to?

This policy applies to all school employees. The school has adopted this policy on the recruitment of ex-offenders and will make this available to all DBS applicants at the outset of the recruitment process.

#### When does it apply?

This policy applies to applicants and current employees when a disclosure and barring service check or a recheck is carried out for the role they are to undertake or currently undertake.

#### What are the main points?

This policy follows the DBS code of practice on the employment of ex-offenders.

As a school using the disclosure and barring checking service to assess applicants' suitability for positions of trust working with children, the school undertakes not to discriminate unfairly against any person who is the subject of a DBS check on the basis of a conviction or other information revealed.

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

The school actively promotes equality of opportunity for all applicants with the right mix of talent, skills and potential and welcomes applications from a wide range of candidates, including those with criminal records. The headteacher (or recruiting manager) will select candidates for interview based on their skills, qualifications and experience.

All positions require an enhanced DBS check and, all application forms, job adverts and recruitment briefs will contain a statement that an enhanced DBS check will be requested in the event of the individual being provisionally offered the position.

The headteacher (or recruitment manager) will encourage all applicants called for interview to provide details of their criminal record at an early stage in the application process. It will be requested to be sent under separate, confidential cover to the headteacher. The school will guarantee that this information will only be seen by those who need to see it as part of the recruitment process.

Unless the nature of the position allows the school to ask questions about an entire criminal record, they will only ask about 'unspent' convictions as defined in the rehabilitation of offender's act 1974

The school will ensure that all those who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences.

The school is aware of their obligations under the Rehabilitation of offender's act 1974. Candidates should be aware that all roles at the school are exempt from the provisions of this Act, however.

At interview, or in a separate discussion, the school will ensure 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.

The school undertakes to discuss any matter revealed in a DBS check with the person seeking the position before

withdrawing a conditional offer of employment.

Having a criminal record will not necessarily bar the applicant from working at the school. It will depend on the nature of the position and the circumstances and background of the offence(s).

### Disqualification orders

There are some offences which may result in a person being subject to a disqualification order (DO).

It is an offence for such a person to apply for a post that is restricted under the DO. The school will report any such applicant to the disclosure and barring service and to the police.

### Convictions / cautions are never spent

All roles at a school are exempted from the Rehabilitation of Offender Act 1974 (Exceptions) Order 1975. Applicants are required to be completely honest in disclosing all convictions and cautions throughout their entire life, from the age of criminal responsibility (10 years) except for protected convictions or protected cautions.

Where an applicant or employee has accepted a caution, warning or reprimand from the police then these must also be declared as relevant offences.

### Protected convictions

A protected conviction does not need to be disclosed. A protected conviction is, if the person was 18 or over at the time of the conviction, a conviction for an offence where:

- 11 years or more have elapsed since the date of the conviction; and
- It is their only offence; and
- It did not result in a custodial sentence; and
- The offence does not appear on the list of offences relevant to safeguarding.

Where the person was under 18 at the time of the conviction, the same rules apply as above in relation to it being a protected conviction, except that the elapsed time period is 5 and a half years or more.

### Protected cautions

A caution is a "protected caution" if:

- The offence does not appear on the list of offences relevant to safeguarding.
- It was given when the person was aged under the age of 18 at the time of the caution and **two years or more** have elapsed.
- It was given to the person whilst aged 18 or over at the time of the caution and **six years or more** have elapsed.

*The list of offences is detailed in the government document "List of offences that will never be filtered from a DBS certificate" which can be found at [www.gov.uk](http://www.gov.uk)*

### New convictions / cautions

It is essential to inform the Headteacher of all new convictions (and where required by regulation to any relevant professional registered bodies of which you are a member) of any police investigation, charge, caution, reprimand, fine or conviction, immediately.

All such disclosures will be handled in confidence, but it may result in the suspension from duties of the employee whilst an investigation takes place. Refer to the disciplinary policy.

### **Cautions, reprimands and warnings**

If the person has accepted a police caution as an alternative to prosecution, this information is entered onto the police national computer and will therefore appear when a disclosure and barring service check is carried out.

### **Police information**

From time to time the police may divulge information to the school about a current investigation being undertaken about an applicant or new employee. The school will not divulge such information to the applicant or new employee as to do so would be a criminal offence.

### **Equal Opportunities**

The school will make any necessary adjustments to ensure that all employees are treated fairly within the law.

### **Legislation**

- Rehabilitation of offenders' act 1974
- DBS code of practice
- Safeguarding vulnerable groups act 2006
- Protection of freedoms act 2012

### **Further advice and information**

If you require help in accessing or understanding this policy or completing any of the associated forms, you should contact an HR case adviser.

There are a number of related policies and procedures that you should be aware of including:

- disciplinary
- DBS disclosures
- storage of disclosure information
- recruitment

**To be reviewed Spring 2023**