CARWARDEN HOUSE COMMUNITY SCHOOL

RECRUITMENT OF APPLICANTS WITH A CRIMINAL RECORDS POLICY

Reviewed by Audit and Resources Committee

Approved by Carole Blunden-Lee

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Introduction

This policy outlines the Academy 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 a contractual effect. It is provided for guidance to all members of staff at the Academy 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. We reserve 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.

Purpose and Scope of this Policy

We welcome 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.

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 us. We are also required to carry out a

DBS check in order to determine your suitability for the role.

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.

We 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 Academy 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).

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

We will not unfairly discriminate against any applicant for employment on the basis of conviction or other details revealed. We make 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 Academy. Instead, each case will be decided on its merits in accordance with the objective assessment criteria.

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 us 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 us 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 Academy. If we:

- receive an application from a disqualified person.
- are provided with false information in, or in support of, an applicant's application; or
- have serious concerns about an applicant's suitability to work with children,

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

Recruitment of Applicants with a Criminal Record

Once the Academy has chosen a successful candidate, we will make a conditional offer of employment; whereby receipt of a satisfactory Enhanced DBS check, (including the Children's Barred List and the Adults' Barred List (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 Academy will, with the individual's permission, carry out a status check on any current certificate.

Assessment Criteria

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 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 any offence or other matter revealed.
- the length of time since the offence or other matter occurred.
- whether the applicant has a pattern of offending behaviour or other relevant matters.
- whether the applicant's circumstances have changed since the offending behaviour or other relevant matters; and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person.

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 drunk driving within the last 10 years.

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.

Retention and Security of Disclosure Information

We are 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.

Our policy is to observe the guidance issued or supported by the DBS on the use of disclosure information. In particular, we 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 Senior Leadership Team and the School Business Manager;
- not retain disclosure information or any associated correspondence for longer than is necessary. In most cases, we will not retain such information for longer than 6 months although we 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.