



Changing Lives Learning Trust

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RECRUITMENT OF EX-OFFENDERS POLICY AND PROCEDURE

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1 PURPOSE & SCOPE

The aim of this Policy is to provide details of our approach towards employing people who have criminal convictions.

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

However, Changing Lives Learning Trust (hereinafter referred to as the 'trust') is an exempt employer as defined in the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and as such, we have a lawful basis for requesting an enhanced DBS disclosure certificate for all employees. In addition, the school is a regulated activity provider and for most posts, we have a statutory duty to check that the individual is not barred from regulated work with children and / or adults.

The Trust may only ask an individual to provide details of convictions and cautions that the Trust 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), the Trust may only ask an individual about convictions and cautions that are not protected.

It is unlawful for the Trust to employ anyone who is barred from working with children. It is a criminal offence for any person who is barred from working with children to apply for a position with the Trust.

The Trust will make a report to the police and/or the DBS if:

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

The safeguarding of children and vulnerable adults is of paramount importance to us and the scrutiny of any unspent cautions or convictions and those that would not be protected under the Ministry of Justice filtering rules is an essential and non-negotiable part of the pre-employment check process.

We will consider ex-offenders for employment on their individual merits:

1.1 Jobs covered by the Rehabilitation of Offenders Act 1974

We will not automatically refuse to employ a particular individual just because they have a previous criminal conviction.

During the recruitment process, we will ask shortlisted job applicants to disclose any unspent 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. The successful applicant will be asked to apply for a basic DBS certificate.

If an applicant has a caution or conviction that is unspent and if the nature of the offence is relevant to their suitability for the job for which they have applied, we will review the individual circumstances of the case and might, at our discretion, decline to select the individual for employment.

1.2 Roles/jobs that are exempt from the Rehabilitation of Offenders Act 1974

The vast majority of the roles we are seeking to recruit to are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (roles in regulated positions and in Further Education provision). In these cases, we will require shortlisted applicants to disclose all unspent convictions or bind overs in addition to any criminal history that would not be filtered.

Even in these circumstances, however, we will not refuse to employ a particular individual unless the nature of the conviction has some relevance to the job for which the individual has applied.

As a result of amendments to the Rehabilitation of Offenders Act in 2013 and 2020, cautions and convictions that meet specified criteria should not be disclosed by applicants and must not be taken into account by potential employers. We encourage all applicants to use the practical guidance provided by Nacro (<https://www.nacro.org.uk/>) and to seek legal or impartial advice before completing their self-disclosure. We will not take into account any criminal history that would be protected or filtered, even if it is subsequently disclosed on the DBS certificate.

We will, once we have selected the person to whom we wish to offer employment, make a joint application to the Disclosure and Barring Service (DBS) for an enhanced certificate (with the relevant DBS barred list(s) check where the post is in regulated activity). Where the individual is a member of the DBS update service in the relevant workforce and at the required level, we will, with the individual's permission, carry out a status check on any current certificate.

We are committed to ensuring that all information provided about an individual's criminal convictions, including any information released in disclosures, is used fairly and stored and handled appropriately and in accordance with the provisions of the General Data Protection Regulations and the Data Protection Act 2018.

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 securely, with restricted access;
- Not retain disclosure information or any associated correspondence unless we have a valid reason for doing so and then only for a maximum of six months;
- Keep a record of the date of a disclosure, the name of the subject, the type of disclosure, the position in question, the unique disclosure number issued by the DBS and the recruitment decision taken;
- Ensure that the disclosure information is destroyed by suitably secure means such as shredding and prohibit the photocopying or scanning of any disclosure information without the express permission of the individual to whom the disclosure relates.

If an applicant wishes to dispute any information contained in a disclosure, they may do so by contacting the DBS. In cases where the applicant would otherwise be offered a position were it not for the disputed information, the Trust may, where practicable and at its discretion, defer a final decision about the appointment until the applicant has had a reasonable opportunity to challenge the disclosure information.

2. THE PROCESS

As a Regulated Activity Provider (RAP), almost all paid employees in our trust are in regulated activity and therefore subject to an enhanced DBS certificate with check(s) of the relevant DBS barred list(s).

In relation to volunteers and contractors, we only request a DBS certificate after a thorough risk assessment has indicated that a check is relevant to the position concerned. A model risk assessment for volunteers is available from the KAHSC website.

For those positions where an enhanced DBS check for regulated activity is required, all application forms, recruitment advertising and recruitment briefs will contain:

- 2.1 a statement that an enhanced DBS certificate (with barred list check(s) where relevant) will be requested in the event of the individual being offered the position;
- 2.2 and an explanation of when in the recruitment process criminal information will be requested and considered.

All shortlisted applicants are required to complete a [criminal record self-disclosure](#) to be returned no less than 1 day prior to the interview date. This information is to be sent to the Headteacher/Principal of the relevant school or to HR, dependent on the role applied for. Failure to return the self-disclosure will result in the offer of interview being withdrawn. We guarantee that the self-disclosure information will only be seen by those who need to see it as part of the recruitment process.

The criminal history self-disclosure will include information for shortlisted applicants on the importance of seeking legal advice and the contact details of organisations that can provide impartial advice.

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, the Trust will consider the following factors before reaching a 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 applicant.

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

- Murder, manslaughter, rape, other serious sexual offences, actual/grievous bodily harm or other serious acts of violence; or serious class A drug related offences, robbery, burglary, theft, deception or fraud.

If the post involves some driving responsibilities, it is the Trust's normal policy to consider it a high risk to employ someone who has been convicted of drink driving (within the last ten years). If a DBS certificate reveals any convictions, the person concerned will be invited to attend an interview with the CEO or Executive Team member or Principal to discuss the conviction (s)

and circumstances. Following this meeting a 'cause for concern' risk assessment will be carried out and a decision made and communicated back to the person concerned. For safer recruitment purposes, until this decision has been made the applicant must not commence employment.

We 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. We also ensure that they have received appropriate guidance on the relevant legislation relating to the employment of ex-offenders, e.g., the Rehabilitation of Offenders Act 1974 (exceptions order 1975) (as amended 2013 & 2020) and know how to access advice and support e.g., from our HR suppliers, and relevant registered bodies.

At interview, or in a separate discussion, the recruitment selection panel will ensure that an open and measured discussion takes place on the subject of any offences or related concerns that might be relevant to the position. Failure to reveal information that would not be filtered could lead to withdrawal of an offer of employment, if the failure to disclose 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.

All potential employees are guided to the [Disclosure and Barring Service Code of Practice](#) and a copy is made available on request.

We undertake to discuss any relevant matter revealed on a DBS certificate with the person seeking the position before withdrawing a conditional offer of employment. This discussion and any subsequent risk assessment may be undertaken by the Headteacher/Principal or by another appointed person. If the DBS check reveals any matching information against the DBS barred list(s) or any criminal conviction which precludes them from working with children and/or adults¹ the applicant is deemed non appointable. In this circumstance, we would notify the Local Authority Designated Officer in line with the local multi-agency procedures.

3 REFERENCES & USEFUL LINKS

Disclosure & Barring Service:

- www.gov.uk/government/organisations/disclosure-and-barring-service
- Detailed information, fact sheets and FAQs: <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>
- Filtering guidance from 28/11/20: <https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide>

Ministry of Justice:

- Guidance on the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975 (and self-disclosure) <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

National Association for the Care and Resettlement of Offenders (Nacro):

- Criminal record support service – advice for applicants and employers <https://www.nacro.org.uk/criminal-record-support-service/>

¹ Relates to those applying for posts where students are over the age of 18 e.g., special schools.

- Filtering flowchart [Filterin-flowchart-twitter.png \(5000x2813\) \(netdna-ssl.com\)](#)
- Unlock – Organisation providing advice for those with criminal records - <https://unlock.org.uk/advice/what-will-be-filtered-by-dbs/>