

## **APPOINTMENT OF STAFF AND SAFER RECRUITMENT POLICY**

### **Incorporating our Equal Opportunities in Employment Policy**

Reviewed by PSK 24.03.2022

*This policy should be read in conjunction with the school's Safeguarding and Child Protection Policy and the documents 'Guidance on Disqualification by Association for Early Years Settings (Up to Age 8)' and Keeping Children Safe in Education*

Before employing a teacher, Phoenix Academy will take all reasonable steps to establish whether the individual is subject to a teacher prohibition order and, if so, prevent their employment.

### **INTRODUCTION**

Phoenix Academy is committed to building an organisation that makes full use of the talents, skills, experience and different cultural perspectives available in a multi-ethnic society, and where people feel they are respected and valued, and can achieve their potential regardless of race, colour, nationality, national or ethnic origins.

The aims of this policy are to ensure that:

- No one receives the less favourable treatment, on grounds of race, colour, nationality or ethnic or national origins, or is disadvantaged by any conditions, requirements, provisions, criteria, procedures or practices that cannot be justified on non-racial grounds or victimised for taking action against racial discrimination or harassment or instructed or put under pressure to discriminate against or harass someone on racial grounds.
- The School is free of unwanted conduct that violates the dignity of staff or creates an intimidating, hostile, degrading, offensive or humiliating environment
- Opportunities for employment, training, and promotion are equally open to candidates from all racial groups and
- Selection for employment, training, and promotion and access to benefits, facilities and services, will be fair and equitable and based solely on merit

This policy applies to all aspects of employment, from recruitment to dismissal and former workers' rights.

We will take the following steps to put the policy into practice and make sure it is achieving its ends:

- The policy will be communicated to all staff and job applicants
- Staff will be consulted regularly about the policy and about related plans and strategies
- Staff will be trained on the policy, on their rights and responsibilities under the policy and on how the policy will affect the way they carry out their duties. No one will be in any doubt about what constitutes acceptable and unacceptable conduct in the School.
- Staff in key decision-making areas will be trained on the discriminatory effects that provisions, practices, requirements, conditions and criteria can have on some racial groups and the importance of being able to justify decisions to apply them.
- Complaints about racial discrimination or harassment during employment will be regarded seriously and may result in disciplinary sanctions and even dismissal. The complaints procedure will be published in a form that is easily accessible.
- All staff will be encouraged to develop their skills and qualifications

- Selection criteria will be entirely related to the job or training opportunity.
- All information on the ethnic and racial backgrounds of workers and applicants will be collected and analysed and will be held in strictest confidence and will only be used to promote equality of opportunity and prevent unlawful racial discrimination
- Grievances, disciplinary action, performance assessment, and terminations of employment, for whatever reason, will also be monitored by racial group.
- Requirements, conditions, provisions, criteria and practices will be reviewed regularly and revised if they are found to, or might, discriminate unlawfully on racial grounds.

## **Disqualification**

Under section 76(3) schools are prohibited from employing a disqualified person in connection with relevant childcare provision in the settings set out in the relevant offences and orders section of the *Disqualification under the Childcare Act 2006*, unless the individual in question has been granted a waiver by Ofsted for the role they wish to undertake. An employer commits an offence if they contravene section 76(3), except if they prove that they did not know, and had no reasonable grounds for believing, that the person they employed was disqualified.

### ***Disqualification by Association***

Disqualification by Association applies if a person is living in the same household where another person who is disqualified lives or is employed (disqualification 'by association') as specified in regulation 9 of the 2018 regulations. Under the 2018 regulations, schools are no longer required to establish whether a member of staff providing, or employed to work in childcare, is disqualified by association.

However, there is now an expectation for all staff to inform the school where their relationships and associations, both within and outside of the workplace (including online), may have implications for the safeguarding of children in the school.

If your circumstances change you must inform the school.

## **APPOINTMENT OF WORKERS**

In appointing workers, the following criteria will need to be met:

- 1 All prospective workers will be asked to complete an application form.
- 2 The procedure for the appointment will be:
  - \* Completion of application form
  - \* An interview to make sure any past issues are resolved.
  - \* Undertaking all necessary pre-appointment checks as detailed below (see *flowchart in Appendix 1*)
  - \* Discussing with the applicant in detail the school's policy on safeguarding children's welfare and expectations in relation to practice issues e.g. supervision of children's activities and workers etc.
  - \* Attaching the new appointee to a more experienced worker for a period of time
  - \* During and at the end of this probationary period, receiving feedback from other workers on the progress of the trainee
  - \* Only then confirming the appointment – perhaps with regular reviews and support where there are specific concerns.

3. The school will verify a candidate's identity, preferably from current photographic ID and proof of address except where, for exceptional reasons, none is available
4. Enhanced DBS checks will be undertaken for all staff, including volunteers who are carrying out relevant, unsupervised activities with the students, and all Governors/Trustees.
5. Those in regulated activity will need an enhanced DBS certificate with barred list check (*See point 26*). A **supervised** volunteer who regularly teaches or looks after children **is not in regulated activity**.
6. A separate barred list check (List 99 check) will be obtained if an individual will start work in regulated activity before the DBS certificate is available
7. A Prohibition from Teaching Check must be completed for *everyone* engaged in 'teaching work', (*see point 27*) whether a qualified teacher or not; and recorded on the Single Central Record, to ensure they are not prohibited from teaching, using **Teacher Services** (<https://www.gov.uk/guidance/teacher-status-checks-information-for-employers>).

**Teacher Services** can be used to find out if potential new staff have any current prohibitions, restrictions or sanctions using the following lists:

- teachers who have failed to successfully complete their induction or probation period
- teachers who are the subject of a suspension or conditional order imposed by the General Teaching Council for England (prior to its abolition)
- teachers and others who are prohibited from teaching in England
- individuals who have been barred from taking part in the management of an Independent school (including academies and free schools)
- teachers sanctioned (since 18 January 2016) in other EEA member states by an EEA member state regulator of the teaching profession

Even people with QTS, **MUST** have this prohibition check entered into the Single Central Record. The Teacher Service's system will be used to verify any award of QTS and the completion of an induction/probation.

8. All leaders and managers, including Trustees/Governors are now required to have a section 128 Management Check. This will be included on the school's SCR showing that checks have been according to section 128. This will also be done using Teacher Services (as point 7).

Note: Section 128 directions will show on an enhanced DBS check with barred list information, provided that 'children's workforce independent schools' is specified in the parameters of the check.

9. Individuals who have lived or worked outside the UK must undergo the same checks as all other staff in schools or colleges. *See paragraphs 262 and 267 KCSIE 2021 (Jan. 2021 update)*. This includes obtaining (via the applicant) an enhanced DBS certificate (including barred list information, for those who will be engaging in regulated activity) even if the individual has never been to the UK. In addition, the school will make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered. These checks could include, where available:

- criminal records checks for overseas applicants - Home Office guidance can be found on GOV.UK; and for teaching positions
- obtaining a letter (via the applicant) from the professional regulating authority in the country (or countries) in which the applicant has worked confirming that they have not imposed any sanctions or restrictions, and or that they are aware of any reason why they may be unsuitable to teach. Applicants can find contact details of regulatory bodies in the EU/EEA and Switzerland on the Regulated Professions database. Applicants can also contact the UK Centre for Professional Qualifications who will signpost them to the appropriate EEA regulatory body.

Where available, such evidence can be considered together with information obtained through other pre-appointment checks to help assess their suitability. Where this information is not available the school will seek alternative methods of checking suitability and or undertake a risk assessment that supports informed decision making on whether to proceed with the appointment. Although sanctions and restrictions imposed by another regulating authority do not prevent a person from taking up teaching positions in England, the school will consider the circumstances that led to the restriction or sanction being imposed when considering a candidate's suitability for employment. *Further information can be found in DfE Guidance: Recruit teachers from overseas.*

10. All steps taken will be well documented.
11. The applicant's right to work in the UK will be checked and evidence kept on record.
12. As part of our Safeguarding Policy employment will not be offered without the applicant supplying evidence of a full employment history, including information on any gaps
13. Applicants will also be asked to supply a declaration of their mental and physical fitness, concerning their suitability to the position applied for. A job applicant can be asked relevant questions about disability and health to establish whether they have the physical and mental capacity for the specific role
14. Two professional references will be requested, for all staff, including volunteers, which go back 5 years, from senior persons and not just colleagues; character and/or pastoral references will only be requested where appropriate or relevant.

Where possible, references will be obtained prior to interviews to allow any concerns to be explored with the referee and discussed with the candidate. References will always be scrutinised before appointment, including for internal candidates. Open testimonials will not be relied upon, nor any information that has been provided by the candidate without verifying the information. Electronic references will be vetted to ensure they originate from a credible source.

15. Professional qualifications will be verified, as appropriate
16. The criteria for NOT appointing children's workers are:
  - \* Previous offences against children
  - \* If the Governors/Trustees have reservations about an individual's behaviour, lifestyle, attitudes and spiritual commitment.

\* If the Governors/Trustees have any reasons to doubt a worker's suitability for the job.

17. Workers will be given a contract on appointment
18. All new staff will be expected to read the school Code of Conduct Policy and all policies concerning Child Protection and Safeguarding as part of their Induction Process, including the behaviour policy, the safeguarding response to children who go missing from education, and the identity of the DSL and Deputy DSL.
19. All new staff will need to complete a Basic Awareness Course on Safeguarding and Child Protection, renewable every three years.
20. The school will keep this information on all staff members as to whether or not the following checks have been carried out or certificates obtained, and the date on which the checks were completed, in a single central record.
21. The appointment of workers will be reviewed on a regular basis at an annual meeting using Staff Assessment forms.
22. Staff are to be informed at interview that the school may review the DBS automatic updates yearly, with prior consent from staff, or ask for a signed declaration regarding any convictions, cautions, reprimands or warnings which have been recorded on a police central record, (includes 'spent' and 'unspent' convictions) or if any information is held locally by police forces that are grounds to be considered relevant, since their last declaration. This includes any information that may be held on the DBS's children and adults barred list.
23. Teachers/assistants will be given opportunities to meet with the Principal to discuss work programmes and areas of concern including issues relating to discipline
24. If an applicant's criminal record check reveals details of past cautions and/or convictions the following procedures will be followed:
  - If the certificate simply confirms what the applicant has already disclosed, and we have already taken this information into account when making the offer of employment, we will confirm the offer of employment.
  - If our decision to recruit an applicant depends upon approval from a senior staff member, we shall ensure that the decision maker has all the relevant information to hand to make a fair and balanced decision. This may include the applicant's initial disclosure, a disclosure statement and any other relevant information they may have provided in the interim that may inform a risk assessment.
  - If the certificate reveals information that we were not expecting or that the applicant had not previously disclosed, further consideration may be necessary. *See Appendix 5.*
25. At least one person conducting an interview will have completed safer recruitment training.
26. Regulated activity includes:

a) teaching, training, instructing, caring for (see (c) below) or supervising children if the person is unsupervised, or providing advice or guidance on physical, emotional or educational well-being, or driving a vehicle only for children;

b) work for a limited range of establishments (known as 'specified places', which include schools and colleges), with the opportunity for contact with children, but not including work done by supervised volunteers.

Work under (a) or (b) is regulated activity only if done regularly. Some activities are always regulated activities, regardless of frequency or whether they are supervised or not.

This includes:

c) relevant personal care, or health care provided by or provided under the supervision of a health care professional:

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

(See *Regulated Activity in Relation to Children* for full details)

27. A teaching role is defined as: "Planning and preparing lessons and courses for pupils; delivering lessons to pupils; assessing the development, progress and attainment of pupils; and reporting on the development, progress and attainment of pupils. These activities are not teaching work for the purposes of these Regulations if the person carrying out the activity does so (other than for the purposes of induction) subject to the direction and supervision of a qualified teacher or other person nominated by the headteacher to provide such direction and supervision."
28. Although the school does not have to keep copies of DBS certificates to fulfil the duty of maintaining the single central record, any copies of DBS certificates that the school chooses to retain will be destroyed after six months, to comply with the requirements of the Data Protection Act. All copies of other documents used to verify the successful candidate's identity, right to work and required qualifications will be kept in their personnel file.
29. Should the school take on Trainee/Student Teachers written confirmation will be obtained from the provider that it has carried out all pre-appointment checks that the school would otherwise be required to perform.

## **RENEWAL OF DBS CHECKS**

*Information taken from:* ([www.teachers.org.uk/sites/default/files2014/ecr31-dbs-checks.doc](http://www.teachers.org.uk/sites/default/files2014/ecr31-dbs-checks.doc)).

Since there has never been a requirement for a rolling programme of three-yearly checks for staff who have unbroken service, DBS checks will only be renewed if there has been a break of three months or more. However, a return to work after a period of statutory leave (e.g. maternity, adoption, parental leave, sabbatical, or sickness), is not a new appointment, nor a break in service, if the employment remains continuous, therefore a DBS check is not required by law.

The only reference to three-year checks in *Safeguarding Children and Safer Recruitment in Education* (the DfE's statutory guidance prior to '*Keeping Children Safe in Education...*') was at Appendix 11, where it was recommended for agency staff only. Such routine checks for staff directly employed by the school are not required and are considered to be excessive, as they go beyond what the law requires, or the Government recommends.

If a new staff member has previously been DBS checked, there is no statutory requirement that another DBS check is carried out *before* taking up a job in our school, provided they have continuous service and the check is at the correct level for the new post, other than a check of the Barred Lists.

In this case the school will carry out a risk assessment to assess whether the check is at the correct level for the current role, whether it is accurate and whether they trust the previous organisation to have carried out the check efficiently.

The school will ask for evidence from the previous school, college, local authority or supply agency, that the check was undertaken.

However, the school will ensure that an enhanced DBS check is undertaken as soon as possible for the school Single Central Records or use the update service if the employee is subscribed to this service.

Also, the school may review the automatic updates yearly, with prior consent from staff, or ask for a signed declaration regarding any convictions, cautions, reprimands or warnings which have been recorded on a police central record, (includes 'spent' and 'unspent' convictions) or if any information is held locally by police forces that are grounds to be considered relevant, since their last declaration. This includes any information that may be held on the DBS's children and adults barred list. Staff will be made aware of this at interview.

## **INFORMATION TO BE CONSIDERED WHEN DETERMINING WHETHER AN APPLICANT WITH A CRIMINAL RECORD IS SUITABLE FOR THE POST APPLIED FOR**

*Adapted from <https://www.nacro.org.uk/resettlement-advice-service/support-for-employers/employing-someone-with-a-criminal-record/#suitable>*

An assessment of the applicant's skills, qualifications, experience, and conviction circumstances will be weighed up against the risk assessment criteria for the job. To determine whether a criminal record is relevant, the information will be assessed in relation to the tasks which need to be performed and the circumstances in which the work is to be carried out. The following will be considered when deciding whether the offence is relevant to the post applied for:

- Does the post involve one-to-one contact with the children?
- What level of supervision will the post-holder receive? Is it unsupervised? Does it involve working in isolation?
- Does the post involve any direct responsibility for finance or items of value?
- Does the post involve direct regular contact with the public?
- Will the nature of the job present any opportunities for the post-holder to reoffend in the course of work?
- Are there any safeguards which can be put in place to minimise any potential risks?

If a shortlisted applicant who meets the requirements of the person specification discloses a criminal record that is not related directly to the post, a risk assessment will be conducted which includes meeting with the applicant to discuss the relevance of their criminal record. Based on the information provided, we shall consider the following:

### **Nature of offence(s)**

What type of offence or offences did the individual commit? I.e. theft, fraud, violence, possession of drugs, supply of drugs, sexual offences, public order or other offences. Did the offender commit one type of offence or a range of different offences?

### **Relevance**

Is the offence relevant to the position in question? The relevant categories of offences in relation to the protection of children are generally considered to be serious, violent, sexual and drug-related offences, although the nature of the offence is not the only factor that ought to be considered. For example, a person with a previous history of drug-related convictions who has clearly moved on from that period may be particularly well-suited to support others with substance misuse problems. They should not be discounted simply on the basis that they have drug-related convictions.

Drink-driving offences are not generally considered relevant unless the job itself involves driving e.g. taxi driver or a bus driver.

### **Seriousness**

How serious is any offence or allegations disclosed? This is important because all offence categories cover a very wide range of offences that vary in terms of seriousness. A sexual offence, for instance, covers everything from young men sleeping with their underage girlfriends to indecent assault and rape. Violence covers everything from slaps and smacks, normally recorded as battery or common assault, to grievous bodily harm and murder. Drug offences cover everything from possession of small amounts of cannabis for personal use to possession of class A drugs with intent to supply. Burglary covers everything from taking goods from shop storerooms to entering the homes of elderly people, leaving them in fear. Arson ranges from setting fire to litter bins to destroying property and endangering lives.



The name of the offence (the offence code) can often make the incident sound more serious than it was; which is why it is extremely important to gain further details of what actually took place and to consider the other factors listed here.

### **Offence circumstances**

Who was involved? What happened? Where did it happen? When did it happen? How did it happen? Why did it happen?

What were the circumstances and the explanation offered by the applicant? Consideration will be given to whether there are aggravating or mitigating circumstances. What was the applicant's attitude to their offending? Did they show any remorse or take responsibility for their actions? Did they try to make reparation to any victim?

In particular, the applicant's own circumstances at the time of the offending behaviour including issues with accommodation, education, employment, management of finances and income, lifestyle and associates, relationships, drugs and alcohol, emotional well-being or health will be taken into account.

An explanation of the circumstances surrounding an offence will often be plausible and reassuring. For instance, the person who explains that, in fear and panic, they ended up assaulting someone who was threatening them during a bar fight, may not be as culpable as an individual who caused serious injury with intent during an armed robbery. It is important to bear in mind that only a small minority of offences take place in a work setting. We will also consider the fact that a person convicted of a serious offence may have completely changed their life around for the better.

It is important to be aware that it is incredibly difficult for an applicant seeking to show themselves in the best possible light to a prospective employer, to have to then discuss past matters that they may feel ashamed or embarrassed about. Taking that into account, we will look for openness and honesty, rather than denial and minimisation. We will consider the applicants' insight into their own behaviour, any indication of changed thinking, relevant changes in their circumstances, and where relevant, victim empathy rather than victim blame or shared responsibility.

### **Age of offences**

We will consider the length of time that has passed since the offence that has been disclosed took place. Cautions or convictions that appear on a disclosure certificate may be very old, for example, dating back to when the person was growing up. They may not be relevant in many instances because applicants have put their past behind them.

The government recognises that people can and do put their offending behind them. This recognition is embodied in the Rehabilitation of Offenders Act 1974 (ROA) and by the introduction of the filtering system for positions subject to standard or enhanced disclosure checks. Reoffending statistics in the UK indicate that if individuals go a little more than two years without reoffending, they are no more likely to offend than those who have never offended.

### **Pattern of offending**

We will consider whether the applicant committed a single offence, or whether there has been a pattern of offending behaviour or allegations. Is there a big gap between offences, or are there a number of offences within a short period? People who have a pattern of offending right up to the present date may not have put their offending behind them.

Those people with gambling, drink, or drug-related convictions, in particular, may remain a risk unless there is evidence of a clear break in the pattern of their offending. Nevertheless, many offenders, including repeat offenders, do eventually give up crime and settle down. They may have a particular motivation for doing so (e.g. becoming a parent) and often there will be clear evidence shown throughout the other aspects of the recruitment process and on the disclosure certificate itself.

### **Changed circumstances**

We will take into account whether the applicant's circumstances have changed since the offending took place. For instance, those convicted when young, perhaps as juveniles, often do not reoffend

once they have family or mortgage responsibilities, because they have too much to lose by getting into trouble. As previously mentioned, many offenders, even those with long and serious records, can eventually change, as they simply grow out of a period of offending or seek help to address related problems.

As part of the risk assessment process we will try to establish the applicant's attitude at the time of the offence. What is their attitude now? How do they now feel about what happened? How do they feel about their part in what happened? Do they show remorse? Do they blame others? Do they feel a victim of injustice? How genuine is their expression? What efforts have they made not to reoffend? If they have one, can a reference be sought from their probation officer or support worker?

Having reviewed the circumstances at the time of the offence, we will then compare the applicant's circumstances at the time of them applying for the role. It may be that the applicant can provide the necessary reassurance that past issues have been resolved. However, many people with more recent convictions will also have reached the point where they want to put their offending behind them and put their talents to constructive use. If the offence is not work-related, or if the post is at a level of responsibility which means that the applicant does not pose a risk, we will consider recruiting them if in all other respects they are suitable for the job.

### **Carrying out a Risk Assessment**

The school will gather as much information as possible to inform our assessment. Sources may include (but are not limited to) answers given during application and interview, self-declarations, disclosure certificates, disclosure statements, value-based interviewing, references and independent statements from support workers

The applicant will be given the opportunity to address any concerns that we may have or discrepancies. This will be done in the form of a face-to-face meeting with the applicant. It will be made clear to the applicant that the purpose of the meeting is to discuss any relevant information that can inform our risk assessment. The meeting will be conducted with sensitivity and empathy, as discussing past convictions may be a great source of anxiety and embarrassment for the person concerned.

Careful thought will be given to the questions we plan to ask, and the discussion will be kept focused on the individual and their feelings and attitudes. At least two people who were involved in the recruitment process will be present to provide support and take notes. We will remember it is not our responsibility to decide whether the court's decision or police course of action was the right or fair one. The purpose of the interview is to help us gather the necessary information to assess whether the individual may pose a risk in the position applied for.

Once we have gathered all the relevant information, a risk assessment will be conducted; where any risks are identified, we will assess whether any appropriate safeguards can be put in place to minimise these risks. The assessment will be a documented decision-making process that is signed by those who have undertaken the assessment. If the applicant is successful in post, the risk assessment will be securely stored on their personnel file and reviewed as appropriate.

## DBS CERTIFICATE RISK ASSESSMENT - example

To be completed if the DBS Certificate or the applicant has disclosed criminal record information

Name on DBS Certificate:

Certificate No:

Post:

Date of issue:

	Yes	No	Comments/Actions/Explanation
Was the applicant a juvenile at the time of any offence(s)?			
Does the disclosure show a pattern of offending?			
Does the disclosure show recent offences or a recent change in behaviour? How long ago was that?			
Do any offences have any relevance to the job role?			
Does the nature of the job present any opportunities for the post holder to reoffend in the place of work?			
Where completed, has the applicant disclosed their offences on the DCC form or in interview?			
What was the outcome of the discussion with the applicant about their criminal background?			
Will the post holder be supervised?			

### Outcome of Assessment

I am satisfied that based on the above, the criminal background of this person should not prevent them taking up the position	
I am not satisfied that based on the above, the criminal background of this person makes them suitable to take up the position	

Chair of Governor's/Headteacher Name: \_\_\_\_\_

Chair of Governor's /Headteacher Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# Appendix 1

