



# **SAFE RECRUITMENT AND SELECTION POLICY AND PROCEDURE FOR TEACHING AND SUPPORT STAFF**

**THIS POLICY APPLIES TO ALL TRUST SCHOOLS, THE CARMEL TEACHER TRAINING  
PARTNERSHIP AND CARMEL TEACHING SCHOOL ALLIANCE**

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## **RECRUITMENT AND SELECTION POLICY AND PROCEDURE**

## **1. INTRODUCTION**

People are our principal asset and it is through their individual and collective performance that the Academy is able to achieve its aims. Good quality recruitment and selection is, therefore, essential, whether filling short-term temporary posts or the most senior key position.

Recruitment and selection should be approached systematically, ensuring that not only is the most suitable person selected, but that statutory requirements in relation to matters of safeguarding and equality are adhered to.

This policy incorporates relevant legislation such as the Equality Act 2010 and guidance from the Department for Education (DFE) on “Keeping Children safe in education: information for all schools and college staff” (April 2014). Changes arising from the School Teachers Pay and Conditions Document 2014 and to the Disclosure and Barring Service (DBS) are also reflected.

### **SCOPE OF THE POLICY**

The policy and procedures will apply to the recruitment and selection of both Teaching and non-Teaching staff within the Academy.

Where there is a requirement that would only apply to one group of staff i.e Teachers the specific requirement(s) are highlighted and referred to separately.

Appointment of Headteacher and Deputy Headteacher posts (or equivalent) is the responsibility of the Directors of the Trust. Diocesan guidance ‘The appointment of Headteachers and Deputy Headteachers in Catholic Schools – Guidance for Governing Bodies’ must be used in all cases. In particular attention is drawn to the preparation of job descriptions, person specification, equality, references and interviews where specific guidance is provided. This guidance is available on the Diocesan website.

Throughout this policy reference is made to documentation and processes. A separate Toolkit contains Carmel Education Trust specific model documentation which must be used in each stage of the recruitment process.

## **2. TRAINING**

In order to comply with both The Equality Act 2010 and DFE safeguarding requirements the individuals who will be involved in the recruitment and selection process should have undertaken relevant training to ensure that the process reflects the importance of safeguarding children and complies with employment legislation.

At least one member of the interview panel should have undertaken safer-recruitment training. Janus On-line training is available via the Trust Business Manager and Governance Manager.

### 3. POLICY COMMITMENT TO SAFE RECRUITMENT

Any documentation issued by the Academy relating to the recruitment and selection process will include an explicit statement about our commitment to safeguarding and promoting the welfare of children that links to the Academy's Child Protection Policy and Procedures.

The following statement will be included in publicity materials, adverts, candidate information packs, person specifications, job descriptions and induction training materials: -

***Carmel Education Trust is committed to safeguarding and promoting the welfare of children and expects all staff and volunteers to share this commitment.***

### 4. EQUALITY

The Academy recognises its responsibility for ensuring equality and avoiding unlawful discrimination, both direct and indirect, as required by the Equality Act 2010.

The 9 “protected characteristics” identified in the Equality Act 2010 of

- Age
- Disability
- Gender Reassignment
- Pregnancy and maternity
- Race (including ethnic or national origins, colour and nationality)
- Religion and belief
- Sex
- Sexual Orientation
- Marriage and civil partnership

will not be used as the basis of shortlisting, appointment or promotion. All employees will be appointed, trained and promoted on the basis of ability and the requirements of the job. Any exception will be by virtue of legislation or an Occupational Requirement.

Reasonable adjustments/and or supportive measures will be considered where a known disability exists to allow equality of access and opportunity. In addition all applicants who consider themselves disabled and who meet the essential criteria of the person specification will be granted an interview.

It is the responsibility of all of those involved in the recruitment and selection process to ensure that equality legislation is adhered to and unlawful discrimination is avoided.

### 5. ENGLISH LANGUAGE REQUIREMENT FOR PUBLIC SECTOR WORKERS IN CUSTOMER FACING ROLES

Part 7 of the Immigration Act 2016 creates a duty to ensure that all public authority staff working in customer-facing roles speak fluent English to an appropriate standard. This includes relevant staff working in Schools/Academies.

The government has produce a **statutory** Code of Practice to help employers comply with this requirement (this can be viewed at [www.gov.uk](http://www.gov.uk) “Code of practice on the English language requirement for public sector workers”). Further advice and guidance on how the requirement will apply to recruitment and selection is provided at **Appendix 1**.

6. **DISQUALIFICATION UNDER THE CHILDCARE ACT 2006 – DISQUALIFICATION BY ASSOCIATION**

On 26th February 2015 the government issued new statutory guidance regarding the above which Schools/Academies must comply with. The Keeping Children Safe in Education 2016 guidance also refers to this legislation. Further information and guidance on this requirement is provided at **Appendix 2**.

7. **RECRUITMENT AND SELECTION CAMPAIGNS**

The Trust will include issues to do with child protection, safeguarding and promoting the welfare of children at every stage of the process.

## RECRUITMENT AND SELECTION PROCEDURE

### 7.1 JOB DESCRIPTION

The job description and person specification are essential pre-requisites for effective recruitment and selection. Without these statements showing what the job entails, how and where it fits into the organisation and the personal requirements for it to be performed to a satisfactory standard, no further steps such as advertising or shortlisting should be taken.

#### Preparing job descriptions

It is important that job descriptions are written in sufficiently wide terms to cover not only the work which an employee will undertake immediately upon appointment, but also the range of work which may be involved in the longer term. It is good practice for job descriptions to be reviewed every time a vacant post is to be filled.

The format of a job description should include:

- job title;
- grade;
- responsible to (i.e. the person to whom the post holder reports);
- responsible for (i.e. staff for whom the post holder is responsible);
- a brief statement of the main purpose or function of a job (preferably in one sentence);
- main job duties (this should be concise and always include provision for “such other duties as may be allocated from time to time, commensurate with the grade of the post” and “the post holder may also be required to undergo training in order to undertake duties of the post in an efficient manner”).

It must also include the following main duty/responsibility for posts that involve working with children.

***To safeguard and promote the welfare of children for whom you have responsibility or come into contact with, to include adhering to all specified procedures***

The job description should also clearly set out the extent of the relationships and contact with children and the degree of responsibility for children that the person will have in the position to be filled.

It should also include the following paragraphs:

- The post holder must carry out his/her duties with full regard to the Academy's Child Protection, Equalities and other relevant policies in the terms of employment and service delivery to ensure that colleagues are treated and services delivered in a fair and consistent manner.
- That the post holder is required to comply with health and safety policy and systems, report any incidents/accidents/hazards and take pro-active

approach to health and safety matters in order to protect both yourself and others.

- Any other duties of a similar nature related to the post, which may be required from time to time.
- That the post holder will be required to comply with all Academy policies, including the no smoking policy.

## 7.2 PERSON SPECIFICATION

Once the duties of a job have been identified by means of a job description, then the requirements necessary to do the job can be defined in a person specification. A person specification **must** be produced for **all** posts. Any existing specification should be reviewed and amended every time a vacant post is to be filled to take into account any changes to the job.

Person specifications fulfil a number of purposes, including the following:

- Listing the essential and desirable criteria which will be considered in the selection process
- Assisting the preparation of job advertisements
- Enabling prospective applicants to self select by assessing themselves against the requirements for the job
- Providing a basis for determining selection methods (e.g. professional tests, interviews etc)
- Providing a basis for determining core interview questions

The person specification also needs to:

- include the qualifications, experience and any other requirements needed to perform the role in relation to working with children
- include a specific reference to an applicant's suitability to work with children e.g.

***Interest in working with children to promote their development and educational needs***

***Ability to form and maintain appropriate relationships and personal boundaries with children***

***Emotional resilience in working with challenging behaviours and attitudes to use of authority and maintaining discipline***

These criteria will be assessed from the application form, at interview and via references and an Enhanced Disclosure and check of the Children's Barred list via the Disclosure and Barring Service, where relevant.

Requirements should be broken down to those which are essential and those which are desirable. The essential criteria should be the minimum criteria, which a candidate must have to undertake the duties of the post and failure to meet all of the essential criteria will constitute a valid ground for exclusion from a shortlist. Desirable criteria are those which although not essential could enhance job performance. Care should be taken to ensure these do not become subjective.

The person specification should ensure that the essential and desirable criteria do not directly or indirectly discriminate on the grounds of any of the protected characteristics contained within in the Equality Act 2010 unless these can be legally justified by an Occupational Requirement. Care must be taken to ensure that only criteria which genuinely affect job performance are included and unnecessary or unjustifiably high standards (particularly in relation to qualifications and experience) are not included.

### **7.3 ADVERTISING**

The prime purpose of the job advertisement is to attract a suitable number of appropriately qualified people to apply for a vacancy and to achieve this in a cost effective way. The content of adverts must be factual, nondiscriminatory and should include:

- Job title and location
- Hours of work
- Description of the job
- The essential/desirable qualifications and experience
- The rate of pay/appropriate pay scale for the post including the pro rata salary for part time posts
- Details of any additional payments or allowances applicable
- Inform as to any career or training opportunities where appropriate
- Closing date for applications and if known the date of interview
  - Contact details for queries or further information
  - Salary on appointment for teachers (in accordance with the Pay Policy)

### **7.4 APPLICATION FORM**

In addition to the CES application form the following documents should also be provided to the applicant:-

- Recruitment & Monitoring Form
- Rehabilitation of Offenders Act 1974 - Disclosure Form
- Notes to Applicants



## 7.5 APPLICATION PACK

When applying for a post with the Academy all candidates should receive an application pack. This should include: -

- CES application form
- CES notes to applicants
- CES Recruitment & Monitoring Form
- CES Rehabilitation of Offenders Act 1974 – Disclosure Form
- Letter providing any relevant information about the academy, the recruitment process
- the job description and person specification
- the Child Protection Policy Statement

In **addition** to the above application packs for **Teaching** posts should also include:

- Pay & Appraisal Policy

### Late Applicants

The advertised closing date for receiving applicants should be carefully set to allow a reasonable time in which potential applicants can respond. Applications received after the closing date has expired should, therefore, not normally be considered.

However there may be some limited cases where an exception can be considered such as;

- Postal service disruptions, or other similar impediments
- Applicants seeing advertisements late, e.g. on return from holiday, and who initially make verbal contact, committing to return their application form within an agreed time.

## 7.6 SHORT LISTING

After the closing date for the receipt of applications has been reached, a preliminary assessment of all applications is necessary to establish those applicants who are to be interviewed. This should be done by comparing the applications against those elements of the person specification that have been specified as being essential. If, after doing this there are still more potential candidates than could reasonably be interviewed, applications should then be assessed against the desirable qualities of the person specification. If there are too few suitable candidates, consideration needs to be given to the person specification and the advert to establish if they were too restrictive, alternatively the method of attracting candidates may not have been adequate.

It is essential that shortlisting is an objective procedure. It may be necessary to demonstrate such objectivity at a later date should a claim be made on discrimination grounds. **All applications should be kept for a minimum of at least six months, as should notes made giving reasons for and against shortlisting each applicant.**

The decision on who is/isn't shortlisted should not be based on any of the protected characteristics as specified under the Equality Act 2010, except for posts where an occupational requirement applies.

All candidates should be assessed equally against the criteria in the person specification without exception or variation.

All applications should be scrutinised carefully to ensure they are fully and properly completed. The information provided needs to be consistent and should not contain any discrepancies. Any gaps in employment should be identified.

Incomplete applications should not be accepted and should be returned for completion.

Shortlisting should be conducted by a panel of no less than two people, who will have been appropriately trained.

- Panel members are recommended to use a shortlisting pro-forma when undertaking shortlisting.
- The shortlisting panel should be the same individuals as the interviewing panel and all panel members will need to be involved in both the shortlisting process and the interview.
- Every application form, together with any other supporting documentation, should be seen by all those on the short listing panel
- The short listing panel should work separately when assessing applications and establish their draft shortlist
- The panel should then meet and agree a final shortlist of applicants to interview
- Only applicants who, in the opinion of the panel, meet all essential criteria in the person specification should be shortlisted
- If there are too many applicants who meet the essential criteria, the desirable criteria in the person specification should be considered. The panel can agree the desirable criteria that candidates will be matched against if they do not wish to use all desirable criteria

Having shortlisted, a panel may decide that no applicant meets the essential requirements for the post. In this situation the job description, person specification should be reviewed before a decision is made to re-advertise.

In the event that only one applicant meets the essential requirements for the post, selection may continue as planned, or a decision may be taken to re-advertise. Whichever decision is taken, all shortlisted applicants should be appropriately informed, and advised whether they need to re-apply or not.

## **7.7 REFERENCES**

The purpose of references is to obtain objective and factual information to support appointment decisions, including an applicant's suitability to work with children. It is important to obtain independent professional and character references that seek objective and justifiable information and not subjective opinion. A reference should always be sought from the applicants' current or most recent employer and a priest reference if relevant.

References should always be sought and obtained directly from the referee.

Ideally, references should be sought on all short listed candidates and obtained prior to interview. This allows issues to be explored with the referee in advance and with the candidate at interview. In any case, it is important that the job offer is subject to receipt of satisfactory references. In accordance with the Equality 2010 information asking about sickness absence and health should not be included on reference requests, this information will be picked up for the successful candidate at the pre-employment health screening stage.

A copy of the job description and person specification should be included with reference requests.

Once received references will be checked to ensure that all the specific questions have been answered satisfactorily. If not, or if the reference is vague or unspecific, the referee will be contacted and asked to provide written answers or amplification as appropriate

## **7.8 INVITATION TO INTERVIEW LETTER**

A formal letter of invitation to attend interview should be sent or emailed to the applicants providing relevant information.

## **7.9 THE INTERVIEW**

The interview should assess the merits of each candidate against the job requirements, and explore their suitability to work with children. The selection process for people who will work with children should always include a face-to face interview even if there is only one candidate.

The interviewing panel should consist of at least two interviewers, and in some cases, e.g. for senior or specialist posts, a larger panel might be appropriate. A panel of at least two people allows one member to observe and assess the candidate, and make notes, while the other is talking to the candidate.

The members of the panel should:

- have the necessary authority to make decisions about the appointment in accordance with the Academy's scheme of delegation.
- be appropriately trained, one member of interview panel should have undertaken safer recruitment training.

Panel members should meet before the interviews to:

- agree the assessment criteria in the person specification
- agree the questions and key responses that are expected in advance based on the criteria in the person specification avoiding hypothetical questions where possible, from which panel members will not deviate
- agree the issues to be explored with each candidate at interview based on information provided (especially any gaps in employment history and any concerns/discrepancies arising from the information provided by the candidate or his/her referee)
- agree which panel member will ask each question and that notes will be taken by all panel members to act as a record
- agree the scoring criteria which the candidates will be assessed against

### **Scope of the Interview**

In addition to assessing and evaluating the applicant's suitability for the particular post, the interview panel should also explore:

- the candidate's attitude toward children and young people
- the candidate's ability to support the Academy's agenda for safeguarding and promoting the welfare of children
- gaps in the candidate's employment history; and
- concerns or discrepancies arising from the information provided by the candidate and/or a referee.

The panel should also ask the candidate if they wish to declare anything in light of the requirement for a DBS Disclosure.

### **Taking notes during the Interview**

Panel members should record all relevant information provided by applicants, as this information will be needed to assess each applicant against the requirement of the job. Write up all notes immediately after the interview – recording relevant answers and detail, bearing in mind the provisions of the Data Protection Act 1998, which will enable the candidates to ask to see interview notes where they form part of a 'set' of information about the candidate.

Pupil involvement, or observing short listed candidates' interaction with pupils, is common and recognised good practice i.e. asking candidates to teach a lesson, arranging for pupils to show candidates around the academy (accompanied) or allowing pupils to meet short listed candidates.

## 7.10 CONDITIONAL OFFER OF APPOINTMENT: PRE EMPLOYMENT CHECKS

Any job offer must be conditional based on the following: -

- receipt of at least two satisfactory references (to confirm the successful applicant's previous employment history and experience)
- verification of the successful applicant's identity
- verification that the successful candidate has the academic or vocational qualifications that were specified as essential or desirable criteria on the job specification. If the successful candidate cannot produce original documents or certified copies, written confirmation of his or her relevant qualifications must be obtained from the awarding body.
- verification of the successful candidate's professional status where required e.g. QTS status
- verification of successful completion of the induction period for teaching posts (before being awarded QTS and for those gaining QTS after 7 May 99)
- verification that the successful candidate has the health and physical capability for the job before the successful candidate takes up appointment, in line with the equality Act and requirement to consider reasonable adjustments for a disabled applicant
- application to the Disclosure and Barring Service (enhanced and barred list check where relevant)
- a certificate of good conduct from relevant embassy for overseas staff
- checks to confirm the right to work in the UK

In **addition** a check should be made to see if a candidate for a **Teaching post** has;

- been prohibited from Teaching through a prohibition or interim prohibition order (for members of staff appointed on or after 2<sup>nd</sup> September 2013 the check should be included in the Academy's Single Central Record in accordance with the School Staffing (England) (Amendment) Regulations 2013)
- been the subject of a suspension or conditional order imposed by the GTCE (prior to abolition) that is still current
- failed to successfully complete their induction or probation period

This can be done via Employer access online. These checks are in addition to those required for identity and DBS clearance.

The above checks must be completed **before** the successful applicant starts work.

## DBS Certificates/Disclosure

From June 2013 the DBS will only issue a certificate to the individual and it is therefore the responsibility of the Academy to verify that the certificate is valid once it has been received.

For all posts where a DBS certificate is required the Academy **must** ensure that they see the original certificate once the individual has received it and check that the certificate is valid.

A job offer can be withdrawn if the results of DBS checks/and or other pre-employment checks show anything that would make the individual unsuitable for the post that they have been offered.

Further advice on the DBS service and certificates is available from the Academy's external HR provider.

All pre-employment checks should be documented on the pre-employment checklist and followed up where they are unsatisfactory, or where there are discrepancies in the information provided

The Academy will maintain a Single Central Record (SCR) on staff and others having access to children e.g. volunteers detailing the appropriate checks, when they were made and by whom, including identity, qualification requirements, entitlement to work in the UK and DBS barred list checks. All new employees should have their details entered onto the SCR.

Any concerns about an applicant's suitability to work with children, must be reported to the police and/or the Department for Education (DfE) Disclosure and Barring Service 2012 (formerly ISA).

## **8. RISK ASSESSMENTS**

The Academy recognises that there may be some limited exceptional occasions when it is appropriate for an employee (or volunteer) to start in post prior to the return of the DBS certificate.

In cases where this is appropriate, the Academy must ensure that a DBS application form has been completed for the person concerned and submitted to the DBS, if required for the post they have been appointed to. The Academy should ensure that all other pre-employment checks are satisfactory and that appropriate supervision arrangements are in place for the individual until a satisfactory disclosure is received, taking into account the duration, frequency and nature of contact with children. The DBS certificate must be verified by the Academy once it has been received by the individual.

In addition the Academy should complete a risk assessment form, which will document the above measures and any other deemed necessary for the period that the disclosure is pending.

### **8.1 DBS Positive Disclosure Risk Assessment**

When a positive disclosure is identified on a Disclosure and Barring certificate a risk assessment, **Appendix 3**, must be used when considering candidates with offences

for positions working with children.

Further information on risk assessments is available from the Academy's external Health and Safety provider.

## **7. REJECTION LETTERS**

All the remaining shortlisted applicants should receive a courteous letter thanking them for their interest in the post and the time they made available during the appointment process. Alternatively, the unsuccessful candidates can be spoken to by a member of the Panel at the conclusion of the interview process.

## **8. RECORD KEEPING**

The importance of accurate record keeping has been emphasised throughout this procedure and Panel members should ensure adequate notes are made at each stage and retained for reference in the event of a later enquiry. Information, which should be retained, is as follows:

- \* Job Description;
- \* Person Specification;
- \* Job Advertisement;
- \* Information Pack for Applicant;
- \* Core interview questions;
- \* Details of any other selection methods and criteria for assessment;
- \* Application forms;
- \* Shortlisting and other assessment forms;
- \* Interview notes;
- \* Applicants assessment forms;
- \* References;
- \* Any correspondence with candidates (except correspondence with the successful candidate which should be kept in their personal file).

All records and information relating to appointments should be kept for at least six months (the period in which a claim can be made in respect of discrimination). This should include all notes made at the initial interview stage, all of which should be kept secure and confidential.

## **9. PROBATIONARY PERIOD**

### **Non-Teaching Staff**

Appointments of new non-Teaching staff are subject to a probationary period, normally of six months, although this can be extended in exceptional circumstances by mutual agreement. At the end of the probationary period and subject to a satisfactory report, the employee's appointment should be confirmed in writing.

### **Newly Qualified Teaching Staff**

Newly qualified Teachers are required to undergo an induction period of supported development where performance against the Teaching Standards is assessed. The induction period is the equivalent of three school terms after which a recommendation is made on whether induction has been satisfactorily completed.

## 10. INDUCTION

The Academy will provide an induction programme for all newly appointed staff and volunteers, including teaching staff, regardless of previous experience. This is in addition to the statutory induction period required for newly qualified Teaching Staff. The purpose of induction is to:

- provide training and information about the Academy's policies and procedures;
- support individuals in a way that is appropriate for the role for which they have been engaged;
- confirm the conduct expected of staff within the Academy
- provide opportunities for a new member of staff or volunteer to discuss any issues or concerns about their role or responsibilities; and
- Identify any concerns or issues about the person's ability or suitability at the outset and address them immediately.

The content and nature of the induction process will vary according to the role and previous experience of the new member of staff or volunteer, but as far as safeguarding and promoting the welfare of children is concerned the induction programme should include information about, and written statements of:

- policies and procedures in relation to safeguarding and promoting welfare e.g. child protection, anti-bullying, antiracism, physical intervention or restraint, intimate care, internet safety and any local child protection and safeguarding procedures;
- safe practice and the standards of conduct and behaviour expected of staff and pupils in the establishment;
- how and with whom any concerns about those issues should be raised; and other relevant personnel procedures e.g. disciplinary, capability and whistle blowing.

The programme should also include attendance at child protection training appropriate to the person's role.

## 11. VOLUNTEERS

DBS checks are only required for Volunteers who have regular and unsupervised access to children and young people. Where this is the case the same recruitment measures for paid staff will be followed including identity checks, application for an Enhanced Disclosure, checking of barred list and checking the DBS certificate once the volunteer has received it. When considering whether the volunteer can start work before the DBS certificate is received a risk assessment should be made and documented taking into account;

- the duration, frequency and nature of contact with children
- what is known about the volunteer, including formal/informal information offered by staff, parents and other volunteers
- whether the volunteer is well known to others in the academy community who are likely to be aware of any behaviour that would give cause for concern



- whether the volunteer has other employment, or undertakes voluntary activities where referees would advise on suitability and
- any other relevant information about the volunteer, or work s/he is likely to do

If the Academy approaches a parent who is well known to take on a particular role, the following procedures can be adopted i.e.

- seek references
- check to ensure that others in the Academy community know of no concerns
- conduct an informal interview
- ensure an application for an enhanced disclosure and checking of barred list has been made
- appropriate supervision arrangements are in place until a satisfactory disclosure is received by the individual and checked by the Academy

Where the role is one-off (i.e. accompanying teachers and pupils on a day outing/helping at a concert or academy fete,) the above measures may prove unnecessary ***provided that the volunteer is not to be left alone and unsupervised in charge of children.***

Where volunteers have been recruited by another organisation to work in an academy (i.e. sports coaches from a local club), the Academy should obtain assurance from that organisation that the person has been properly vetted and these details should be recorded on the Single Central Record.

## 12. AGENCY/SUPPLY WORKERS

### Directly employed Supply workers

Supply staff directly employed by the Academy will be subject to the same safer recruitment practices as other staff.

### Agency workers

Confirmation will be made with the supply agency that the appropriate checks have been carried out and that they are satisfactory **before** the supply worker starts to work at the Academy including:

- identity check
- enhanced check from the Disclosure and Barring Service and verification of the DBS certificate
- confirmation of qualifications, including QTS and Teaching Agency registration where relevant
- medical fitness requirements

- right to work in the UK
- that satisfactory references have been obtained and the person's previous employment history has been checked.

The DBS check carried out on the supply worker will be checked to see if it contains any disclosed information and a copy of this will be obtained from the agency. Checks will be made to ensure the person who is supplied by the Agency is actually the person they have referred by carrying out identity checks (i.e. birth cert, driving licence, passport, evidence of address).

### **13. CHECKS FOR INDIVIDUALS OTHER THAN EMPLOYEES/VOLUNTEERS AND AGENCY STAFF**

#### Directors & Governors

The Academy will carry out checks on all new Directors and Governors including Enhanced Disclosure /Barred list checks who;

- regularly work in the presence of, or care for ,children
- train, or supervise children
- are in sole charge of children

#### Articles of Association - Article 78

A person shall be disqualified from holding or continuing office as a Director if he/she has not provided a Criminal Records Certificate at an enhanced disclosure level under Section 113B of the Police Act 1997., In the event that the certificate discloses any information which would in the opinion of either the Chairman or CEO confirm their unsuitability to work with children that person shall be disqualified. If a dispute arises as to whether a person shall be disqualified, a referral shall be made to the Secretary of State to determine the matter. The determination of the Secretary of State shall be final. Article 80 states that Article 78 shall also apply to any members of any committee including a Local Governing Body, who is not a Director.

#### Contractors

The Academy will ensure that contractors who provide services to them that give rise to contact with children carry out appropriate checks. The contractor is responsible for ensuring that the same procedures are also followed by sub-contractors.

Where contractors regularly attend the Academy, details of the DBS check should be noted on the Single Central Record.

#### Visitors to the Academy

Visitors will be required to sign in and out of the Academy and they will be escorted by a member of staff or an appropriately vetted volunteer whilst on the premises.

DBS Disclosures are not required for visitors who will only have supervised contact with children on an ad hoc or irregular basis for short periods of time, or secondary

pupils undertaking voluntary work or work experience in other Academies. This also applies to: -

- visitors who have business with the Principal, Headteacher, Head of School or other staff, or who have brief contact with children with a member of staff present
- visitors or contractors who come on site only to carry out emergency repairs or to service equipment and who would not be expected to be left unsupervised on Academy premises
- volunteers or parents who only accompany staff and children on one-off outings or trips that do not involve overnight stays, or who only help at specific one-off events (e.g. a sports day, academy fete, open day etc.)
- secondary pupils on Key Stage 4 work experience in other academies etc; secondary pupils undertaking work in another academy as part of voluntary service etc., Key Stage 5 or 6th form pupils (although the Academy is responsible for ensuring that each pupil is suitable for the placement in question)
- people on site before or after Academy hours, or when children are not present e.g. local groups who hire premises for community or leisure activities, cleaners who only come in to the Academy after the children have gone home, or before they arrive

#### **14. EXTENDED SCHOOLS/ACADEMIES**

Where services or activities are provided by the Academy which are directly under the supervision or management of the Academy staff, the same arrangements for appointments, recruiting and vetting checks and record keeping will apply (i.e. for staff and volunteers).

Where a third party is responsible for running the services or is using the Academy site, there should be clear lines of accountability and written agreements setting out who is responsible for carrying out recruitment and vetting checks on staff and volunteers.

The written agreement should set out the respective responsibilities of the Academy and those of the provider or group in terms of health and safety, recruitment and vetting checks.

Child and user safety is paramount. Providers will need to demonstrate that they have effective procedures, training and vetting arrangements for their staff, appropriate child/adult ratios and contingency arrangements in place for emergencies or unexpected occurrences.

#### **15. FURTHER INFORMATION**

If there are any further queries on this policy, please contact the Academy's external HR provider.

### English Language Requirement for Public Sector Workers in Customer Facing Roles

#### What is the requirement?

Part 7 of the Immigration Act 2016 creates a duty to ensure that all public authority staff working in customer-facing roles speak fluent English to an appropriate standard. The Government has issued a statutory Code of Practice to help employers comply with this regulation. The code can be found at [www.gov.uk](http://www.gov.uk) "Code of practice on the English language requirement for public sector workers".

#### Who is covered?

**Members of staff who, as a regular and intrinsic part of their role, are required to speak to members of the public in English are considered as working in a customer-facing role.** This means that they must have a command of spoken English which is sufficient to enable the effective performance of their role. Either face-to-face or telephone conversations can bring a role within the scope of the act.

Reception staff, teaching staff and teaching assistants are likely to be covered. Facilities staff are unlikely to be. A higher level of competence may be required depending on the nature of the role and the profession of the employee. There is already a requirement under the Teachers Standards for Teachers to be fluent in English.

The fluency duty applies in respect of existing staff as well as to new recruits, permanent and fixed-term employees, apprentices, self-employed contractors and agency temps.

#### What is meant by fluency?

Employers must satisfy themselves that an individual has the necessary level of fluency appropriate for the role they will be undertaking, whether an existing or a potential new member of staff.

Fluency relates to a person's language proficiency and their ability to speak with confidence and accuracy, using accurate sentence structures and vocabulary. In the context of a customer-facing role, a person should be able to choose the right kind of vocabulary for the situation at hand without a great deal of hesitation. They should listen to their customer and understand their needs. They should tailor their approach to each conversation appropriate to their customer, responding clearly with fine shades of meaning, even in complex situations. **Fluency does not relate to regional or international accents, dialects, speech impediments or the tone of conversations.**

The Code of Practice refers to **The Common European Framework of Reference for Languages (CEFR)** as a useful descriptor of fluency levels.

## **Recruitment and selection - How can fluency be measured?**

When recruiting for a post that has been identified as meeting the fluency requirement Schools/Academies can, but are not required to, specify a minimum spoken English qualification as long as it is above the Common European Framework of Reference for Languages, Level B1 (**more information on this is provided in the statutory Code of Practice**).

Many non-EEA migrants may have already passed a similar qualification for the purpose of their visa application and would therefore be able to provide evidence of this. Nevertheless, employers are free to satisfy the requirement through other means, such as a test or formal interview.

There are a number of ways a job applicant could demonstrate their fluency, including, but not limited to:

- competently answering interview questions in English;
- passing an English spoken language competency test or possessing a relevant spoken English qualification at CEFR Level B1 or above, taught in English by a recognised institution abroad;
- possessing a relevant qualification for the role attained as part of their education in the UK or fully taught in English by a recognised institution abroad;

**Where job applicants are clearly fluent to the necessary standard for the role in question, no further action is necessary.**

## **Job Adverts, Job Descriptions and Person Specifications**

When recruiting for a role where the requirement will apply, Schools/Academies should specify this in the advert, job specification and job description. The example wording below is provided in the Code of Practice.

*“The ability to converse at ease with customers and provide advice in accurate spoken English is essential for the post.”*

*And*

*“An ability to fulfil all spoken aspects of the role with confidence through the medium of English.”*

Schools/Academies could change customers to read members of the public/pupils.

## **What about the Equality Act?**

Schools/Academies must take into account their obligations under the Equality Act when considering their duty to ensure that each person in a customer-facing role speaks fluent English. The processes and methods used to determine whether a person has a command of spoken English for effective performance in the role must be fair and transparent.

It is unlawful to discriminate directly or indirectly against a person on grounds of race. Schools/Academies should ensure that people from particular nationalities or ethnic backgrounds, in a recruitment process or whilst at work, are treated in the same way as people from an English background.

The interview panel members will need to ensure that they understand the spoken language requirements for the role and that they evaluate candidates against clear criteria set out in the role specification.

### **What happens if the requirement is not met?**

Members of the public can complain if they feel that a customer-facing employee has insufficient fluency in spoken English. A pupil and or their parent/carer or could complain. The complaint would then need to be investigated and responded to.

A complaint about a member of staff's accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint about the fluency duty.

Members of staff who are the subject of a complaint should be notified of the complaint and the action being taken in relation to it. They should be given the opportunity, as soon as practicable, to give their own account of the facts leading to the complaint.

### Disqualification Under the Childcare Act 2006

There are a number of reasons that a person may be disqualified from working with children, under the Childcare Act 2006. These may be grouped under the following general headings:

- Grounds relating to the care of children
- Offences against children
- Offences against adults
- Inclusion on the list held by the Disclosure and Barring Service
- Living on or working on premises where a disqualified person lives or where a disqualified person is employed (disqualification by association)
- Having registration refused or cancelled (this does not apply to a person whose registration as a childminder or childcare provider is cancelled in England for non- payment of fee after 1 September 2008)
- Offences include those committed overseas that, had the offence been committed in the UK, would disqualify that person from registration, regardless of how the offence is described in the law of the other country.

**The Act and Regulations prohibit anyone who is disqualified themselves under the Regulations, or who lives in the same household as a disqualified person, from working in relevant settings, including in Schools/Academies. The latter is referred to as Disqualification by Association.**

The requirements have been around for a number of years, and apply to registered childcare provision outside of Schools, but it's only since October 2014 that the DFE has made it clear that these also apply to Schools and Academies. The Statutory guidance for Schools/Academies about employing staff who have been disqualified from providing childcare can be found at [www.gov.uk](http://www.gov.uk) "Statutory guidance: Disqualification under the Childcare Act 2006".

**The requirements apply on top of what schools do in relation to enhanced DBS checks and checks against the barred lists.**

The DFE have advised that Schools/Academies should use their judgment when deciding which school staff are covered by the regulations. However, a summary is provided below.

**Early years provision\*** – staff who provide care for a child up to and including reception age, both during and outside of school hours.

**Later years provision** (for children up to 8) – staff who are employed to work in childcare provided by the school **outside of school hours**, including breakfast clubs and after school provision.

Staff who are directly concerned in the **management of early or later years provision** – Schools/Academies will need to use their judgment to determine who is covered, this will include the head teacher, and may also include other members of the senior leadership team, any manager, supervisor, leader or volunteer responsible for the day-to-day management of the provision.

Volunteers and casual workers concerned in any of the above.

\*Early Years means from birth until 1st September following a child’s fifth birthday i.e. up to and including reception age. Later Years means children under the age of 8.

	<b>DURING SCHOOL HOURS</b>	<b>OUTSIDE SCHOOL HOURS*</b>
Reception age or younger	Covered	Covered
Older than Reception age until age 8	Not Covered	Covered
8 years or older	Not Covered	Not Covered

### **What roles are not covered by the regulations?**

- Staff who only provide education, childcare or supervised activity during school hours to children above reception age (including extended school hours for activities such as school choir or sports teams)
- Staff who only provide childcare or supervised activities out of school hours for childcare who are aged 8 or over
- Staff such as caretakers, cleaners, drivers, transport escorts, catering and office staff, who are not employed to directly provide childcare
- Most staff who are only occasionally deployed and are not regularly required to work in relevant childcare
- Anybody involved in any form of health care provision for a child, including school nurses, and local authority staff, such as speech and language therapists and education psychologists
- School governors and proprietors are not covered as an outright role

**It is an offence for an employer to knowingly employ someone when they should be disqualified.** Ofsted have the power to enforce the prohibition on employing a disqualified person and if necessary to initiate a prosecution against the School/Academy.

Although there is no duty on a School/Academy to monitor the ‘suitability’ of persons living in staff households, Schools/Academies do need to check with staff that they are not living with a person that is disqualified from working with children.

If a member of staff is living in a household with someone who is disqualified, then they too are disqualified from working with children by association. This applies to household members including partners, children including foster children, house share colleagues and lodgers.

However, there are two points to bear in mind:



First the person is not guilty of an offence if they do not know a person they are living with is disqualified. For example, a member of staff may live in shared housing and may not have any knowledge about the people they live with including whether those people are disqualified. Neither the member of staff nor the employer has any legal requirement to seek this type of information.

Second the law is clear that this is about “**knowingly**” employing someone who is disqualified. Schools/Academies who regularly ask staff to confirm there are no changes in their circumstances and act on any information received that brings into doubt a staff member’s suitability are taking appropriate steps to make sure they do not knowingly employ someone who is disqualified.

With this in mind Schools/Academies may wish to consider undertaking the disqualification check on an annual basis for existing staff that the regulations apply to.

### **What should Schools and Academies do?**

The DFE has said that Schools/Academies are responsible for putting in place arrangements to obtain the necessary information to ensure the suitability of staff to work in early years and childcare. **This applies to both existing staff/volunteers and any newly appointed staff/volunteers.** In the DoE **statutory guidance**, there are a number of key points about what schools should do:

- Make staff covered by the regulations aware of what information will be required and how it will be used to make decisions about disqualification.
- Take steps to gather sufficient and accurate information (although a self-disclosure form isn’t mandatory). Any questions must be relevant and limited to the requirements of the legislation.
- Ask relevant questions which are limited to the requirements of the legislation. In particular, this includes any cautions or convictions that they have for a relevant offence (that are not yet filtered), and whether they or anyone living or employed in their household is named on the DBS Children’s Barred List. It can also include asking about cautions or convictions for offences covered by the regulations which are not yet spent under the Rehabilitation of Offenders Act 1974.
- Inform staff that they are not required to disclose the spent cautions or convictions of a person who lives or is employed in their household.
- Keep a record of those staff covered by the regulations, and the date disqualification checks were completed.
- Retain personal information that is relevant to disqualification on the personnel file.
- To identify cases where a staff member covered by regulations may be disqualified ‘by association’, schools must ask those staff to provide, to the best of their knowledge, information about someone who lives or is employed in their household.
- Schools must be certain that any information provided is adequate, accurate and relevant, and where information is provided in error, or is not relevant, it should be destroyed. This would include an unspent conviction of a partner for

an offence which is not listed as a relevant offence, or a spent conviction of a partner (regardless of the offence).

- Explain to any individual falling within one of the disqualification criteria how to make an application for a waiver.

### **What Schools and Academies can't do**

The statutory guidance also includes key points about what schools can't do:

- Schools/Academies must not knowingly employ a person who is disqualified under the regulations in relevant childcare provision.
- Schools/Academies should avoid asking for medical records, details about unrelated or spent convictions of household members, DBS certificates from third parties, or copies of a person's criminal record.
- Schools/Academies should not ask staff or third parties to make requests for their criminal records, as this will amount to an enforced subject access request which will be an offence under section 56 of the Data Protection Act from 10th March 2015.
- Substantive details of criminal record checks should not be retained and information that is not relevant should be destroyed.

**A self-disclosure form isn't mandatory however a sample form is included in the Manager's Toolkit. This form can be used for new starters, existing staff and volunteers. For existing staff/volunteers it is recommended that it is updated on a regular basis e.g. annually.**

**STRICTLY CONFIDENTIAL****DISCLOSURE & BARRING SERVICE - DISCLOSURE CHECKS  
RISK ASSESSMENT****(to be used when considering candidates with offences for positions working with children)**

<b>Applicant Name</b>	
<b>DBS No</b>	
<b>Position</b>	
<b>Date of Caution/ Conviction</b>	
<b>Date of Previous Risk Assessment if applicable</b>	

<b>1.</b>	When and by whom was the Disclosure information discussed with the applicant?
<b>2.</b>	Was the disclosure information declared on the application form?
<b>3.</b>	Are the cautions/offences relevant to the post applied for?
<b>4.</b>	Do the offences involve: sexual, violence, drugs, fraud/dishonesty, other relevant issues?
<b>5.</b>	Is there a plausible explanation relating to the offence/offending behaviour?
<b>6.</b>	Is there a significant gap between the last offence and the application for the post?
<b>7.</b>	Is there a clear pattern of offending behaviour?
<b>8.</b>	Have the applicant's circumstances changed significantly since the offending behaviour? i.e. is the applicant now in a more stable position/lifestyle?
<b>9.</b>	Has the applicant demonstrated a reasonable level of remorse?
<b>10.</b>	Is the applicant able to demonstrate effective learning from the offending?
<b>11.</b>	Has the applicant been open about their offending behaviour?

12.	Has the applicant demonstrated a level of honesty in relation to their offending behaviour?
13.	What is your assessment of the nature and severity of cautions/offences?
14.	Decision/Recommendations:
15.	Proceed with application? Y/N

<b>Signed:</b>		Principal/ Headteacher	<b>Date:</b>	
<b>Signed:</b>		Business Manager	<b>Date:</b>	
<b>Signed:</b>		CEO	<b>Date:</b>	

<b>Hold on file until DBS renewed</b>		
<b>Copy to Personal File:</b>	(please initial)	
<b>Copy to Trust Business Manager for Trust DBS Risk Register:</b>	(please initial)	