

BOLTON SCHOOL



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DBS CHECKS AND THE RECRUITMENT OF EX- OFFENDERS

POLICY AND PROCEDURE

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1. Purpose and Principles

As an organisation using an umbrella organisation which uses the Disclosure and Barring (DBS) service to assess applicants' suitability for positions of trust, Bolton School will ensure the umbrella organisation is one which complies fully with the DBS Code of Practice and the guidelines issued by DfE. The School will treat all applicants for positions fairly and will not discriminate unfairly against any subject of a disclosure on the basis of a conviction or other information revealed.

Bolton School will support the fair treatment of its staff, potential staff, volunteers, Governors or users of its services, regardless of age, disability, sex, sexual orientation, pregnancy and maternity, race or ethnicity, religion or belief, gender identity, or marriage and civil partnership.

The policy on the recruitment of ex-offenders is made available to all disclosure applicants at the outset of the recruitment process; it is on the website and details are included in the document entitled 'Application and Recruitment Process – Explanatory Note', which is also on the website.

The school will actively promote equality of opportunity for all with the right mix of talent, skills and potential and will welcome applications from a wide range of candidates, including those with criminal records. Candidates will be selected for interview based on their skills, qualifications and experience.

Having a criminal record will not necessarily bar applicants from working at Bolton School. This will depend on the nature of the position and the circumstances and background of the offence but under the relevant legislation, it is unlawful for the School to employ anyone who is included on the lists maintained by the DBS of individuals who are considered unsuitable to work with children.

The school will make every subject of a Criminal Records Check through the DBS aware of the existence of the DBS Code of Practice and will make a copy available on the internet and shared area; alternatively, a hard copy will be provided if requested.

All relevant recruitment briefs, (terms and conditions) along with the application form will contain a statement that a Criminal Records Check through the Disclosure and Barring Service, will be requested in the event that the individual is offered the position.

All costs incurred will be met by the school with the exception of those persons who fall within the self-employed category, who will be required to contribute as agreed from time to time.

2. Regulated Activity

The School applies for an enhanced disclosure from the DBS and a check of the Children's Barred List (now known as an Enhanced Check for Regulated Activity) in respect of all positions at the School which amount to "regulated activity" as defined in the Safeguarding Vulnerable Groups Act 2006 (as amended). The purpose of carrying out an Enhanced Check for Regulated Activity is to identify whether an applicant is barred from working with children by inclusion on the Children's Barred List and to obtain other relevant suitability information.

Any position undertaken at, or on behalf of the School will amount to "regulated activity" if it is carried out:

- (a) frequently, meaning once a week or more; or
- (b) overnight, meaning between 2.00 am and 6.00 am; or
- (c) satisfies the "period condition", meaning four times or more in a 30-day period; and
- (d) provides the opportunity for contact with children.

Roles which are carried out on an unpaid/voluntary basis will only amount to regulated activity if, in addition to the above, they are carried out on an unsupervised basis.

It is for the School to decide whether a role amounts to "regulated activity" taking into account all the relevant circumstances. However, nearly all posts at the School amount to regulated activity. Limited exceptions could include an administrative post undertaken on a temporary basis in the School office outside of term time or voluntary posts which are supervised.

3. DBS Filtering Rules

Prior to 29 May 2013 an enhanced disclosure contained details of all convictions on record (including those which are defined as "spent" under the Rehabilitation of Offenders Act 1974) together with details of any cautions, reprimands or warnings held on the Police National Computer. It could also contain non-conviction information from local police records which a chief police officer considered relevant to the role applied for at the School.

With effect from 29 May 2013 the DBS commenced the filtering and removal of certain specified information relating to old and minor criminal offences from all criminal records disclosures. The filtering rules developed by the DBS and the Home Office designate certain spent convictions and cautions as "protected". "Protected" convictions and cautions are not included in a DBS certificate and job applicants are not required to disclose them during the recruitment process. It is unlawful for an employer to take into account a conviction or caution that should not have been disclosed. If a protected conviction or caution is inadvertently disclosed to the School during the recruitment process it must be disregarded when making a recruitment decision.

A conviction will always be disclosable if it was imposed for a "specified offence" committed at any age. A caution issued for a "specified offence" committed over the age of 18 will always be disclosable. However, a caution issued for a "specified offence" committed under the age of 18 is never disclosable. "Specified offences" are usually of a serious violent or sexual nature, or are relevant for safeguarding children and vulnerable adults. The list of "specified offences" can be found at:

<https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>

The filtering rules have recently been updated and work as follows:

For those aged 18 or over at the time of an offence

A spent criminal conviction for an offence committed in the United Kingdom when a person was over the age of 18 will not be disclosed in a DBS certificate (and does not have to be disclosed by the job applicant) if:

- (a) eleven years have elapsed since the date of the conviction;
- (b) it did not result in a custodial sentence; and
- (c) it was not imposed for a "specified offence".

A spent caution for an offence committed when a person was over the age of 18 will not be disclosed in a DBS certificate (and does not have to be disclosed by a job applicant) if:

- (a) six years have elapsed since the date it was issued; and
- (b) it was not issued for a "specified offence".

For those aged under 18 at the time of an offence

A spent conviction for an offence committed when a person was under the age of 18 will not be disclosed in a DBS certificate (and does not have to be disclosed by a job applicant) if:

- (a) five and a half years have elapsed since the date of the conviction;
- (b) it did not result in a custodial sentence; and
- (c) it was not imposed for a "specified offence".

A caution issued for an offence committed when a person was under the age of 18 will never be disclosed in a DBS certificate (and does not have to be disclosed by a job applicant).

4. Recruitment Process

All shortlisted applicants will be required to complete a self-declaration form prior to interview in which they will be asked to provide information about their criminal records history and other factors relevant to their suitability to work with children. This information will be considered and discussed with applicants at interview and will only be seen by those who need to see it as part of the recruitment process.

The school ensures that staff who are involved in the recruitment process are suitably trained to identify and assess the relevance and circumstances of offences. The school also ensures that those staff concerned receive appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

At interview, or separately, the school will ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information could lead to withdrawal of an offer of employment, or dismissal.

The relevant Head or Personnel Manager will discuss any matter revealed in a Criminal Records Check with the person seeking the position, before withdrawing a conditional offer of employment, or taking further action. Unless the nature of the position allows Bolton

School to ask questions about the applicant's entire criminal record, they will only be asked about 'unspent' convictions, not protected as defined in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013) by SI 2013 1198.

It is a criminal offence for any person who is disqualified from working with children to attempt to apply for a position within the School. The School will report the matter to the Police and/or the DBS if:

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

It is also unlawful for the School to knowingly employ someone who works in the relevant settings and is disqualified from providing childcare under the Childcare (Disqualification) Regulations 2018.

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 School 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;
- in the case of disqualification from providing childcare, whether the applicant has or is able to obtain an Ofsted waiver from disqualification; and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person.

If the post involves regular contact with children, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted **at any time** of any the following offences: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence, serious class A drug related offences, robbery, burglary, theft, deception or fraud.

If the post involves access to money or budget responsibility, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of robbery, burglary, theft, deception or fraud.

If the post involves some driving responsibilities, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted of drink or drug driving.