



## SHIRLEY HIGH SCHOOL PERFORMING ARTS COLLEGE

*Our Vision:*

*To develop aspirational learners who strive for excellence academically, creatively and culturally, benefitting from a wide range of opportunities led by inspirational educators.*

### EMPLOYMENT OF EX-OFFENDERS POLICY

#### Intent:

Shirley High School meets the requirements for exemption from the Rehabilitation of Offenders Act 1974.

This means that, where a role involves regulated activity, applicants are required to disclose **relevant** convictions and cautions (excluding exemptions – see section 2) if **shortlisted** for employment in our school.

Roles involving regulated activity will also be subject to an enhanced Disclosure and Barring Service (DBS) check with barred list check.

Having a criminal record will not necessarily bar you from working at our school. The success of your application will depend on your suitability for the job, the nature of the role, and the circumstances and background of any offences.

We are committed to:

- Our duty to safeguard children under:
  - o Keeping Children Safe in Education
  - o The DBS code of practice
- The fair treatment of all applicants and equality of opportunity

#### Protections and Exemptions

'Specified offences' will always be disclosed on a DBS certificate, and should always be included in self-declarations – see the government's list for further details.

It is a criminal offence for any person who is barred from working with children to apply for a position in a school. School will make a report to the DBS and/or the police as appropriate, if it receives an application from a barred person.

'Protected offences' are certain old or minor offences that may not be disclosed on a DBS check. Guidance as to whether a caution or conviction is 'protected' can be found in:

The Ministry of Justice's Guidance on the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975

The government's tool to check whether to disclose cautions or convictions

Applicants **should not** list any 'protected' offences on their self-declaration form, and we will not take them into account if we are made aware of them.

#### Responsibilities

The Principal

- Upholds school's commitment to the fair treatment of all job applicant
- Make sure all job application forms contain clear and relevant information about what cautions or convictions applicants are expected to disclose, and what safeguarding checks the school will carry out, and at what stage in the application process



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- Make sure staff involved in the recruitment process have received appropriate guidance and training about their legal duties in employing ex-offenders, and assessing the relevance and circumstances of offences

### **Staff involved in the recruitment process**

- Treat applicants fairly, including in relation to any history of offending
- Maintain privacy for applicants, making sure that information about applicants' criminal records won't be seen by anyone outside of the recruitment process
- Make sure that all shortlisted applicants complete a self-declaration form before the interview stage, and that all job offers are conditional, subject to appropriate safeguarding checks
- Hold discussions with applicants about their disclosures, where relevant, and make decisions about suitability based on the circumstances and background of offences
- **Seek specialist legal/HR advice where relevant**

### **All job applicants**

- Familiarise themselves with the requirements for self-disclosure, and whether they have any previous convictions or cautions that must be disclose
- Complete self-declaration forms honestly and completely, disclosing all required spent and unspent convictions and cautions (excluding 'protected' offences)
- Participate in disclosure discussions following either or both of their self-declaration and DBS check

### **Procedure**

#### **Self-declaration**

All shortlisted applicants will be asked to complete a self-declaration form before the interview stage. Applicants must complete these forms accurately, and reveal all relevant convictions, as well as any other information that would make them unsuitable to work with children. Failure to reveal any relevant information could lead to the withdrawal of an offer of employment.

All job application forms will include information about this requirement.

Applicants will not be asked for information about previous convictions or cautions before this stage, and any such information that is disclosed before shortlisting stage won't be taken into account in the shortlisting process.

We will store all sensitive personal data securely, only share it with relevant staff members, and destroy it securely when we no longer need it.

All our job applications and self-declaration forms go through a process to promote equality of opportunity.

Self-declaration forms will be reviewed by a staff member who is not involved in making recruitment decisions, and any irrelevant information will be deleted; for example, 'protected' convictions that legally can't be taken into account.

Further disclosure discussions (see sub-section 4.3) may be needed following safeguarding checks. A conditional offer may only be confirmed once staff are happy that any previous convictions don't make applicants unsuitable for the role.



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### **At interview**

If the candidate reveals information about a conviction or other information, the panel must decide whether, in relation to the post in question, the nature of their background is sufficiently serious enough to justify non-selection for the post. In the event of the Selection Panel deciding not to select on the grounds of a declared criminal background, advice will be sought from the School's HR or Legal Advisor before any further action is taken.

The Selection Panel will be advised not to allow personal prejudices to 'cloud' their judgement and good practice. They will consider the relevance of offences (after seeking the appropriate advice) and be aware that no two offences are exactly alike e.g. a premeditated burglary that involves extensive damage to property and the physical intimidation of the occupant is different from the opportunist convicted of reaching in through an open window and stealing a purse.

It is important to note that the possession of a criminal background does not automatically debar an applicant from being offered employment with the School.

### **2.2 After an offer of employment has been made (before starting employment)**

On acceptance of an offer and before starting employment, the School will apply for a DBS check for the successful candidate. If a DBS check reveals details of convictions which may render the applicant unsuitable for the applied post, a designated senior manager will (after seeking advice from the School's HR or Legal Advisor) discuss the situation with the applicant in line with the DBS Code of Practice and through use and completion of Appendix A: Cause for Concern Risk Assessment Proforma. The applicant will be asked to sign the completed risk assessment to verify the information provided.

When assessing any disclosure or declared conviction information received, consideration will be given to a range of issues and the risk assessment will support the designated senior manager's decision enabling them to assess the suitability of the applicant for their proposed position in light of matter(s) disclosed on their DBS certificate. In some cases, an HR Advisor will support the designated senior manager in these discussions.

Having a conviction will not necessarily automatically debar someone from starting employment with the School as the School will only take a criminal record into account when the conviction is relevant. Protection of the applicant's rights and interests will therefore be weighed against the rights and interests of students, employees and members of the public.

Managers will not allow personal prejudices to 'cloud' their judgement and good practice. They will consider the relevance of offences and be aware that no two offences are exactly alike.

If the candidate has made a false declaration on their application form then the School will not be able to confirm the appointment and any offer of employment withdrawn. If the disclosure certificate contains information that was not revealed by the candidate or additional information from the Police is received it will be necessary to hold a further discussion with the candidate and undertake a further review against any risk assessment before deciding to confirm or withdraw the offer of employment. HR and legal advice should be sought at this point.

### **DBS Checks**

Successful candidates are subject to DBS and other safeguarding checks, as set out in statutory guidance, Keeping Children Safe in Education. Staff should consider whether:



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- The checks reveal any new information that might prohibit or otherwise make a candidate unsuitable for the role
- The checks match any information disclosed in an applicant's self-declaration

Further disclosure discussions (see sub-section 4.3) may be needed following safeguarding checks. A conditional offer may only be confirmed once staff are happy that any previous convictions don't make applicants unsuitable for the role.

### **Disclosure discussions**

Where a disclosure or the results of a DBS check reveal that an applicant is barred from the role or ineligible to be employed in that role, their recruitment process will not proceed any further, and they will be informed that they legally cannot be considered for the job.

In all other cases, previous convictions will not necessarily prevent applicants from being employed by our school. Staff will determine, with support from HR specialists, whether disclosures warrant a discussion between our school and the candidate.

Where relevant, disclosure discussions will happen as part of the interview process and take the applicant's explanation into consideration. For example, we will consider:

- The seriousness of any offence and relevance to the post applied for
- How long ago the offence occurred
- Whether it was a one-off incident or a history of incidents
- The circumstances around the incident
- Whether the applicant accepted responsibility for their actions

Staff will then assess whether applicants' previous convictions or cautions make them unsuitable for the role.

We will not ask applicants about protected convictions and cautions.

A section 128 check will be requested for all roles that relate to the management of the school including but not limited to governors, trustees, directors and headteachers.

### **During Employment**

If, in the course of employment, the School becomes aware of information which they reasonably believe tends to show that a criminal offence has been committed, is being committed or is likely to be committed, the School will take necessary action with advice from the School's HR or Legal Advisor.

Where information comes to light, or an existing employee has a DBS recheck which subsequently reveals an adverse disclosure result, a designated senior manager will follow guidance from the School's HR or Legal Advisor and/or complete Appendix A: Cause for Concern Risk Assessment Proforma. It may be appropriate to move the employee to an alternative post with no access to children and/or vulnerable groups, property / information / resources etc. depending on the nature of the disclosures and pending the outcome of a full investigation. It may be that there are no suitable duties the employee could undertake during this period which do not bring them into contact with children/adults. If this is the case, the manager will give consideration to suspending the employee (following advice from the School's HR or Legal Advisor) on full pay pending the outcome of the disciplinary investigation.



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Employees are under an ongoing obligation to make the School aware of any criminal offence or information which may adversely affect their employment with the School.

### **Complaints and Appeals Process**

Applicants who are unhappy with any aspect of the DBS process, including the application of this policy, should initially raise their concerns through the Chair of the Selection Panel. Where this fails to produce a satisfactory resolution, applicants have the right to complain under the School's Complaints Procedure which is available on request.

Employees will have the right to raise their concerns under the relevant Disciplinary Policy and Disciplinary Appeals process or the School's Grievance Policy.

### **Useful Contacts**

Local Authority Designated Officer (LADO for DBS Referral):

Steve Hall

Email: [steve.hall@croydon.gov.uk](mailto:steve.hall@croydon.gov.uk)

Tel: 0208 726 6000 (Ext 24334) Mob: 07825 830328

### **Further Information**

- Recruitment and Selection Policy (Including Safer Recruitment)
- Complaints Policy
- Child Protection
- Equality policy
- Disciplinary Policy identify
- Grievance Policy



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**Appendix A: Cause for Concern Risk Assessment Proforma**

Please complete this form fully and discuss with an HR Advisor, as it will form the basis of a decision to appoint/not to appoint someone into a position where adverse disclosures have been identified on a returned DBS check.

Name of Manager .....

Name of Applicant.....

Name of HR Advisor (consulted if required) .....

Position Applied For .....

School / Area .....

Date of Risk Assessment.....

Questions	Comments
Does the applicant meet all the essential criteria for the post in terms of skills, knowledge, experience and ability?	
Does the applicant agree that the information detailed on the DBS certificate is correct?  In the event of a challenge from the applicant the matter needs referring to the disputes team at the DBS.	
The country in which the offence was committed e.g. some activities are offences in Scotland and not in England and/or Wales and vice versa. Whether the offence has since been decriminalised by Parliament.	
What was the nature of the crime, when did the relevant offence(s) occur e.g. less/more than two years ago, what were the circumstances involved and what was the sentence?	
Do the matters disclosed form any pattern? Was the offence a one-off, or part of a history of offending e.g. is the offence likely to re-occur?	
What is the seriousness of the offence(s) and relevance to the safety of other employees, students, service users and property?	



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Are there any assessments and reports from those agencies involved in the applicant's process of rehabilitation e.g. probation service, specialists working in prison, other agencies?	
Are the type and/or nature of the offence(s) directly relevant to the post?	
What is the nature of the contact the applicant will have with children/adults/the public and how vulnerable are they? Will the applicant have access to finances or to items of value?	
Was the relevant offence committed at work (either paid or unpaid work)? Does the job present any opportunities for the applicant to re-offend in the place of work?	
Did the applicant declare the matters on the School application form or DBS self-disclosure application form?	
Are there any mitigating circumstances e.g. any relevant information offered by the applicant about the circumstances that led to the offence being committed e.g. the influence of domestic or financial difficulties?	
Has the applicant's circumstances changed since the offence was committed, making re-offending less likely (e.g. improved personal circumstances, drug addiction therapy etc.). Can the applicant demonstrate any efforts not to re-offend? i.e. rehabilitation course	
Would the applicant do anything differently now - has their motivation changed? Does the individual regret the matter (degree of remorse) and what is their attitude towards the matters now?	
What level of and how much supervision is available to the applicant?	
Can any safeguards be implemented to reduce/remove any risk e.g. no unsupervised contact?	
Any questions/additional comments from the applicant?	



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Declaration by applicant and any additional comments in support of their employment

I understand that any offer of employment will be subject to the information I have supplied and that this is complete and correct. False information, or a failure to supply the details required could make an offer of employment invalid or lead to termination of employment. I understand that this pro forma will be held securely by the School for 25 years from the date of the assessment if appointed/6 months if not appointed. It will only be accessed if a) Regulatory/enforcement organisations ask for clarification on this recruitment decision, or b) any allegations are made against me during the course of my employment with the School, where an investigation would require access to this data. It will be destroyed in line with the School’s Policy on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information.

I consent to the above:

Signature: ..... Date.....

Name:.....

Additional comments from the Manager

Signature: ..... Date: .....

Outcome of Risk Assessment (delete as appropriate):

Continue with offer of employment/withdraw offer of employment

Please state (if applicable) whether approval is dependent upon conditions being met, such as recommendations, restrictions, safeguards to be implemented by the employer

Name of Authorising Officer: .....

Signature of Authorising Officer: .....

We want all at SHS to believe in and maintain the values of our school:

