

Recruitment of Ex-Offenders Policy

DOCUMENT INFORMATION

CURRENT POLICY REDRAFT	Yes	If yes, please provide brief details of changes below and highlight changes in yellow.	
NEW POLICY	No	AUTHOR	Amanda Scott, Director of HR
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Autumn 2024 changes

Updates to Rehabilitation of Offenders Act

Update to criminal record disclosure form regarding living abroad

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1 Purpose of this policy

1.1 This document applies to the recruitment and selection of all teachers (including the Headteacher), support staff, volunteers and Governors, and should be read in conjunction with the school's Recruitment and Selection Policy.

1.2 For individuals who work at the school via a 3rd Party Supplier, e.g. catering and cleaning staff, the school will ensure that confirmation is received from the supplying organisation that relevant checks in relation to the employment of ex-offenders have been undertaken.

1.3 The purpose of this policy is to outline the process of assessing:

1.3.1 A job applicant's suitability to work within this school where a criminal conviction is disclosed by either:

- a) the job applicant directly;
- b) the Disclosure and Barring Service, on an Enhanced DBS certificate;
- c) the Police or other Law Enforcement Agency, as additional information alongside the Enhanced DBS certificate.

1.3.2 An existing employee's suitability to continue to work within this school where they have received a criminal conviction or caution during the course of their employment.

1.4 This policy outlines a fair and transparent process to enable the Trust to make fully informed and objective decisions on whether to continue with the appointment (or the employment) of an individual, whilst also ensuring the school meets its safeguarding obligations. Data will be processed in line with the requirements and protections set out in the UK General Data Protection Regulation.

1.5 For the purposes of this document a "conviction" refers to a criminal conviction, caution, reprimand or warning, or where legal action is being taken against an individual which may result in a legal penalty.

1.6 The Trust has also adopted the Disclosure and Barring Service's Code of Practice on the handling of Disclosure Information and will adhere to it in all circumstances.

1.7 This policy has been consulted with staff and the recognised trade unions. It has been adopted by the Board of Trustees on 28th November 2024.

2 Rehabilitation of offenders

2.1 The Rehabilitation of Offenders Act 1974 (The Act) allows most convictions, cautions and reprimands to be considered "spent" after a certain length of time has elapsed. This is known as the "rehabilitation period" and is determined by the sentence or disposal given. The Act provides individuals with spent convictions the legal right not to disclose them when applying for most jobs.

2.2 However, most school-based roles will fall under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, e.g. where the post is involved in regulated activity with children and other activities which involve working closely with children such as caring for, training, supervising or being solely in charge of children under the age of 18, and are exempt from the provisions of The Act. The Trust is therefore entitled to request details of spent and unspent convictions and cautions that are not protected (i.e. eligible for filtering, see below). This information will be taken into account when determining an applicant's suitability for the role applied for in the Trust.

2.3 Having a criminal record will not necessarily prevent an individual from working in the Trust. Decisions on whether or not to recruit an individual will only be taken following a detailed and considered assessment of all the circumstances.

2.4 The Trust will not discriminate unfairly against any individual on the basis of a conviction or other information revealed.

3. Pre-employment checks

3.1 It is unlawful for the school to employ anyone who is barred from working with children. Similarly, it is a criminal offence for any person who is barred from working with children to apply for a position at the Trust.

3.2 During the recruitment process, all short-listed applicants will be asked to disclose any relevant spent or unspent convictions and cautions that the Trust is legally entitled to know about prior to interview using the Criminal Records Self-Disclosure Form (Appendix 1). This includes all spent convictions, cautions, except those which are 'protected' (see below). This form should be brought to the interview in a sealed envelope and will remain unopened until the end of the interview process.

3.3 Under the Exceptions Order the following must be disclosed:

3.3.1 all unspent convictions and cautions; and

3.3.2 spent cautions and convictions if they meet the circumstances described in the table below:

Disposal	Age when given/sentenced	How long since given/sentenced?
Caution for specified offence	18 years or over	Any time
Caution for non-specified offence	18 or over	Less than 6 years
Conviction for specified offence	Any age	Any time
Conviction resulting in custodial sentence	Any age	Any time
Conviction for non-specified offence	18 or over	Less than 11 years
Conviction for non-specified offence	Under 18	Less than 5 and half years

3.4 A specified offence is serious and relates to:

3.4.1 sexual offending;

3.4.2 violent offending and/or are relevant to safeguarding children and vulnerable adults;

3.4.3 terrorism.

The full list of specified offences can be found on the DBS website:

<https://www.gov.uk/government/publications/filtering-rules-for-criminal-record-check-certificates>

3.5 Where the applicant is successful at the interview stage the envelope containing their Criminal Records Self-Disclosure form will be opened by the chair of the panel and the other panel members informed of the contents. Where a criminal record is disclosed refer to Section 3 of this policy.

3.6 Where a conditional offer of employment is made, a job applicant who is successful at the interview stage will receive a conditional offer of employment. This offer will be subject to a satisfactory Enhanced Criminal Record check with a barred list check (where appropriate) by the Disclosure and Barring Service before an appointment is confirmed.

3.7 An Enhanced DBS certificate will always include:

- 3.7.1 convictions that resulted in a custodial sentence;
- 3.7.2 all convictions for specified offences; or
- 3.7.3 adult cautions for specified offences.

3.8 An Enhanced DBS certificate may also include the following depending on when the caution or conviction was received:

- 3.8.1 Any adult caution for a non-specified offence received within the last 6 years
- 3.8.2 Any adult conviction for a non-specified offence received within the last 11 years
- 3.8.3 Any youth conviction for a non-specified offence received within the last 5 and a half years

Cautions, reprimands and warnings received when an individual was under the age of 18 will not automatically appear on an Enhanced DBS certificate.

3.9 As a result of the 2013, 2020 and 2023 amendments to the Rehabilitation of Offenders Act 1974 (exceptions order 1975), some minor offences are now 'protected' or 'filtered' convictions or cautions and should not be disclosed or included on a DBS Disclosure Certificate. Information volunteered by an applicant relating to 'protected' convictions and cautions will be disregarded.

Further information can be found on the Ministry of Justice website:

<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

3.10 Furthermore, there may be occasions where the police choose to disclose information relating to a protected caution or conviction along with the Enhanced Disclosure where it is considered relevant to the role that the individual has applied for. This information will be taken into account as part of the vetting process.

3.11 Failure to disclose previous information or relevant offences directly relevant to the position applied for or the provision of false information may lead to an application being rejected or an offer of employment withdrawn. Where this is discovered, after employment has started, this may lead to disciplinary action resulting in summary dismissal with possible referral to the Police. A failure to disclose a previous conviction may also amount to a criminal offence.

3.12 The School will make a report to the Police and/or the DBS if:

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

4 When a job applicant declares a criminal conviction/caution

4.1 Where a panel considers a job applicant is appointable following the interview, the panel will open the envelope containing the Criminal Records Self Disclosure Form. If a conviction, caution or other offence has been disclosed on the form, a further interview with the applicant will take place to discuss the declared information. The school will then determine whether or not the information provided has an impact on the applicant's ability to undertake the role they are applying for, before a final recruitment decision is made.

4.2 The Chair of the Panel will arrange a meeting with the individual, as soon as practically possible in order to complete the Impact Assessment Form in Appendix 2. Following the meeting the chair of the panel will:

- 4.2.1 conclude whether or not the declared information impacts on the role applied for; and
- 4.2.2 provide a clear rationale of the reasons behind the conclusion.

4.3 The completed Impact Assessment Form will be retained with all other documentation relevant to the individual's application.

5 When a DBS disclosure certificate identifies a criminal record

5.1 Prior to confirming an offer of employment, the Trust must have sight of the applicant's original DBS certificate. Where an applicant does not have a current DBS certificate, the school will apply for one and any employment offer made will be subject to satisfactory clearance.

5.2 Where a criminal record is stated on the DBS Certificate (and/or additional information is provided by the Police), and where the recruitment panel did not complete the Impact Assessment at the interview stage (due to no convictions being stated on the Criminal Convictions Self-Disclosure Form), the Headteacher/Manager will undertake an assessment which may determine:

- 5.2.1 due to the age and/or nature of the offence(s) there is no impact on the role the individual will be undertaking. The Headteacher/Manager will complete the Impact Assessment Form Part 1 only and place this in the individual's personal file; or
- 5.2.2 that further investigation is required before any decision can be taken on whether an appointment can be confirmed. The Headteacher/Manager will complete the Impact Assessment Form Part 1 & Part 2. The form will be retained on the individual's personal file. Any copies taken of the Disclosure Certificate will be destroyed.

5.3 In instances where an individual disputes the contents of the DBS disclosure certificate issued to them, the Trust has the discretion to suspend the recruitment process until such time as the dispute is resolved

5.4 The Headteacher/Manager will seek advice from the Trust HR Director and the LADO where the disclosure or additional information was of a safeguarding nature.

6 When a criminal conviction is declared by a current employee/volunteer

6.1 Where an employee/volunteer declares a criminal record or advises the Trust of pending criminal action, an Impact Assessment will be undertaken to establish whether this affects the individual's suitability to continue to undertake their role.

6.2 Where appropriate, the Headteacher/Manager will complete the Impact Assessment Form Part 1, and depending on the nature of the criminal record, Part 2, and place this on the individual's personal file. The Headteacher/Manager may conclude:

- 6.2.1 where the impact assessment concludes that there is no impact on the individual's employment, no further action will be taken
- 6.2.2 where the assessment concludes that there is an impact, action will be taken in accordance with the Trust's Disciplinary Policy. For volunteers/casual staff, continued use of such individuals may cease.

6.3 The Headteacher will seek advice from the Trust's HR Director and/or the LADO where the disclosure or additional information was of a safeguarding nature.

7 The impact assessment

7.1 An Impact Assessment will be undertaken to fully assess information received about a criminal conviction and inform decisions on the individual's suitability to undertake the role applied for/ remain in their current role.

7.2 All decisions made in respect of an individual's employment will be based on objective and factual consideration, and the rationale will record that serious consideration has been given to the potential risk of employing the individual.

7.3 The impact assessment will contain:

7.3.1 a summary of the information received and how this was received. If information is received via a DBS check it is not appropriate to summarise any of the information received

7.3.2 the outcome of the assessment and any recommended action to be taken.

7.4 For existing employees, the outcome of an Impact Assessment may lead to disciplinary action. In such circumstances the Impact Assessment may act as the investigation stage of the disciplinary procedure in which case the employee will be advised of their right to representation.

7.5 The individual undertaking the interview will ensure that as part of the process:

7.5.1 the applicant/employee agrees that the information recorded on the DBS Disclosure certificate is correct and that it relates to them;

7.5.2 the applicant/employee provides a detailed explanation of what happened and context around the incident;

7.5.3 consideration is given to the individual's circumstances; have these changed since the offence was committed?

7.5.4 the degree of remorse expressed by the applicant/employee and their motivation to change.

7.6 Following the Impact Assessment, a decision will be made based on the information gathered, regarding the individual's suitability to work/continue working in the role.

7.7 Possible outcomes of the Impact Assessment Process

7.7.1 The possible outcomes are:

- to appoint to post
- not to appoint to post

Or for existing employees:

- to continue in current role, with the option of making reasonable adjustments (where possible);
- to continue in a different role; for employees the alternative role wherever practicable should be on the same grade;
- manage the individual under the Trust's Disciplinary Policy, an outcome of which may be dismissal.

Appendix 1

Criminal Records Self-Disclosure Form

Congratulations on being shortlisted. Please complete and return this disclosure to the school. If we have not received this, we reserve the right to withdraw the offer of interview.

POST APPLIED FOR:		Date:
Surname:	Previous name(s) (if any):	
Forename(s):	Preferred title:	Date of birth:
National Insurance No:	Teacher Ref. No. (if applicable):	Date of recognition as qualified teacher, QTS (if applicable):

LIFE Multi Academy Trust is committed to safeguarding and promoting the welfare of children and we expect all staff to share this commitment. This post is exempt from the Rehabilitation of Offenders Act 1974; pre-employment checks will be carried out, references will be sought and successful candidates will be subject to an enhanced DBS and Barred List check and other relevant checks with statutory bodies.

As you have been shortlisted, you are required to declare any relevant convictions, adult cautions or other matters which may affect your suitability to work with children.

As a result of the amendments to the Rehabilitation of Offenders Act 1974 (exceptions order 1975) in 2013, 2020 and 2023, some minor offences are now protected (filtered) and should not be disclosed to potential employers, and employers cannot take these offences into account. If you are unsure whether you need to disclose criminal information, you should seek legal advice or you may wish to contact Nacro or Unlock for impartial advice. There is more information on filtering and protected offences on the Ministry of Justice Website.

Nacro: <https://www.nacro.org.uk/criminal-record-support-service/> or email: helpline@nacro.org.uk or phone 0300 123 1999.

Unlock: <http://hub.unlock.org.uk/contact/> phone: 01634 247350 or text: 07824113848

Do you have any convictions or adult cautions that are unspent? Yes/No
If yes, please provide details here
Do you have any other cautions or convictions that would not be filtered? Yes/No
If yes, please provide details here

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Are you included on the DBS Children's Barred List? Yes/No

If yes, please provide details here

(For Teaching & Classroom Support Staff only) Are you, or have you ever been prohibited from teaching by the TRA or sanctioned by the GTCE? Yes/No/Not applicable

If yes, please provide details here

(Management posts in independent schools/academies & Governors in maintained schools). Have you been prohibited from the management of an independent school (s.128)? Yes/No/Not applicable.

If yes, please provide details here

Have you ever lived or worked outside the UK? Yes/No

If yes, please provide details here

Are you subject to any sanctions relating to work with children in any country outside the UK? Yes/No

If yes, please provide details here

Please complete the declaration below:

I declare that all the information I have provided in this disclosure is full and correct at the time of the application and that I have not omitted anything that could be relevant to the appointment of someone who will work with children. I understand that the recruitment panel may be made aware of any relevant information that I have disclosed in order to discuss the matter(s) with me as part of the recruitment process and that, if my application is successful, a risk assessment of the disclosed information will be held securely on my personal file. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role.

Signed:

Date:

Please return this form to the Recruiting Manager

Appendix 2

Criminal Record Impact Assessment Form - Part 1

If it is proposed to interview the individual about the declared criminal record information Part 2 will be completed.

Name of job candidate/ Volunteer/Governor:			
Job applied for:			
Job location:			
Was the information disclosed: <ul style="list-style-type: none"> • on a DBS Disclosure Certificate • by the individual • by another source 		If declared on DBS Disclosure Certificate:	
		Certificate Number	
		Date certificate issued	
Please briefly outline the nature of the disclosure: <i>NB. It is not appropriate to record the precise details of any convictions, cautions, reprimands, warnings or additional information on this form. Instead record the nature of the disclosure, the year it happened and the penalty received.</i>			
Does this post require the individual to work with children, young people or vulnerable adults? (please tick)			
Children:	Adults:		
Following an initial assessment is verification required from the individual as to whether the information received is accurate? (please tick)			
Yes:	No:		
If NO – please state reason why not. <i>NB an initial assessment may easily determine that the information is of limited relevance to the post and a decision can quickly be made and recorded, with the reasoning stated and easily justifiable.</i>			

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Following an initial assessment is it proposed to interview the individual in respect of the information received? (please tick)

Yes:

No:

If Yes – Part 2 of the form will be completed – if an employee the interview will take place in accordance with the Trust's Disciplinary Policy

If NO – please state reasons and conclusion

Please complete section A or B on the next page

Section A (Part 1 only) – Existing Employee/Volunteer

If only Part 1 has been completed and no further action is required the signature of the Head Teacher/Manager is required

Signed:

Date:

Section B (both Part 1 & 2) – New Employee/New Volunteer

Please tick

Decision

• To appoint to post

• Not to appoint to post

Signature of the Recruitment Manager

Signed:

Date:

Section B (both Part 1 & 2) – Current Employee/Volunteer

Please tick

Decision

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<ul style="list-style-type: none"> No action required 	
Employees - The following outcomes can only be enacted using the Trust's Disciplinary Policy	
<ul style="list-style-type: none"> Not to continue in current role 	
<ul style="list-style-type: none"> To continue in current role, with the option of making reasonably practicable adjustments. 	
<ul style="list-style-type: none"> To continue in a different role; for employees the alternative role wherever practicable should be on the same grade. 	
Signatures of Headteacher/Manager:	
Signed:	Date:

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Criminal Record Impact Assessment Form - Part 2

Has the individual consented to being interviewed?	<i>Please tick appropriate box</i>	
	Yes:	No:
If an employee, have they been informed of their right to have a representative present?	<i>Please tick appropriate box</i>	
	Yes:	No:

<p>What impact does the offence/information have on the individual's suitability to carry out the role in question or the individual's suitability to continue within their role?</p>		
<p>Having interviewed the individual include the rational for decision as to whether or not the individual is suitable to take up/continue in the role. If appropriate, include measure(s) proposed to put in place to enable the individual to take up/continue in post:</p>		
<p>If the employee/volunteer is not considered suitable to continue in post are there sufficient grounds to make a referral to the Independent Safeguarding Authority?</p>	Yes:	No: