

# Habs

HABERDASHERS'  
ELSTREE SCHOOLS

## Recruitment, Selection and Disclosure Policy

Policy Type	Statutory
Regulation	ISSR: Part 4, 18-21 & JCQ: GR5.4, KCSIE 2022 Part 3
Approval Committee	HR
Last Review	Autumn 2022
Next Review	Autumn 2023

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# 1 Related Information

## 1.1 Regulatory Guidance

This regulatory policy has been reviewed in accordance with the following guidance:

ISSRs Part 4, paragraphs 18 – 21: ISSR 18 (Staff), ISSR 19 (Supply staff), ISSR 20 (Proprietors), ISSR 21 (Single central register of appointments); and JCQ General Guidelines 5.4 (Access arrangements and reasonable adjustments), KCSIE 2022 Part 3
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## 1.2 Supporting Documents

The following related information is referred to in this policy:

Charities Act 2011
Childcare Act 2006
Childcare (Disqualification) Regulations 2009
Disqualification under the Childcare Act 2006
Education Act 2002
Education and Skills Act 2008
Education (Independent School Standards) Regulations 2014
Equality Act 2010
Keeping children safe in education (September 2022)
Rehabilitation of Offenders Act 1974
Safeguarding Policy
Safeguarding Vulnerable Groups Act 2006
Staff Code of Conduct
Staff Privacy Notice
Teachers' Disciplinary (England) Regulations 2012
The Prevent Duty Guidance for England and Wales 2015
Whistleblowing Policy

## 1.3 Terminology

**Head**, where not explicitly defined, means either the Head of the Girls' School or the Head of the Boys' School.

**Parents** includes one or both parents, a legal guardian, or education guardian.

**School** means Haberdashers' Aske's Elstree Schools Limited as Trustee of Haberdashers' Aske's Charity trading as Haberdashers' Girls' School **and / or** Haberdashers' Boys' School, as now or in the future constituted (and any successor).

**Student** or **Students** means any student or students in the School at any age.

# 2 Introduction

The School is committed to providing the best possible care and education to its Students and to safeguarding and promoting the welfare of children and young people. The School is also committed to providing a supportive and flexible working environment to all its members of

staff. The School recognises that, in order to achieve these aims, it is of fundamental importance to attract, recruit and retain staff of the highest calibre who share this commitment.

The aim of the School's Recruitment Policy is as follows:

- To ensure that the best possible staff are recruited on the basis of their merits, abilities and suitability for the position
- To ensure that all job applicants are considered equally and consistently
- To ensure that no job applicant is treated unfairly on any grounds including race, colour, nationality, ethnic or national origin, religion or religious belief, sex or sexual orientation, marital or civil partner status, disability or age
- To ensure compliance with all relevant legislation, recommendations and guidance including the statutory guidance published by the Department for Education (DfE), Keeping Children Safe in Education (KCSIE September 2022), Disqualification under the Childcare Act 2006 (DUCA), the Prevent Duty Guidance for England and Wales 2015 (the Prevent Duty Guidance) and any guidance or code of practice published by the Disclosure and Barring Service (DBS)
- To ensure that the School meets its commitment to safeguarding and promoting the welfare of children and young people by carrying out all necessary pre-employment checks.

Employees involved in the recruitment and selection of staff are responsible for familiarising themselves with and complying with the provisions of this policy.

### **3 Data Protection**

The School is legally required to carry out the pre-appointment checks detailed in this procedure. Staff and prospective staff will be required to provide certain information to the School to enable the School to carry out the checks that are applicable to their role. The School will also be required to provide certain information to third parties, such as the Disclosure and Barring Service and the Teaching Regulation Agency. Failure to provide requested information may result in the School not being able to meet its employment, safeguarding or legal obligations. The School will process personal information in accordance with its Staff Privacy Notice.

#### **3.1 About the information we collect and hold**

The table in Part 1 (Appendix B) summarises the information we collect and hold, up to and including the shortlisting stage of the recruitment process, how and why we do so, how we use it and with whom it may be shared.

The table in Part 2 (Appendix B) summarises the additional information we collect before making a final decision to recruit, i.e. before making an offer of employment unconditional, how and why we do so, how we use it and with whom it may be shared.

We seek to ensure that our information collection and processing is always proportionate and necessary for specific legitimate purposes. We will notify you of any changes to information we collect or to the purposes for which we collect and process it.

#### **3.2 How long we keep your information**

We keep the personal information that we obtain about you during the recruitment process for no longer than is necessary for the purposes for which it is processed. How long we keep your

information will depend on whether your application, or the application you are supporting (e.g. as a referee) is successful and you (the job applicant) become employed by us, the nature of the information concerned and the purposes for which it is processed.

We will keep recruitment information (including interview notes) for no longer than is reasonable, taking into account the limitation periods for potential claims such as race or sex discrimination (as extended to take account of early conciliation), after which they will be destroyed. This is likely to be for six months from the communication of the outcome of the recruitment exercise which takes account of both the time limit to bring claims and for claims to be received by the School. If there is a clear business reason for keeping recruitment records for longer than the recruitment period, we may do so but will first consider whether the records can be pseudonymised, and the longer period for which they will be kept.

If you are an applicant and your application is successful, we will keep only the recruitment information that is necessary in relation to your employment. For further information, see the Staff Privacy Notice.

Further details on our approach to information retention and destruction are available in our Retention of Data and Erasure of Personal Information Policy.

## **4 Recruitment and Selection Procedure**

All applicants for employment will be required to complete an application form containing questions about their academic and employment history and their suitability for the role. Incomplete application forms will be returned to the applicant where the deadline for completed application forms has not passed. Should there be any gaps in academic or employment history, a satisfactory explanation must be provided. A curriculum vitae will not usually be accepted in place of the completed application form, though may be submitted as an addition

Applicants will receive a job description and person specification for the role applied for. Application forms, job descriptions, person specifications and the School's Safeguarding Policy are available to download from the School's website.

The School will then conduct a shortlisting exercise by reviewing all application forms received in order to determine which applicants will be invited for interview.

Shortlisted applicants may then be invited to attend a formal interview at which their relevant skills and experience will be discussed in more detail. All shortlisted applicants will be tested at interview about their suitability to work with children.

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.

As part of the shortlisting process, the School will consider carrying out an online search on shortlisted candidates as part of our due diligence. This may help to identify any incidents or issues that have happened, and are publicly available online, which the School may want to explore with an applicant at interview. This forms part of the School's wider safeguarding due

diligence which aims to prevent and/or deter individuals who may be unsuitable to work with children from working in a school environment.

If it is decided to make an offer of employment following the formal interview, any such offer will be conditional on the following:

- The agreement of a mutually acceptable start date and the signing of a contract incorporating the School's standard terms and conditions of employment
- Verification of the applicant's identity (where that has not previously been verified)
- Verification of qualifications, whether professional or otherwise, which the School takes into account in making the appointment decision, or which are referred to in the application form, whether a requirement for the role or not
- Verification of the applicant's employment history
- The receipt of two references (one of which must be from the applicant's most recent employer) which the School considers to be satisfactory
- For positions which involve "teaching work", information about whether the applicant has ever been referred to, or is the subject of a sanction, restriction or prohibition issued by the Teaching Regulation Agency which renders them unable or unsuitable to work at the School
- For applicants who have carried out teaching work outside the UK, information about whether the applicant has ever been referred to, or is the subject of a sanction issued by a regulator of the teaching profession in any other country which renders them unable or unsuitable to work at the School
- Where the position amounts to "regulated activity" (see below), the receipt of an enhanced disclosure from the DBS which the School considers to be satisfactory
- Where the position amounts to "regulated activity" (see below), confirmation that the applicant is not named on the Children's Barred List<sup>1</sup>
- Information about whether the applicant has ever been subject to a direction under section 142 of the Education Act 2002 which renders them unable or unsuitable to work at the School
- For management positions, information about whether the applicant has ever been referred to the Department for Education, or is the subject of a direction under section 128 of the Education and Skills Act 2008 which renders them unable or unsuitable to work at the School
- Confirmation that the applicant is not disqualified from acting as a trustee/governor or senior manager of a charity under the Charities Act 2011 (if applicable, see below)
- Confirmation that the applicant is not disqualified from working in connection with early or later years provision (if applicable, see below)
- Verification of the applicant's medical fitness for the role (see below)
- Verification of the applicant's right to work in the UK and
- Any further checks which the School decides are necessary as a result of the applicant having lived or worked outside of the UK which may include an overseas criminal records check, certificate of good conduct or professional references.

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<sup>1</sup> *The School is not permitted to check the Children's Barred List unless an individual will be engaging in "regulated activity". The School is required to carry out an enhanced DBS check for all staff, supply staff and governors who will be engaging in "regulated activity". However, the School can also carry out an enhanced DBS check on a person who would be carrying out "regulated activity" but for the fact that they do not carry out their duties frequently enough i.e. roles which would amount to "regulated activity" if carried out more frequently.*

*Whether a position amounts to "regulated activity" must therefore be considered by the School in order to decide which checks are appropriate. It is however likely that in nearly all cases the School will be able to carry out an enhanced DBS check and a Children's Barred List check.*

## 5 Pre-Employment Checks

In accordance with the recommendations set out in KCSIE (September 2022), Disqualification Under Childcare Act (DUCA) and the requirements of the Independent School Standards Regulations (ISSR's, the School carries out a number of pre-employment checks in respect of all prospective staff.

In addition to the checks set out below, the School reserves the right to obtain such formal or informal background information about an applicant as is reasonable in the circumstances to determine whether they are suitable to work at the School. This may include internet and social media searches.

In fulfilling its obligations, the School does not discriminate on the grounds of race, colour, nationality, ethnic or national origin, religion or religious belief, sex or sexual orientation, marital or civil partner status, disability or age.

### 5.1 Verification of Identity, right to work in the UK, Address and Qualifications

**Identity and address:** all applicants must bring with them to interview, original documents which evidence their identity and address as set out below and in the list of valid identity documents at **Error! Reference source not found.** (these requirements comply with DBS identity checking guidelines):

- one document from Group 1\*; and
- two further documents from either of Group 1\*, Group 2a or Group 2b, one of which must verify the applicant's current address

(\*applicants must always provide their birth certificate as one form of identity unless there is good reason why this cannot be provided).

Where an applicant claims to have changed their name by deed poll or any other means (e.g. marriage, adoption, statutory declaration), they will be required to provide documentary evidence of the change. They will also be required to provide their birth certificate.

The School asks for the date of birth of all applicants in order to verify identity and check for any unexplained discrepancies in the employment and education history. The School does not discriminate on the grounds of age.

**Right to work in the UK:** all applicants must also bring to interview a valid form of evidence which confirms their right to work in the UK. Valid forms of evidence can be found in the Home Office 'Right to Work Checklist': (Right to work checklist ([publishing.service.gov.uk](https://publishing.service.gov.uk))).

The School will check this evidence in accordance with the Home Office 'Code of Practice on preventing illegal working: Civil penalty scheme for employers: 1 July 2021' (Code of practice on preventing illegal working ([publishing.service.gov.uk](https://publishing.service.gov.uk))).

**Qualifications:** all applicants must also bring to interview original documents which evidence any educational and professional qualifications referred to in their application form and / or which the School requests.



## 5.2 References

References will be taken up on shortlisted applicants prior to interview for academic positions. No questions will be asked about health or medical fitness prior to any offer of employment being made.

All offers of employment will be subject to the receipt of a minimum of two references which are considered satisfactory by the School. One of the references must be from the applicant's current or most recent employer. If the current/most recent employment does/did not involve work with children, then the second reference should be from the employer with whom the applicant most recently worked with children. Neither referee should be a relative or someone known to the applicant solely as a friend.

All referees are asked whether they believe the applicant is suitable for the job for which they have applied and whether they have any reason to believe that the applicant is unsuitable to work with children. All referees are sent a copy of the job description and person specification for the role for which the applicant has applied. If the referee is a current or previous employer, they will also be asked to confirm the following:

- The applicant's dates of employment, salary, job title/duties, reason for leaving, performance, sickness<sup>2</sup> and disciplinary record can't see the footnote 2 but I imagine it works in normal preview
- Whether the applicant has ever been the subject of disciplinary procedures involving issues related to the safety and welfare of children (including any in which the disciplinary sanction has expired), except where the issues were deemed to have resulted from allegations which were found to be, unsubstantiated, unfound, false or malicious
- Whether any allegations or concerns have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, except where the allegation or concerns were found to be false, unsubstantiated, unfound or malicious
- Whether the applicant could be considered to be involved in "extremism" (see the definition of "extremism" at section 8 below).

The School will only accept references obtained directly from the referee and it will not rely on references or testimonials provided by the applicant or on open references or testimonials.

The School will compare all references with any information given on the application form. Any discrepancies or inconsistencies in the information will be taken up with the applicant and the relevant referee before any appointment is confirmed.

Any discrepancies identified between the reference and the application form and/or the interview assessment form will be considered by the School. The applicant may be asked to provide further information or clarification before an appointment can be confirmed.

If factual references are received i.e. those which contain limited information such as job title and dates of employment, this will not necessarily disadvantage an applicant although additional references may be sought before an appointment can be confirmed.

The School may at its discretion make telephone contact with any referee to verify the details of the written reference provided.

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<sup>2</sup> Questions about health or sickness records will only be included in reference requests sent out after the offer of employment has been made.

The School treats all references given or received as confidential which means that the applicant will not usually be provided with a copy. All internal candidates who apply for a new role at the School will have their application assessed in accordance with this procedure. References may be taken up on internal candidates as part of the application process but can be provided by colleagues as the School will be the most recent employer and will previously have taken up references from past employers.

### **5.3 Criminal Records Checks**

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.

#### *5.3.1 DBS Filtering Rules*

Since 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 DBS and the Home Office have developed a set of filtering rules relating to spent convictions which work as follows:

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

- An adult conviction for an offence committed in the United Kingdom will be removed from a DBS disclosure if:
  - 11 years have elapsed since the date of conviction
  - it is the person's only offence and
  - it did not result in a custodial sentence
- The conviction will not be removed under any circumstances if it appears on a list of "specified offences" which must always be disclosed. If a person has more than one offence on their criminal record, then details of all their convictions will always be included
- A caution received when a person was aged 18 or over for an offence committed in the United Kingdom will not be disclosed if 6 years have elapsed since the date it was issued, and if it does not appear on the list of "specified offences".

##### For those aged under 18 at the time of an offence

- A conviction for an offence committed in the United Kingdom will be removed from a DBS disclosure if:
  - 5½ years have elapsed since the date of conviction
  - it is the person's only offence and
  - it did not result in a custodial sentence
- The conviction will not be removed under any circumstances if it appears on the list of "specified offences", or if a person has more than one offence on their criminal record.
- A caution received when a person was aged under 18 for an offence committed in the United Kingdom will not be disclosed if 2 years have elapsed since the date it was issued and if it does not appear on the list of "specified offences".

### The list of "specified offences" which must always be disclosed

- This contains a large number of offences, which includes certain sexual, violent and other offences that are considered so serious they will always be disclosed, regardless of when they took place or of the person's previous or subsequent criminal record. 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>.

#### 5.3.2 "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:

- Frequently, meaning once a week or more or
- Overnight, meaning between 2.00 am and 6.00 am or
- Satisfies the "period condition", meaning four times or more in a 30-day period and
- 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.

#### 5.3.3 *The DBS Disclosure Certificate*

The DBS issues the DBS disclosure certificate to the subject of the check only, rather than to the School. It is a condition of employment with the School that the original disclosure certificate is provided to the School within 2 weeks of it being received by the applicant. Original certificates should not be sent by post. A convenient time and date for bringing the certificate into the School should be arranged with the HR Department as soon as it has been received.

Employment will remain conditional upon the original certificate being provided and it being considered satisfactory by the School.

#### 5.3.4 *Starting Work Pending Receipt of the DBS Disclosure*

If there is a delay in receiving a DBS disclosure the Head or Chief Operating Officer has discretion to allow an individual to begin work pending receipt of the disclosure certificate. This will only be allowed if all other checks, including a clear check of the Children's Barred List (where the position amounts to "regulated activity"), have been completed and once appropriate supervision has been put in place.

### 5.3.5 *Applicants with Periods of Overseas Residence*

DBS checks will still be requested for applicants with recent periods of overseas residence and those with little or no previous residence. The School will take into account the "DBS unusual addresses guide" in such circumstances.

For applicants who are living overseas, or who have lived overseas previously, obtaining a DBS certificate may be insufficient to establish their suitability to work at the School. In such cases the applicant will be required to provide additional information about their suitability from the country (or countries) in which they have lived. The School's policy is to request such information from each overseas country in which the applicant has lived for a period of three months or more in the previous five years.

When requesting such information the School has regard to relevant government guidance and will therefore always require the applicant to apply for a formal check from the country in question i.e. a criminal records check (or equivalent) or a certificate of good conduct.

The School recognises that formal checks are not available from some countries, that they can be significantly delayed or that a response may not be provided. In such circumstances the School will seek to obtain further information from the country in question, such as a reference from any employment undertaken in that country.

In addition, where an applicant for a teaching position has worked as a teacher outside of the UK, the School will ask the applicant to obtain from the professional regulating authority of the teaching profession in each country in which they have worked as a teacher, evidence which confirms that they have not imposed any sanctions or restrictions on the applicant and that they are not aware of any reason why the applicant may be unsuitable to work as a teacher. The School will also ask shortlisted applicants (and their referees) to disclose whether they have ever been referred to, or are the subject of a sanction issued by, the regulator of the teaching profession in the countries in which they have carried out teaching work.

Sanctions and restrictions issued by the regulating authority of another country will not prevent a person from working as a teacher at the School. However, the School will take all relevant information into account in determining whether an applicant is suitable to work at the School.

The School may allow an applicant to commence work pending receipt of a formal check from a particular country if it has received a reference and/or letter of professional standing from that country and considers the applicant suitable to start work. Decisions on suitability will be based on all the information that has been obtained during the recruitment process. Unless expressly waived by the School, continued employment will remain conditional upon the School being provided with the outcome of the formal check and it being considered satisfactory.

If no information is available from a particular country the School may allow an applicant to commence work if they are considered suitable based on all the information that has been obtained during the recruitment process.

The School will take proportionate risk-based decisions on a person's suitability in these circumstances. All suitability assessments must be documented and retained on file

If the formal check is delayed and the School is not satisfied about the applicant's suitability in the absence of that information, the applicant's proposed start date may be delayed until the formal check is received.

#### **5.4 Prohibition from Teaching Check**

The School is required to check whether staff who carry out "teaching work" are prohibited from doing so. The School uses the Teaching Regulation Agency Teacher Services system to check whether successful applicants are the subject of a prohibition, or interim prohibition order, issued by a professional conduct panel on behalf of the Teaching Regulation Agency.

In addition, the School asks all shortlisted applicants to declare whether they have ever been referred to, or are the subject of a sanction, restriction or prohibition issued by, the Teaching Regulation Agency or other equivalent body in the UK.

Where an applicant is not currently prohibited from teaching but has been the subject of a referral to, or hearing before, the Teaching Regulation Agency (or other equivalent body), whether or not that resulted in the imposition of a sanction, or where a sanction has lapsed or been lifted, the School will consider whether the facts of the case render the applicant unsuitable to work at the School.

In doing so, the School applies the definition of "teaching work" set out in the Teachers' Disciplinary (England) Regulations 2012 which states that the following activities amount to "teaching work":

- Planning and preparing lessons and courses for Students
- Delivering lessons to Students
- Assessing the development, progress and attainment of Students and
- Reporting on the development, progress and attainment of Students.

The above activities do not amount to "teaching work" if they are supervised by a qualified teacher or other person nominated by the Head. If in any doubt or if the applicant has taught previously, or may teach in future, the check will be undertaken, including for sports coaches.

In addition, for all appointments made on or after 18 January 2016 where an applicant has carried out teaching work outside of the UK, the School will ask the applicant (and their referees) whether they have ever been referred to, or are the subject of a sanction issued by, a regulator of the teaching profession in the countries in which they have carried out teaching work.

#### **5.5 Prohibition from Management Check**

The School is required to check whether any applicant for a management position is subject to a direction under section 128 of the Education and Skills Act 2008 which prohibits, disqualifies or restricts them from being involved in the management of an independent school (a section 128 direction).

This check applies to appointments to the following positions made on or after 12 August 2015:

- The Head
- Teaching posts on the senior leadership team
- Teaching posts which carry a departmental head role
- Support staff posts on the senior leadership team
- Appointments to the governing body.
- The School will assess on a case by case basis whether the check should be carried out when appointments are made to teaching and support staff roles which carry additional responsibilities.

The relevant information is contained in the enhanced DBS disclosure certificate (which the School obtains for all posts at the School that amount to “regulated activity”). It can also be obtained through the Teaching Regulation Agency Teacher Services system. The School will use either, or both, methods to obtain this information.

In addition, the School asks all shortlisted applicants to declare whether they have ever been the subject of a referral to the Department for Education or are subject to a section 128 direction or any other sanction which prohibits, disqualifies or restricts them from being involved in the management of an independent school.

Where an applicant is not currently prohibited from management but has been the subject of a referral to, or hearing before, the Department for Education or other appropriate body, whether or not that resulted in the imposition of a section 128 direction or other sanction, or where a section 128 direction or other sanction has lapsed or been lifted, the School will consider whether the facts of the case render the applicant unsuitable to work at the School.

## **5.6 Disqualification from Acting as a Charity Trustee or Senior Manager**

### *5.6.1 Background*

Under the Charities Act 2011, it is a criminal offence for a person to act as a trustee or senior manager of a charity when disqualified from doing so. The Charities Act 2011 sets out the grounds on which a person can be disqualified from acting as a trustee or senior manager. These include various spent and unspent criminal offences and other sanctions.

### *5.6.2 Who is Covered?*

A person is considered to be a charity trustee if they are one of the people who have general control and management of the administration of the charity. In an independent school the trustees will typically be the governors of the school.

Senior managers include those employees who report directly to the charity trustees or have responsibility for the overall management and control of the charity's finances. At the School the disqualification rules will be applicable to all governors, the Head and other senior staff who report directly to the governors.

### *5.6.3 Self-Declaration*

All those who are covered by the disqualification rules are required to complete a self-declaration form to confirm whether, to the best of their knowledge, they are subject to any of the disqualification criteria.

A failure to disclose relevant information, or the provision of false information, which subsequently comes to the School's attention may result in the termination of an appointment as a governor or senior manager or the withdrawal of an offer of employment and may also amount to a criminal offence.

All those who are required to complete a self-declaration form are also under an ongoing duty to inform the School if there is a change in their circumstances that results or may result in them becoming disqualified from acting as a governor or senior manager.

#### 5.6.4 *Waiver*

A person who discloses that one or more of the disqualification criteria is applicable to them may apply to the Charity Commission for a waiver of the disqualification.

The School may at its absolute discretion withdraw an offer of employment for a senior manager or cease or terminate an appointment to the governing body if a waiver application becomes necessary or is rejected by the Charity Commission. The School is under no obligation to await the outcome of a Charity Commission waiver application before taking such action.

### **5.7 Childcare Disqualification**

The Childcare Act 2006 (Act) and the Childcare (Disqualification) Regulations 2009 (Regulations) state that it is an offence for the School to employ anyone in connection with the early years provision (EYP) or later years provision (LYP) who is disqualified, or for a disqualified person to be directly involved in the management of EYP or LYP.

#### 5.7.1 *Definitions*

- EYP includes usual school activities and any other supervised activity for a child up to 1 September after the child's fifth birthday, which takes place on the School premises during or outside of the normal School day
- LYP includes provision for children not in EYP and under the age of eight which takes place on School premises outside of the normal School day, including, for example breakfast clubs, after School clubs and holiday clubs. It does not include extended School hours for co-curricular activities such as sports activities
- DUCA states that only those individuals who are employed directly to provide childcare are covered by the Regulations. "Childcare" means any form of care for a child, which includes education and any other supervised activity for a child who is aged five or under. "Childcare" in LYP does not include education during School hours but does cover before and after school clubs.

#### 5.7.2 *Relevant Roles*

Roles which will be covered by the Regulations are teaching and teaching assistant positions in EYP, and those which involve the supervision of under 8s in LYP. Those who are directly involved in the management of EYP and LYP include the Head and may also include other members of the leadership team, as well as those involved in the day to day management of EYP or LYP at the School.

DUCA contains an express statement that cleaners, drivers, transport escorts, catering and office staff are not covered by the Regulations.

Some roles at the School may involve the provision of childcare in EYP or LYP on an occasional basis. They will not automatically be within the scope of the Regulations and the School will therefore consider whether they do on a case by case basis. The Regulations only apply to a limited number of roles within the School but do extend beyond employees to governors and volunteers who carry out relevant work in EYP or LYP.

### 5.7.3 *Grounds for Disqualification*

The grounds on which a person will be disqualified from working in connection with EYP or LYP are set out in the Regulations. They are not only that a person is barred from working with children (by inclusion on the Children's Barred List) but also include:

- Having been cautioned (after 6 April 2007) for, or convicted of, certain criminal offences including violent and sexual criminal offences against children and adults whether committed in the United Kingdom or overseas
- Various grounds relating to the care of children, including where an order is made in respect of a child under the person's care
- Having been refused registration for the provision of childcare (including nurseries, day care and childminding or other childcare), having been disqualified from any such registration or having had that registration cancelled
- Having been refused an application for registration of a children's home or having had any such registration cancelled
- Having been prohibited, restricted or disqualified from private fostering or
- Living in the same household as another person who is disqualified from EYP or LYP or living in a household where a disqualified person is employed (disqualification by association). A household is deemed to cover anyone sharing "living space", including the use of a shared kitchen.

### 5.7.4 *Self-Declaration Form*

All applicants to whom an offer of employment is made to carry out a relevant role in EYP or LYP will be required to complete a self-declaration form confirming whether they meet any of the criteria for disqualification under the Regulations.

The School will decide whether a role is relevant and within the scope of EYP or LYP by having regard to the guidance in DUCA. Employment with the School in any relevant role will be conditional upon completion of the self-declaration form and upon the applicant not being disqualified.

The School cannot permit any person who is currently disqualified to start work in a relevant role. The School also reserves the right at its absolute discretion to withdraw an offer of employment if, in the opinion of the School, any information disclosed in the self-declaration form renders that person unsuitable to work at the School.

Applicants who have any criminal records information to disclose about themselves, or anyone in their household, must also provide the following information:

- Details of the order, restriction, conviction or caution and the date that this was made
- The relevant court or body and the sentence, if any, which was imposed and
- A copy of the relevant order or conviction.

Applicants are not required to disclose a caution or conviction for an offence committed in the United Kingdom if it has been filtered in accordance with the DBS filtering rules (see above).

Applicants must not ask for information about spent convictions from any member of their household.

For the avoidance of doubt the School does not require applicants to request any criminal records information directly from the DBS. The School only requires applicants to provide relevant information about themselves "to the best of their knowledge".



### *5.7.5 Waiver of a Disqualification*

A person who discloses information which appears to disqualify them from working in a relevant role may apply to Ofsted for a waiver of the disqualification. The School may withdraw an offer of employment at its absolute discretion and is under no obligation to await the outcome of an Ofsted waiver application. If a waiver application is rejected, the School will withdraw the conditional offer of employment.

### *5.7.6 Retention of Disqualification Information*

The School will securely destroy any information which is provided by an applicant which is not relevant to the childcare disqualification requirements as soon as it is established that it is not relevant. Where a person appointed to a role at the School is found to be disqualified, the School will retain any relevant information only for the period it takes for a waiver application to be heard and the decision communicated to the School, after which it will be securely destroyed.

### *5.7.7 Continuing Duty to Disclose Change in Circumstances*

After making this declaration, staff in a relevant role are under an on-going duty to inform the School if their circumstances change in a way which would mean they subsequently meet any of the criteria for disqualification. Any failure to disclose relevant information now, or of a future change in circumstances, will be treated as a serious disciplinary matter and may lead to the withdrawal of a job offer or dismissal for gross misconduct.

## **5.8 Medical Fitness**

The School is legally required to verify the medical fitness of anyone appointed to a post at the School, after an offer of employment has been made but before the appointment can be confirmed.

It is the School's practice that all applicants to whom an offer of employment is made must complete a health questionnaire. The School will seek advice from the School's medical advisor if appropriate. If the School's medical advisor has any doubts about an applicant's fitness, the School will consider reasonable adjustments in consultation with the applicant. The School may also seek a further medical opinion from a specialist or request that the applicant undertakes a full medical assessment.

The School is aware of its duties under the Equality Act 2010. No job offer will be withdrawn without first consulting with the applicant, obtaining medical evidence, considering reasonable adjustments and suitable alternative employment.

## **6 Contractors and Agency Staff**

The School must complete the same checks for contractors and their employees undertaking "regulated activity" at the School as it does for its own employees. The School requires written confirmation from the contractor that it has completed these checks on all of those individuals

whom it intends will work at the School before any such individual can commence work at the School.

Agencies who supply staff to the School must also complete the pre-employment checks which the School would otherwise complete for its staff. Again, the School requires confirmation that these checks have been completed before an individual can commence work at the School.

The School will independently verify the identity of individuals supplied by contractors or an agency in accordance with the above and requires the provision of the DBS disclosure certificate before those individuals can commence work at the School.

## **7 Volunteers**

The School will request an enhanced DBS disclosure and Children's Barred List information on all volunteers undertaking "regulated activity" with Students at or on behalf of the School (the definition of "regulated activity" set out above will be applied to all volunteers).

The School will request an enhanced DBS disclosure without Children's Barred List information on all volunteers who do not undertake "regulated activity". This is likely to be because their volunteering duties are subject to regular, day-to-day supervision by a fully checked member of staff or by a volunteer who the School has deemed appropriate to supervise and ensure the safety of those Students in their care.

Under no circumstances will the School permit an unchecked volunteer to have unsupervised contact with Students. A DBS is only required for unsupervised activity, regulated or otherwise.

It is the School's policy that a new DBS certificate is required for volunteers who will engage in "regulated activity" but who have not been involved in any activities with the School for 3 consecutive months or more. Those volunteers who are likely to be involved in activities with the School on a regular basis may be required to sign up to the DBS update service as this permits the School to obtain up-to-date criminal records information without delay prior to each new activity in which a volunteer participates.

In addition, the School will seek to obtain such further suitability information about a volunteer as it considers appropriate in the circumstances. This may include (but is not limited to the following):

- Formal or informal information provided by staff, Parents, and other volunteers
- Character references from the volunteer's place of work or any other relevant source and
- An informal safer recruitment interview.

## **8 Visiting Speakers and the Prevent Duty**

The Prevent Duty Guidance requires the School to have clear protocols for ensuring that any visiting speakers, whether invited by staff or by Students, are suitable and appropriately supervised.

The School is not permitted to obtain a DBS disclosure or Children's Barred List information on any visiting speaker who does not engage in "regulated activity" at the School or perform any other regular duties for or on behalf of the School.

All visiting speakers will be subject to the School's usual visitors' protocol. This will include signing in and out at Reception, the wearing of a visitor's badge at all times and being escorted by a fully vetted member of staff between appointments.

The School will also obtain such formal or informal background information about a visiting speaker as is reasonable in the circumstances to decide whether to invite and/or permit a speaker to attend the School. In doing so, the School will always have regard to the Prevent Duty Guidance and the definition of "extremism" set out in KCSIE (September 2022) which states:

*"Extremism" is vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. We also include in our definition of extremism calls for the death of members of our armed forces, whether in this country or overseas. Terrorist groups very often draw on extremist ideas developed by extremist organisations."*

In fulfilling its Prevent Duty obligations, the School does not discriminate on the grounds of race, colour, nationality, ethnic or national origin, religion or religious belief, sex, or sexual orientation, marital or civil partner status, disability, or age.

## **9 Policy on Recruitment of Ex-Offenders**

### **9.1 Background**

The School will not unfairly discriminate against any applicant for employment on the basis of conviction or other details disclosed. The School makes appointment decisions on the basis of merit and ability. If an applicant has a criminal record, this will not automatically bar them from employment with the School. Each case will be decided on its merits in accordance with the objective assessment criteria set out below.

All positions within the School are exempt from the provisions of the Rehabilitation of Offenders Act 1974. All applicants must therefore declare all previous convictions and cautions, including those which would normally be considered "spent", except those received for an offence committed in the United Kingdom if it has been filtered in accordance with the DBS filtering rules (see above).

A failure to disclose a previous conviction (which should be declared) may lead to an application being rejected or, if the failure to disclose is discovered after employment has started, may lead to summary dismissal on the grounds of gross misconduct. A failure to disclose a previous conviction may also amount to a criminal offence.

It is unlawful for the School to employ anyone who is barred from working with children. It is a criminal offence for any person who is barred from working with children to apply for a position at the School. The School will make a report to the police and/or the DBS if:

- It receives an application from a barred person
- It is provided with false information in, or in support of, an applicant's application or

- It has serious concerns about an applicant's suitability to work with children.

## **9.2 Assessment Criteria**

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 and
- The circumstances surrounding the offence and the explanation(s) offered by the applicant.

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 or
- 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 driving within the last 10 years.

## **9.3 Assessment Procedure**

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 carry out a risk assessment by reference to the criteria set out above before a position is offered or confirmed.

If an applicant wishes to dispute any information contained in a disclosure, they may do so by contacting the DBS. In cases where the applicant would otherwise be offered a position were it not for the disputed information, the School may, where practicable and at its discretion, defer a final decision about the appointment until the applicant has had a reasonable opportunity to challenge the disclosure information.

## **9.4 Retention and Security of Disclosure Information**

The School's policy is to observe the guidance issued or supported by the DBS on the use of disclosure information.

## **10 Whistleblowing and Exit Interviews**

All staff are expected and encouraged to raise concerns they have, whether related to the safeguarding and welfare of Students, the conduct of staff or other matters, during the course of their employment in accordance with the School's policies (including the Whistleblowing Policy, the Safeguarding Policy and the Staff Code of Conduct). Safeguarding children is at the centre of the School's culture and is accordingly considered formally during staff performance development reviews and appraisals and finally at exit interviews which are held with all leavers.

## **11 Referrals to the DBS and Teaching Regulation Agency**

This policy is primarily concerned with the promotion and practice of safer recruitment. However, applicants should also be aware that the School has legal responsibilities to fulfil when employment comes to an end. In particular, the School has a legal duty to make a referral to the DBS where:

- An individual has applied for a position at the School despite being barred from working with children; and / or
- An individual has been removed by the School from working in regulated activity (whether paid or unpaid), or has resigned prior to being removed, because they have harmed, or pose a risk of harm, to a child.

The DBS will consider whether to impose sanctions on that individual which may restrict or prevent them from working with children in future.

In addition, if a teacher is dismissed because they are found to have committed serious misconduct, or they have breached the Teachers' Standards, or they resign prior to dismissal on such grounds, the School will make a referral to the Teaching Regulation Agency.

The Teaching Regulation Agency will consider whether to impose a prohibition from teaching order.

## **12 Queries**

If an applicant has any queries on how to complete the application form or any other matter, he/she should contact the Head of Human Resources.

## Appendix A

### List of valid identity documents

#### Group 1: primary identity documents

- current valid passport
- biometric residence permit (UK)
- current driving licence photocard - full or provisional (UK / Isle of Man and Channel Islands)
- birth certificate - issued within 12 months of birth (UK, Isle of Man and Channel Islands - including those issued by UK authorities overseas, such as Embassies, High Commissions and HM Forces)
- adoption certificate (UK and Channel Islands)

#### Group 2a: trusted government documents

- current driving licence: photocard - full or provisional (all countries outside the UK excluding Isle of Man and Channel Islands)
- current driving licence: paper version if issued before 1998 - full or provisional (UK / Isle of Man and Channel Islands)
- birth certificate - issued after time of birth (UK, Isle of Man and Channel Islands)
- marriage / civil partnership certificate (UK and Channel Islands)
- immigration document, visa or work permit (issued by a country outside the UK. Valid only for roles whereby the applicant is living and working outside of the UK. Visa / permit must relate to the non-UK country in which the role is based)
- HM Forces ID card (UK)
- fire arms licence (UK, Channel Islands and Isle of Man)

All driving licences must be valid.

## Appendix B

### Part 1 – Up to and including the shortlisting stage

The information we collect	How we collect the information	Why we collect the information	How we use and may share the information
<p><b>Your name and contact details (i.e. address, home and mobile phone numbers, email address)</b></p>	<p>From you</p>	<p>Legitimate interest: to carry out a fair recruitment process            Legitimate interest: to progress your application, arrange interviews and inform you of the outcome at all stages</p>	<p>To enable HR personnel or the manager of the relevant department to contact you to progress your application, arrange interviews and inform you of the outcome            To inform the relevant manager or department of your application</p>
<p><b>Information about you that is publicly available online through online searches</b></p>	<p>From standard online searches using a web browser, website, or social media platform.</p>	<p>Legitimate interest: to form part of the school's wider safeguarding due diligence.            Legitimate interest: to make an informed decision to shortlist for interview and (if relevant) to recruit.            To comply with our legal obligations including those contained in the statutory guidance for schools: <i>Keeping Children Safe in Education</i> (KCSIE).</p>	<p>To make an informed recruitment decision. [The member of staff carrying out the search, if not involved in the decision-making process, may share any relevant information related to suitability with the individuals who will be interviewing. This way the decision makers will only have the relevant information that may need to be addressed at interview and will not be exposed to other information).]            Search results will be reviewed and, if appropriate, explored with the applicant at interview.            To comply with legal/regulatory obligations. For further information, see * below</p>
<p><b>Details of your qualifications, experience, employment</b></p>	<p>From you, in the completed application form and</p>	<p>Legitimate interest: to carry out a fair</p>	<p>To make an informed recruitment decision [The person making the shortlisting decision will</p>

<b>history (including job titles, salary and working hours) and interests</b>	interview notes (if relevant)	recruitment process Legitimate interest: to make an informed decision to shortlist for interview and (if relevant) to recruit	receive pseudonymised or anonymised details only; if you are invited for interview, the interviewer will receive non-anonymised details] OR [Both the person making the shortlisting decision and, if you are invited for interview, the interviewer will receive these details.]
<b>Your name, contact details and details of your qualifications, experience, employment history and interests</b>	From you, in the completed application form and interview notes (if relevant)	Legitimate interest: to carry out a fair recruitment process Legitimate interest: if you are unsuccessful in your application, your details may be passed on to an associated School to see if they have any suitable vacancies	To see whether an associated School has any suitable vacancies
<b>Your racial or ethnic origin, sex and sexual orientation, religious or similar beliefs</b>	From you, in a completed anonymised equal opportunity monitoring form	To comply with our legal obligations and for reasons of substantial public interest (equality of opportunity or treatment)	To comply with our equal opportunities monitoring obligations and to follow our equality and other policies For further information, see * below
<b>Details of your referees</b>	From your completed application form	Legitimate interest: to carry out a fair recruitment process In the regulated sector, to comply with our legal obligations to request references	To carry out a fair recruitment process To comply with legal/regulatory obligations Information shared with relevant managers, HR personnel and the referee



**Part 2 – Before making a final decision to recruit**

<b>The information we collect</b>	<b>How we collect the information</b>	<b>Why we collect the information</b>	<b>How we use and may share the information</b>
<p><b>Information about your previous academic and/or employment history, including details of any conduct, grievance or performance issues, appraisals, time and attendance, from references obtained about you from previous employers and/or education providers <input type="checkbox"/></b></p>	<p>From your referees (details of whom you will have provided)</p>	<p>Legitimate interest: to make an informed decision to recruit To comply with our legal obligations Legitimate interests: to maintain employment records and to comply with legal, regulatory and governance obligations and good employment practice</p>	<p>To obtain the relevant reference about you To comply with legal/regulatory obligations Information shared with relevant managers and HR personnel</p>
<p><b>Information regarding your academic and professional qualifications <input type="checkbox"/></b></p>	<p>From you, from your education provider, from the relevant professional body</p>	<p>Legitimate interest: to verify the qualifications information provided by you</p>	<p>To make an informed recruitment decision</p>
<p><b>Information regarding your criminal record, in criminal records certificates (CRCs) and enhanced criminal records certificates (ECRCs) in accordance with the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended) <input type="checkbox"/></b></p>	<p>From the Disclosure and Barring Service (DBS)</p>	<p>To perform the employment contract To comply with our legal obligations Legitimate interest: For reasons of substantial public interest (preventing or detecting unlawful acts, and protecting the public against dishonesty)</p>	<p>To make an informed recruitment decision To carry out statutory checks Information shared with DBS and other regulatory authorities as required For further information, see * below</p>
<p><b>Your nationality and immigration status and information from related documents, such as your passport or other identification and</b></p>	<p>From you and, where necessary, the Home Office</p>	<p>To enter into/perform the employment contract To comply with our legal obligations</p>	<p>To carry out right to work checks Information may be shared with the Home Office</p>

<b>immigration information</b> <input type="checkbox"/>		Legitimate interest: to maintain employment records	
<b>[A copy of your driving licence <input type="checkbox"/></b>	[From you]	[To enter into/perform the employment contract] [To comply with our legal obligations] [To comply with the terms of our insurance]	[To make an informed recruitment decision] [To ensure that you have a clean driving licence] [Information may be shared with our insurer]

You are required (by law or in order to enter into your contract of employment) to provide the categories of information marked '☐' above to us to enable us to verify your right to work and suitability for the position.

\* Further details on how we handle sensitive personal information and information relating to criminal convictions and offences are set out in our Data Protection Policy and Staff Privacy Notice.