

# Recruitment of Applicants with a Criminal Record Policy

Frequency of Review	Every 1 year
Author	Judicium adopted/COO
Approved by	Trust Directors
Reviewed	Jan 2023
Date of Next Review	Feb 2024 (unless there is a material change)

## **Introduction**

This policy outlines the Propeller Academy Trust policy on asking questions about a prospective (or existing) member of staff's criminal record and carrying out Disclosure and Barring Service (DBS) checks. We comply with the provisions of the DBS Code of Practice, a copy of which is available on request.

This policy does not form part of any employee's terms and conditions of employment and is not intended to have contractual effect. It is provided for guidance to all members of staff at the Propeller Academy Trust who are required to familiarise themselves and comply with its contents, including volunteers, apprentices, agency workers, workers and employees. Prospective candidates will also have access to this policy. We reserve the right to amend its content at any time.

This policy sets out our commitment to comply with our obligations under the DBS Code of Practice, to treat prospective staff fairly and not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed.

## **Purpose and Scope of this Policy**

We welcome applications from a wide range of applicants. Having a criminal record will not necessarily prevent you from working with us. We will take into account the circumstances and background of any offence(s) and whether it or they are relevant to the position in question, balancing the rights and interests of the individual, our employees, pupils/parents, school community, third parties and the public.

We will treat all applicants, employees, staff and volunteers fairly but reserve the right to withdraw an offer of employment if you do not disclose relevant information, or if an Enhanced DBS check reveals information which we reasonably believe would make you unsuitable for the role.

We are committed to providing equality of opportunity to all and aim to select people for employment on the basis of their individual skills, abilities, experience, knowledge and, where appropriate, qualifications and training.

Certain criminal convictions as defined in the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975), prohibit those individuals from attempting to engage in regulated activity involving children. We therefore ask candidates about whether they have any criminal convictions that would prevent them from fulfilling the role. This is to ensure the candidate is suitable to work for us. We are also required to carry out a DBS check in order to determine your suitability for the role.

The safeguarding of children and vulnerable adults is of paramount importance to us and consideration of any previous conviction or adult caution (except those which are "protected" as defined in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 and amended in 2020) is an essential and non-negotiable part of the pre-employment check process.

We will, however, consider any person with a criminal record for employment on a case-by-case basis.

## **Rehabilitation of Offenders Disclosure**

In view of the fact that all positions within the Propeller Academy Trust will amount to "regulated positions", all applicants for employment must declare all previous convictions and adult cautions (except those which are "protected" as defined in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 and amended in 2020).

We therefore ask shortlisted job applicants to disclose any cautions or convictions but will not ask job applicants questions about criminal history that would be filtered or protected, nor expect them to disclose any protected convictions.

We will not unfairly discriminate against any applicant for employment on the basis of conviction or other details revealed. We make appointment decisions on the basis of merit and ability. If an applicant has a criminal record this will not automatically debar them from employment within the Propeller Academy Trust. Instead, each case will be decided on its merits in accordance with the objective assessment criteria.

A failure to disclose a previous conviction or adult caution may lead to an application being rejected, an offer of employment being withdrawn or, if the failure 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.

Under the relevant legislation, it is unlawful for us to employ anyone who is included on the lists, maintained by the DfE and the Department of Health, of individuals who are considered unsuitable to work with children. In addition, it will also be unlawful for us to employ anyone who is the subject of a disqualifying order made on being convicted or charged with the following offences against children: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence.

It is a criminal offence for any person who is disqualified from working with children to attempt to apply for a position within the Propeller Academy Trust. If we:

- receive an application from a disqualified person;
- are provided with false information in, or in support of, an applicant's application; or
- have serious concerns about an applicant's suitability to work with children,

we will report the matter to the Police, DBS and/or the DfE.

## **Recruitment of Applicants with a Criminal Record**

Once we have chosen a successful candidate, we will make a conditional offer of employment; whereby receipt of a satisfactory Enhanced DBS check, (including the Children's Barred List and the Adults' Barred List where applicable to the role) will be required.

Where the individual is a member of the DBS update service in the relevant workforce and at the required level, we will, with the individual's permission, carry out a status check on any current certificate.

## **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, we will ensure an open and fair discussion takes place and considers the following factors before reaching a final 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 convicted person.

If the post involves regular contact with children, it is our normal policy to consider it high risk to employ anyone who has been convicted at any time of any the following offences against:

- adults: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence;
- children or adults: serious class A drug-related offences, robbery, burglary, theft, deception or fraud.

If the post involves access to money or budget responsibility, it is our 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 our normal policy to consider it a high risk to employ anyone who has been convicted of drink driving within the last 10 years.

## **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, we will carry out a risk assessment by reference to the criteria set out above. The assessment form must be signed by the Headteacher before a position is offered.

If an applicant wishes to dispute any information contained in a Disclosure, they can do so by contacting the DBS directly. In cases where the applicant would otherwise be offered a position were it not for the disputed information, we will, where practicable, defer a final decision about the appointment until the applicant has had a reasonable opportunity to challenge the Disclosure information.

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

We are committed to ensuring that all information provided about an individual's criminal record, including any information released in disclosures, is used fairly, and stored and handled

appropriately and in accordance with the provisions of relevant data protection legislation. Data held on file about an individual's criminal convictions will be held only as long as it is required for employment and/or safeguarding purposes and will not be disclosed to any unauthorised person.

Our policy is to observe the guidance issued or supported by the DBS on the use of disclosure information. In particular, we will:

- store disclosure information and other confidential documents issued by the DBS in locked, non-portable storage containers, access to which will be restricted to members of the Senior Leadership Team and the HR team;
- not retain disclosure information or any associated correspondence for longer than is necessary. In most cases, we will not retain such information for longer than 6 months although we will keep a record of the date of a disclosure, the name of the subject, the type of disclosure, the position in question, the unique number issued by the DBS and the recruitment decision taken;
- ensure that any disclosure information is destroyed by suitably secure means such as shredding; and
- prohibit the photocopying or scanning of any disclosure information.

### Risk Assessment – Positive DBS Disclosure

This form should be completed, in addition to any generic risk assessments that might be used, to assess the risks associated with employing an individual based on the disclosure made and the role offered, taking into account the particular **duties** undertaken, the **locations** of those duties, and the **individuals** involved – add extra sheets if necessary.

<b>Employee name</b>	
<b>Manager</b>	
<b>Date</b>	
<b>Job title</b>	
<b>Date to be reviewed</b>	

<b>Questions to consider:</b>	<b>Comments/Assessment:</b>	<b>Control Measures taken to prevent risks:</b>
	Provide further information and full details in order to assess any risks.	i.e. This must provide full details of how the school is putting the appropriate measures in place to ensure the employee is not working directly with children.
<b>Nature/Seriousness of the offence/disclosure:</b>  i.e. What is the nature of the offence/disclosure that has been disclosed on the individuals DBS, and how serious do you consider it to be?		
<b>Nature of the role being undertaken in relation to the nature of the offence/disclosure:</b>		

<p>i.e. What duties / job role is the individual being employed to undertake?</p>		
<p><b>How long ago did the offence/disclosure occur?</b></p> <p>i.e. was it a significant time ago or more recently?</p>		
<p><b>Location of duties</b></p> <p>i.e. in what part of the school is this individual going to be carrying out their duties?</p>		
<p><b>What were the circumstances of the offence/disclosure and are you satisfied with the individual's explanation of the circumstances of the offence/disclosure:</b></p> <p>i.e. All positive disclosures should be discussed directly with the individual to ascertain any further information on the offence/disclosure.</p>		
<p><b>Has the individual accepted responsibility for their action?</b></p> <p>i.e. were they honest and upfront about this disclosure? Have they accepted responsibility for it?</p>		
<p><b>Does the disclosure show a pattern of behaviour, or does the offence/incident appear to be a one-off:</b></p> <p>i.e. Assess the risk of whether the individual may repeat a similar</p>		

offence/incident or whether they have had any change in their behaviour since the offence/incident.		
<b>Is the caution/conviction/reprimand or warning “protected” as defined in the Rehabilitation of Offenders Act 1974?</b>		
<b>Does the post allow the opportunity for the individual to re-offend:</b>  i.e. consider the nature of the post in relation to the disclosed offence(s)/incident.		
<b>Does the post involve responsibility for high risk areas:</b>  i.e. consider the level of responsibility in relation to the disclosed offence(s)/incident.		
<b>Where the role is a teaching post, does the incident impact on the Teacher’s Standards or teacher misconduct guidance?</b>		
<b>What factors might decrease or increase the risks:</b>  i.e. consider supervisory, location options.		

<b>Further Comments/Overall Summary of assessment</b>	
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Continue to employ without adjustments



<b>Decision based on risks identified against the role applied for (please tick):</b>	Continue to employ with adjustments	
	Do not continue to employ	
	Allocate to other job role / area of work	

**Further actions may be required based on any risks identified above, such as:**

- The individual may be restricted in the activity they are able to undertake for a period of time set by the Headteacher e.g. mentoring, supervision or limitation of responsibilities.
- The individual may be restricted in the role that they are able to work in
- The individual may require regular supervisors to provide support
- A relevant date may be set for a review of the risk assessment, ensuring that any measures put in place to mitigate the risk are implemented.

<b>Risk assessment carried out by</b>	
<b>Job title</b>	
<b>Signature</b>	
<b>Date</b>	

<b>Risk assessment approved out by</b>	
<b>Job title</b>	
<b>Signature</b>	
<b>Date</b>	