



# RECRUITMENT POLICY AND PROCEDURE

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## 1. Policy Statement

- 1.1 Appropriate processes require not only to be robust but also to be applied in a consistent manner to ensure the safest levels of staff recruitment. Accordingly, this policy is designed to develop and maintain an underlying culture of safeguarding awareness by observing best practice in relation to risk assessment and strategic management throughout.



- 1.2 The policy is designed to ensure that the best possible staff are recruited on the basis of their individual merits, abilities and suitability for the available advertised position, and to ensure that all individuals are given equal opportunity to apply for positions within the trust with all applications being considered equitably and consistently.

## **2. Scope**

- 2.1 The purpose of this policy is to ensure that SHARE MAT follows a robust, rigorous and fair process when recruiting and vetting staff, which minimises the risk of appointing people who may pose a risk or harm to children. Safer recruitment is one strand of safeguarding and promoting the welfare of children by keeping them safe in education settings (KCSIE).
- 2.2 Safer recruitment procedures are followed in line with best practice to identify people who may be unsuitable to work with children, and additionally those who come into regular contact with pupils. This includes individuals such as volunteers, contractors (and their employees) and supply staff.
- 2.3 This policy is designed to promote consistency, transparency, compliance, and adherence. It is important that all staff have appropriate training, induction, and appraisal so that they understand their roles and responsibilities and are confident about carrying them out.

These procedures apply to all employees (and potential employees) of the trust.

## **3. Planning the Recruitment Process**

- 3.1 A vacancy is an opportunity for SHARE MAT to identify the needs of the required service and redefine a post to ensure that these needs can be met more efficiently and effectively. When filling a vacancy, the headteacher/principal will take account of current needs, staffing structure and budget available before recruiting to fill a gap left by a departing employee.

It is important that sufficient time is allowed to plan for recruitment. Relevant elements include drawing up the role profile, drafting the advertisement, planning the recruitment day and ensure that all staff involved in the recruitment process are fully aware of their responsibilities.

- 3.2 Leaders must also give reasonable consideration to making changes to physical conditions, training or support which would advance equality of opportunity under the Public Sector Equality Duty.

## **4. Role Profile (which includes a person specification)**

- 4.1 A role profile will be provided in any recruitment and selection process. These are key documents and must therefore be used as an integral part of the recruitment process.
- 4.2 The role profile must be clear and reasonably concise and should be a fair representation of the post.



- 4.3 The role profile describes the standards, attributes and requirements accurately and identifies between the necessary (essential) requirements and those which are desirable for the required role.
- 4.4 The role profile should be reviewed regularly to ensure that the duties as detailed continue to reflect, in an accurate manner, the practical nature of the role.
- 4.5 The role profile will include a statement of responsibility and requirements for safeguarding and can act as a guide to induction and training in addition to enabling prospective applicants to assess their suitability for the role.

## **5. Selection Panel**

- 5.1 In line with safeguarding requirements, it is mandatory that at least one member of every recruitment panel has undergone appropriate training in safer recruitment.
- 5.2 The selection panel has a responsibility to appoint the person who best matches the role profile.
- 5.3 The panel must also ensure that all relevant employment legislation and trust policies are followed and that the selection process is managed in an equitable manner. Each panel will have a chair acting as an 'appointing officer' who is normally the person responsible for the management of the process as a whole.
- 5.4 The selection panel should normally consist of at least two managers (or senior postholders) who have the authority to make appointment decisions, please refer to the trusts' Scheme of Delegation. Senior leadership team posts must be recruited in accordance with the Scheme of Delegation.
- 5.5 Where a candidate is known personally to a member of the selection panel, it will be declared before shortlisting takes place. It may then be necessary to change the selection panel to ensure that there is no conflict of interest and that equal opportunities principles are adhered to.

## **6. Advertisement**

- 6.1 Any advertisement needs to be designed and presented effectively to ensure the right candidates are attracted. Advertisements must be tailored to the level of the target audience and should always be clearly worded and easily understood.
- 6.2 In terms of a genuine occupational requirement (GOR), it is permissible to advertise for a person of a particular age, gender, race, religion etc. provided the employer can demonstrate there is a specific requirement and that the action is proportionate to the aim, in other words that this cannot reasonably be achieved by any other means.
- 6.3 The trust's equal opportunities statement must be included in the advert, this is "*SHARE MAT is committed to safeguarding and promoting the welfare of children and young people and expects staff and volunteers to share this commitment*".
- 6.4 It is good practice to advertise all vacancies externally to avoid any potential claim of discrimination – however, where there is a reduction in the workforce or operational reason, posts will be recruited from existing staff.



## **7. Application Form**

- 7.1 An application form will always be used to ensure that a common set of core data is obtained from all candidates. CVs will not be accepted for safeguarding reasons.
- 7.2 In accordance with data protection legislation (most pertinently GDPR) any requests for personal information must be confined to elements which can be justified as necessary for the process of recruitment, or, in relation to the successful candidate only, necessary for contractual purposes of employment. In this regard the application form may reference the trust's privacy notice, and signpost where this can be found.
- 7.3 The recruitment information should always make reference to the employer's protocols in relation to employment of individuals with a previous criminal record.
- 7.4 The trust will request all applicants to complete a safeguarding declaration appropriate to the specific post being advertised.
- 7.5 Applicants must provide a minimum of two references, one of which should always be from the applicant's current (or last) employer (and must be from the headteacher if the last or current employer is a school).
- 7.6 Disabled candidates are allowed to submit applications in other formats from the standard application form.
- 7.7 A full education and work history must be obtained and any gaps must be investigated.
- 7.8 The trust will reference the requirement for Disclosure and Barring Service (DBS) checks for relevant roles and will, if necessary, clarify the trust's policy on employing people with a criminal record.
- 7.9 DBS guidance states that employers should conduct a case-by-case analysis of any convictions and cautions disclosed and consider how, if at all, they are relevant to the position sought. It also states that it would be advisable for the employer to keep records of the reasons for any employment decision, and in particular rejections, including whether any convictions or cautions were taken into account and, if so, why.

## **8. Demographic Monitoring**

- 8.1 The Equality Act 2010 makes it unlawful for employers to discriminate against job applicants as well as existing workers because of a protected characteristic.
- 8.2 The appointment panel should then proceed with shortlisting by reference to anonymised applications only.
- 8.3 The completed summary sheet in anonymised format should be kept within the recruitment file but all identifiable data relating to the unsuccessful candidates should be retained securely until disposed of.

## **9. Shortlisting**

- 9.1 The shortlist should be drawn up as soon as possible after the closing date and to



ensure fairness the process of shortlisting should involve an absolute minimum of two members of the recruitment panel.

- 9.2 All shortlisted candidates should be made aware that they may be subject to an online check and that if anything of concern emerges from this, they will be asked to comment on it at interview.
- 9.3 The use of a matrix system for short-listing will assist recruiters to be objective and systematic when short-listing for vacant posts.
- 9.4 Selectors should only ever shortlist candidates who fully meet the essential person specification requirements and, from the application form at least, appear to be appointable.
- 9.5 Candidates indicating that they have a disability on the application form, providing that they meet the essential criteria on the person specification, will be included on a shortlist.

## **10. Rejecting Candidates**

- 10.1 All candidates not short-listed will be told in writing that they are unsuccessful and from whom they may obtain feedback from.

## **11. References**

- 11.1 The purpose of seeking references is to obtain objective and factual information to support appointment decisions and provide assurances in terms of safeguarding. In line with Keeping Children Safe in Education statutory guidance, references will be sought on all short-listed candidates, including internal ones, before interview, in order that any issues of concern can be explored further with the referee, and taken up with the candidate at interview.
- 11.2 The application form requests two references, one of which must be from the candidate's current or most recent employer and from the headteacher if the current or most recent employer is a school. Character references may be acceptable in the absence of suitable employment history but neither referee should be a relative or someone known to the applicant solely as a friend.
- 11.3 The application form reserves the right of the prospective employer to approach any of the candidate's previous employers, and if the candidate has previously worked with children but their current or most recent employment does not, or did not involve work with children, then one reference should be from the employer with whom the applicant most recently worked with children.
- 11.4 References will be sought directly in writing from the named referee. The trust does not accept references or testimonials provided by the candidate, or on open references and testimonials, i.e. to whom it may concern.
- 11.5 If an employer says it is not their policy to provide references, the applicant will be asked to nominate another referee.
- 11.6 Offers of employment will not be made until satisfactory references have been received.



11.7 For more senior appointments, a verbal reference may also be requested.

## **12. Selection Methods**

12.1 The role and function of the chair of the selection process is absolutely crucial to its effective management.

12.2 The interview is the most commonly used method of assessing candidates for appointment but there may be some aspects of the job requirements which cannot be tested in interview and for which different forms of assessment are necessary, e.g. presentations, practical activities, specific skills exercises.

12.3 Schools will inform candidates of an interview opportunity and provide an outline of the process that they will be expected to undertake in advance. Candidates are advised in any invitation to interview to contact the school with details of any adjustments they may require to enable them to attend the interview or the selection process.

12.4 Each individual will be assessed according to his/her capability to carry out the particular role.

12.5 Questions will focus on the specific job and on the requirements set out in the role profile. Question(s) relating to safeguarding and child protection appropriate to the post level and type will be included in every interview.

## **13. Decision Making**

13.1 Relevant and objective selection criteria will be used, and information accurately recorded from which it should be clear how the final decision was reached.

13.2 The final decision will be based on the role profile, using agreed criteria and defining the standards required to perform the job. Each candidate will be measured against these benchmark requirements.

13.3 Selectors will ensure they have sound and accountable reasons why all candidates were not selected at any stage and must consider all the evidence they have collected. The selection panel should unanimously agree their final selection and formally record this.

13.4 All selection assessment records should be handed to the chair of the panel.

## **14. Fixed Term Appointments**

14.1 Selectors must apply the same high standards of selection to temporary appointments. There must be an assessment made against the role profile and a full selection process should take place.

14.2 Selectors must be sure that any existing temporary member of staff is the best person available to fill the job and should take into account legitimate aspirations of other employees and those needing to be redeployed.

14.3 This includes fixed term, temporary appointments, secondment and acting up.



- 14.4 The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations contains certain provisions in relation to temporary employment of individuals. A 'fixed term contract' means a contract of employment that has an end date.
- 14.5 Under the regulations an employer must not treat fixed-term employees less favourably than permanent employees doing the same, or largely the same job unless there is good reason to do so.
- 14.6 Appointments of casual and agency staff will include some form of assessment in order to determine suitability for the post. The equality aspects of any such arrangement must be very carefully monitored.

## **15. Confidentiality**

- 15.1 Information obtained within the whole selection process will be treated as confidential. Comments relating to specific candidates' performance will not be revealed outside the process except, of course, personal feedback to individual candidates.

## **16. Record Keeping**

- 16.1 Relevant information relating to candidates who have not been appointed should therefore be kept on record in the short term although this should always be in accordance with data protection legislation and the trust's relevant policies and procedures, to offer security (as outlined above) in the event of subsequent legal challenge.
- 16.2 Such information may also legitimately be retained and referred to in the event of the initial chosen candidate's appointment falling through, or a similar position within the trust becoming available in the near future, as it may be considered acceptable, within a matter of a few weeks or months, to offer such a position to a candidate who has narrowly missed out on being appointed.
- 16.3 Notwithstanding the above, in normal circumstances any identifiable data relating to unsuccessful candidates should be deleted after a period of no longer than six months, although information relating to a successful candidate will of course be retained within their individual personnel file, subject to appropriate justification under GDPR, for the duration of their employment.

## **17. Pre-employment Checks**

- 17.1 **Vetting - Enhanced DBS Checks (including Barred List check if in Regulated Activity)**

Enhanced update service checks or enhanced DBS disclosures are required for staff and volunteers who are employed by the trust.
- 17.2 Online DBS applications should be completed by all successful applicants who require a DBS check. Where the successful applicant is registered appropriately with the update service, consent to check the status will be obtained before proceeding.



- 17.3 The trust will recheck the DBS and Barred List status of successful internal applicants who secure a new role now involving regulated activity where this has not previously been the case.
- 17.4 The trust will ask staff to conduct an annual self-declaration.
- 17.5 Newly appointed staff that have lived outside the United Kingdom must undergo the same checks as all other staff in the trust. This includes a DBS Disclosure. If the trust recruits an individual from overseas, or an individual who has lived abroad in recent years prior to appointment, and needs to check their overseas criminal record, a DBS check may not provide a complete picture of the criminal record. The applicant must contact the relevant Embassy to obtain a disclosure.
- 17.6 **Volunteers – DBS requirements**
- A similar recruitment process will be used for volunteers, as for employees, including pre-employment checks. Volunteers will be subject to an enhanced DBS check.
- 17.7 **Supply teachers**
- A DBS check is required for all supply teachers who are engaged directly by the trust and those working via an agency.
- 17.8 Schools who engage supply teachers directly are responsible for undertaking all of the required pre-employment checks including the enhanced DBS check. Where a supply teacher does not supply work for three months or more, all pre-employment checks will be completed again.
- 17.9 Before taking on a member of supply staff provided by a supply agency, the school must obtain written confirmation from the agency that all necessary pre-employment checks have been carried out and are satisfactory.
- 17.10 The individual must not undertake any unsupervised work until a satisfactory DBS disclosure has been received.
- 17.11 **Contractors/agencies**
- Schools will ensure that contractors or agencies providing temporary staff and all those providing services to the school have clear vetting procedures and that evidence is provided that appropriate checks have been undertaken and are satisfactory in advance of any contractor / agency worker commencing work. Such procedures should include overseas checks for each country where a worker has lived in. Where possible these procedures should be specifically written into a service level agreement or contract by the trust.
- 17.12 All Governors/Board of Directors, in any type of school-maintained, independent, academy or free school, must have an enhanced DBS certificate.
- 17.13 **Commencement of employment prior to DBS check**
- Electronic completion of DBS checks and the DBS update service means it is very unlikely that a school will need an employee to start work before it has received the outcome of the check. In rare cases where a DBS check is required and an application has been submitted but is delayed or outstanding, the individual may be allowed to work in the school subject to the CEO's discretion and the following requirements:



- The headteacher has conducted a risk assessment and does not have any concerns regarding a person's background.
- The risk assessment includes reviewing the individual's employment history and reasons for any broken work history or career changes and checking all references have been received, are satisfactory and have been checked against the work history records. Advice on carrying out a risk assessment can be sought from HR.
- All other pre-employment checks have been completed.
- The individual is fully supervised until DBS clearance has been received.

17.14 If the headteacher has any doubts regarding a person's background, such as broken service, then the risk must be addressed. For example, arrangements may be made for the member of staff to undertake alternative work or to refrain from starting work.

17.15 Supervision requires the headteacher to ensure that individuals are not allocated duties that put them in an unsupervised situation with pupils, that they are accompanied when working by a member of staff with DBS clearance, that their whereabouts are known to a senior member of staff when they are not working (e.g. during break times), and that the individual fully understands their personal responsibility not to put themselves in a situation where they are alone with pupils and what to do if this situation arises.

17.16 A written record should be made and retained when a headteacher decides it is appropriate to allow an individual to work where a DBS check has been requested but remains outstanding (following a risk assessment by the headteacher).

#### 17.17 **Positive Disclosures**

A positive disclosure from the Disclosure and Barring Service will indicate that the employee's disclosure and barring check is not clear. The DBS will provide the candidate with details of the convictions, reprimands and warnings, however the school will not be provided with this information. The candidate will be asked to share details of the reasons as to why their disclosure is not clear and to provide their disclosure certificate. If the employee is not prepared to explain details of their convictions, reprimands and/or warnings and are not prepared to provide a copy of their disclosure then the likely outcome is that the trust will not employ the candidate.

17.18 Before a decision is reached on whether to offer or confirm employment to an individual, the individual will be offered the opportunity to discuss the contents of the disclosure with the headteacher. A balanced decision to appoint will be based on:

- Whether they are barred from appointment.
- Whether the conviction is relevant to the position.
- The circumstances surrounding the offence, and any explanations provided by the applicant, including any mitigating circumstances e.g. peer pressure, financial circumstances, lack of judgement.
- The seriousness of the offence.
- The length of time since the offence occurred.
- Whether there is a pattern to the offending behaviour, or whether it was a one-off.
- Whether the applicant's circumstances have changed e.g. location, friends, partner, education.
- The candidate's attitude to the conviction, does the individual regret the matter(s).

17.19 Further discussion will take place regarding:



- Whether the applicant disclosed the conviction(s)/cautions, warnings or reprimands at application or at interview stage.
- What level of supervision will the post-holder receive?
- Whether the post involves responsibility for finance or items of value.
- Whether the nature of the role allows the applicant to potentially re-offend.

17.20 The CEO will make the overall decision about whether or not to employ the person. Disclosures which raise child protection issues must be discussed with the school's designated safeguarding lead. Where a decision to appoint is taken the information will be recorded and stored on the person's file.

17.21 If an applicant has made a false declaration on the application form, or anywhere else, about convictions and cautions, or lack of them, this may render the offer of a contract of employment void.

17.22 It is an offence for a person who is on the barred list to apply for a role working with children.

17.23 It is an offence for an employer to employ a person who is on the barred list.

#### 17.24 **Single Central Record of Recruitment Vetting Checks**

It is important that such a record is kept and maintained. A school is expected to have a record of:

- All staff employed to work at the school.
- Staff employed as supply whether employed directly or through an agency.
- Other staff who work in regular contact with children such as volunteers or specialist instructors (including school employees).
- School Governor and Board of Directors.

The record should show whether or not the following checks have taken place:

- Identity checks.
- Qualification checks for any qualifications legally required for the job e.g. those posts where a person must have QTS or NPQH.
- Additionally, for those applying for teaching posts, registration with the Teaching Agency where appropriate.
- Checks of right to work in the United Kingdom.
- Checks on information held under the Children's Barred List.
- DBS enhanced check and number.
- Further overseas records checks where appropriate.
- Qualified teacher, unqualified teacher, HLTA prohibition checks.
- S128 prohibition checks for management / proprietors / trustees / governors.

17.25 For applicants that have lived or worked outside of the UK, schools must make any further checks they think appropriate so that relevant events that occurred outside the UK can be considered, including obtaining an enhanced DBS certificate with barred list information even if the teacher has never been to the UK.

17.26 Teachers may be able to provide proof of their past conduct as a teacher, issued by the professional regulating authority in the country in which they worked. Where available, such evidence can be considered alongside other information obtained through other pre-appointment checks to help assess their suitability.



17.27 The record must show the date on which each check was completed, or the relevant certificate obtained. It should also show who carried out the check.

#### 17.28 **Criminal Convictions**

Under the Rehabilitation of Offenders Act 1974 (as amended in 2013 & 2020), shortlisted applicants should be asked to provide any information about unspent convictions, cautions or bind-overs and relevant criminal offences that would not be filtered in a separate disclosure form to be submitted before interview date:

- The panel should be made aware of relevant disclosed criminal history in order to discuss this with the candidate at interview.
- Applicants should be given the opportunity to seek legal advice and / or impartial advice from Nacro or Unlock before answering any questions about their criminal history.

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

17.29 All information in relation to previous convictions given by applicants must be treated in the strictest confidence. However, the applicant has a right to be informed of the contents of a police report.

17.30 Candidates should be aware that failure to disclose eligible previous offences or pending legal action for posts which are exempt from the Rehabilitation of Offenders Act could lead to the offer of employment being withdrawn or dismissal if the successful candidate has already commenced employment in post.

### 18. **Health Checks**

18.1 Anyone appointed to a post involving regular contact with children or young people must be medically fit (Education (Health Standards) (England) Regulations 2003).

18.2 Schools are statutorily responsible for satisfying themselves that potential appointees have the appropriate level of physical and mental fitness, and accordingly a declaration of health should be completed by the prospective employee.

18.3 This declaration should be scrutinised by an appropriate individual or agency before an appointment offer is confirmed and advice from occupational health (OH) may be indicated in the event of any doubt arising as to an individual's fitness for the role in question.

#### 18.4 **Notification of Results of Selection Process**

Shortlisted candidates will be informed as quickly as possible about the outcome of the selection process and options concerning salary and terms for the successful candidates(s) confirmed.

Please note that differential terms must be justifiable and any negotiations within normal parameters. The trust will ensure where different terms and conditions e.g. salary point are justified, these are documented where more than one candidate is appointed.

#### 18.5 **Feedback to Candidates**



All shortlisted candidates will be informed of the outcome of their interview and feedback given to any candidates requesting it. Feedback will be honest, constructive and thorough in relation to their application.

To ensure consistency, one member of the interview panel will be designated to give such feedback or, alternatively, the interview panel must reconvene to meet the candidate(s) concerned.

## 19. Contract of Employment

19.1 The Employment Rights Act 1996 requires employers to provide employees with a written statement of the main terms and conditions of employment.

19.2 All employers should be aware that under The Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 and The Employment Rights (Miscellaneous Amendments) Regulations 2019, all workers (the definition of worker is broader than that of employee) are entitled to be provided with specified contract documentation from the first day of their employment.

The contract, either incorporating or accompanied by a statement of particulars, should include the following elements:

- employer's name
- employee's name
- date employment commenced (and date continuous service commenced, if earlier)
- whether the contract is permanent, fixed term (to a specified date), or temporary (to a specified circumstance, such as provision of maternity cover), or (*as and when applicable*) still dependent on certain conditions other than satisfactory completion of a probationary period being met
- job title
- place of work
- remuneration, specifying scale or rate of pay or the method of calculating this and additionally specifying any additional benefits in kind
- method and frequency of payment
- hours and days of work and whether these are likely to vary in future
- details of any probationary period
- terms and conditions, including holiday and sickness absence entitlement and pay
- details of any compulsory training and whether this will be paid for by the employer
- details of notice periods both to and from the employer, including, if applicable, any different notice period within the probationary period
- details of eligibility for statutory paid leave\* (such as maternity/paternity etc).

\* *This can be provided by means of signposting to another document with detailed information such as a policy statement.*

19.3 Additional information, as detailed in the following clause, is required either to be included in the initial contract or statement of particulars supplied at commencement of employment or to be provided to the employee no later than two months after the start of employment.



19.4 Such information, which can be provided either in a supplementary statement of particulars or by means of signposting to another document with detailed information, such as a policy statement, includes details of:

- pension arrangements
- any collective agreements
- any additional training which may be conditional on specified eligibility requirements
- disciplinary process which should include reference to an appeal mechanism
- grievance process which should include reference to an appeal mechanism.

19.5 Either the contract itself, or an accompanying statement of particulars, should also make appropriate reference to the academy's privacy notice, detailing the relevant justification for processing of identifiable data relating to the employee and clarify where this is to be found.

## **20. Equality and Diversity Statement**

20.1 We are committed to ensuring equality of opportunity in all aspects of recruitment and selection. We welcome applications from individuals of all backgrounds and ensure that no applicant is treated less favourably on the basis of age, disability, gender identity, marital or civil partnership status, pregnancy or maternity, race, religion or belief, sex, or sexual orientation.

20.2 Recruitment decisions are made strictly on merit, based on skills, experience, qualifications and suitability for working with children and young people. Our processes are designed to be fair, transparent and free from bias. We take steps to ensure our recruitment practices are inclusive and accessible, including making reasonable adjustments for candidates with disabilities or additional needs.

20.3 We actively seek to build a workforce that reflects the diversity of our pupil population and wider community. We encourage applications from underrepresented groups, particularly those who may bring different perspectives and experiences to our school.

## **21. Probation Periods**

21.1 Applicants will be informed that the post is subject to a probationary period (where relevant). See the Support Staff Pay Policy and Procedure on probationary periods.

## **22. Induction**

22.1 A systematic induction program will be prepared to help the new employee adjust to their new social and working environment and to become effective in their role as soon as possible.

## **23. Linked Policies**

This policy is supported by the following SHARE MAT policies and procedures:

- GDPR Policy & Procedure
- People & Inclusion Policy & Procedure



## 24. Schedule of Amendment

Version No	Amendment
1.0	A new version introducing clearer operational sections, incorporating the latest statutory guidance and having greater emphasis on safeguarding and compliance.



## Appendix 1

### Checks in relation to the right to work in the United Kingdom

All employers in the UK have a responsibility to prevent illegal working. You do this by conducting simple right to work checks before you employ someone, to make sure the individual is not disqualified from carrying out the work in question by reason of their immigration status.

The Home Office document '[Employer's guide to right to work checks](#)' (12 February 2025), available online, advises an employer how to conduct a right to work check and sets out the specific actions that can be taken to prevent liability for having to pay a civil penalty for employing a person who is not permitted to do the work in question (this is called 'establishing a statutory excuse against liability for a penalty').

If you are found to be employing someone illegally and you have not carried out the prescribed checks, you may face sanctions including a civil penalty of up to £20,000 per illegal worker or a criminal conviction carrying a prison sentence of up to five years and an unlimited fine.

#### How to conduct a right to work check

You must conduct a right to work check before you employ a person to ensure they are legally allowed to do the work in question for you. If an individual's right to work is time-limited, you should conduct a follow-up check shortly before it is due to come to an end.

You may face a civil penalty if you do not carry out a check on someone you have assumed has the right to work for you but is found to be an illegal worker. However, you should provide every opportunity to enable an individual to prove their right to work.

To ensure that you do not discriminate against anyone, you should be consistent in how you conduct right to work checks on all prospective employees, including British citizens. You should ensure job selections are made on the basis of suitability for the post, and that no prospective job applicants are discouraged or excluded, either directly or indirectly, because of known or perceived protected characteristics.

This means you should not check only the status of those who appear to you likely to be migrants. Neither should you make assumptions about a person's right to work in the UK or their immigration status on the basis of their colour, nationality, ethnic or national origins, accent, surname or the length of time they have been resident in the UK. If you do so, you may be acting in a discriminatory manner, and it could be used as evidence against you in proceedings under the Equality Act 2010.

A statutory excuse is an employer's defence against a civil penalty. In order to establish a statutory excuse against a civil penalty in the event that an employee is found to be working illegally, employers must do one of the following before the employee commences employment:

1. a manual right to work check
2. a right to work check using IDVT via the services of an IDSP (to be used only for British and Irish citizens)
3. a Home Office online right to work check (non-British and non-Irish citizens).

Conducting any of these checks as set out in this guidance and in the code of practice will provide you with a statutory excuse. Further details are beyond the scope of this policy but



will be found in the relevant guidance, although a list of acceptable documents (to be used in connection with this process) is provided here for ease of reference.

## Acceptable documents

The documents you may accept from a person to demonstrate their right to work are set out in two lists – List A and List B below.

**List A** – acceptable documents for manual right to work checks to establish a continuous statutory excuse.

This constitutes the range of documents you may accept for a person who has a continuous right to work in the UK (including British and Irish citizens). If you conduct the right to work checks correctly before employment begins, you will establish a continuous statutory excuse for the duration of that person's employment with you. You do not have to conduct any further checks on this individual.

1. A passport (current or expired) showing the holder is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport or passport card (in either case, whether current or expired) showing that the holder is an Irish citizen.
3. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted unlimited leave to enter or remain under Appendix EU(J) to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
4. A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has a right of abode in the UK, or has no time limit on their stay in the UK. <sup>1</sup>
5. A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.
6. A birth or adoption certificate issued in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer. <sup>2</sup>
7. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.
8. A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.

<sup>1</sup> definition includes those with a document which shows that the holder is entitled to readmission to the UK (RUK endorsement)

<sup>2</sup> definition includes a full birth certificate issued by a UK diplomatic mission (British Embassy or British High Commission)

**List B** Group 1 – documents where a time-limited statutory excuse lasts until the expiry date of permission to enter or permission to stay (at which point a follow-up check should be carried out).



1. A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question. <sup>3</sup>
2. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted limited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
3. A current immigration status document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.

*<sup>3</sup> definition includes a current passport endorsed with a stamp showing an individual has been granted leave to enter and there are no work-related conditions attached. If, under the conditions of the individual's leave, work was restricted or prohibited the endorsement placed in the individual's passport would explicitly set that out as a condition*

List B Group 2 – documents where a time-limited statutory excuse lasts for six months (at which point a follow-up check should be carried out).

1. A document issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules on or before 30 June 2021 together with a Positive Verification Notice from the Home Office Employer Checking Service.
2. A Certificate of Application (digital or non-digital) issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules (known as the EU Settlement Scheme), on or after 1 July 2021, together with a Positive Verification Notice from the Home Office Employer Checking Service.
3. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man showing that the holder has made an application for leave to enter or remain under Appendix EU(J) to the Jersey Immigration Rules or Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules, together with a Positive Verification Notice from the Home Office Employer Checking Service.
4. An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
5. A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

### **Conducting a manual document-based right to work check**

There are three basic steps to conducting a manual document-based right to work check. In order to establish a statutory excuse you need to complete all three steps before employment commences to ensure you have conducted a check in the prescribed manner.

#### **Step 1: Obtain**

You must obtain original documents from either List A or List B of acceptable documents – see above.



## Step 2: Check

You must check that the documents are genuine and that the person presenting them is the prospective or existing employee, the rightful holder and allowed to do the type of work you are offering.

You must check that:

1. photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation
2. expiry dates for permission to be in the UK have not passed
3. any work restrictions to determine if they are allowed to do the type of work on offer (for students who have limited permission to work during term-times, you must also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed)
4. the documents are genuine, have not been tampered with and belong to the holder
5. the reasons for any difference in names across documents can be explained by providing evidence (e.g. original marriage certificate, divorce decree absolute, deed poll). These supporting documents must also be photocopied and a copy retained.

## Step 3: Copy

You must make a clear copy of each document in a format which cannot manually be altered and retain the copy securely either electronically or in hard copy. You must also retain a secure record of the date on which you made the check. Simply writing a date on the copy document does not in itself confirm that this is the actual date when the check was undertaken. If you write a date on the copy document, you must also record that this is the date on which you conducted the check.

You must copy and retain copies of:

1. Passports: any page with the document expiry date, the holder's nationality, date of birth, signature, leave expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK (visa or entry stamp) and undertake the work in question. The front cover no longer has to be copied.
2. All other documents: the document in full, including both sides of an Immigration Status Document and an Application Registration Card.

All copies of documents taken should be kept securely for the duration of the worker's employment and for two years afterwards. The copy must then be securely destroyed.

It is recommended by the Home Office that employers use their 'Right to Work Checklist' to ensure that they have correctly carried out all the appropriate steps; or the online interactive tool which will take you through the process by asking you a series of questions.

## Checking the validity of documents

When you are checking the validity of the documents, you should ensure that you do this in the presence of the holder. This can be a physical presence in person or via a live video link. In both cases you must be in physical possession of the original documents. For example, an individual may choose to send their documents to you by post to enable you to conduct the check with them via live video link. You may not rely on the inspection of the document via a live video link or by checking a faxed or scanned copy of the document.



The employer has responsibility for checking the validity of the document. Whilst this may be delegated to members of staff (including agency workers engaged by the employer and working under their control) the employer will remain liable for the penalty in the event the individual is found to be working illegally and the prescribed check has not been correctly carried out. The employer may not delegate this responsibility to a third party where this involves a manual check of original documents. Whilst a third party may be used to provide support in terms of technical knowledge or specialised equipment to prevent the employment of illegal workers, the responsibility for performing the check (in order to obtain a statutory excuse from a civil penalty) will remain with the employer.

If the employer is supplied with a false document, they will only be liable for a civil penalty if it is reasonably apparent that it is false. This means that a person who is untrained in the identification of false documents, examining the document in question carefully, but without the use of technological aids, could reasonably be expected to realise that the document in question is not genuine.

Employers may wish to read the online guidance about recognising fraudulent identity documents, which can be found online under 'Guidance on examining identity documents'.

As an employer you can also compare identity and travel documents against the images which are published on [Council of the European Union - PRADO - Home \(europa.eu\)](http://Council of the European Union - PRADO - Home (europa.eu)). These are archives of identify and travel documents.

If someone presents a false document, or a genuine document which does not belong to them, you should use the following link to report the individual to the Home Office: [Report an immigration or border crime - GOV.UK \(www.gov.uk\)](http://Report an immigration or border crime - GOV.UK (www.gov.uk)) or call the Employer Enquiry helpline on 0300 790 6268 (Monday to Thursday, 9am to 4:45pm; Friday 9am to 4:30pm).

### **Retaining evidence**

You must keep a record of every document you have checked. This can be a hard copy or a scanned copy in a format which cannot be manually altered, such as a jpeg or pdf document. You should keep the copies securely for the duration of the person's employment and for a further two years after they stop working for you. You should also be able to produce these document copies quickly in the event that you are requested to show them to demonstrate that you have performed a right to work check and retain a statutory excuse.

You must also make a note of the date on which you conducted the check. This can be by either making a dated declaration on the copy or by holding a separate record, securely, which can be shown to the appropriate authority upon request. This date may be written on the document copy as follows: 'the date on which this right to work check was made: [insert date]'. Alternatively, a manual or digital record which includes this information may be made at the time you conduct and copy the documents. You must be able to show this evidence if requested to do so in order to demonstrate that you have established a statutory excuse. You must repeat this process in respect of any follow-up check. You may face a civil penalty if you do not record the date on which the check was performed.

Simply writing a date on the copy document does not, in itself, confirm that this is the actual date when the check was undertaken.

### **A right to work check using IDVT via the services of an Identity Service Provider (IDSP)**

Employers can use Identity Document Validation Technology (IDVT) via the services of an IDSP to complete the digital identity verification element of right to work checks for British and Irish citizens who hold a valid passport (including Irish passport cards).



If you use the services of an IDSP for digital identity verification, holders of valid British or Irish passports (or Irish passport cards) can demonstrate their right to work using this method. This will provide you with a continuous statutory excuse. It is your responsibility to obtain evidence of the IDVT check from the IDSP. You will only have a statutory excuse if you reasonably believe that the IDSP has carried out their checks in accordance with this guidance.

You must not treat less favourably those who do not hold a valid passport, or do not wish to prove their identity using an IDSP. You must provide individuals with other ways to prove their right to work and should carry out a manual document-based right to work check in these circumstances.

For a detailed guide on how to complete a right to work check, using an IDSP, please refer to Annex C of the Home Office guidance.

Basic steps to conducting a RTW check using an IDSP:

- IDSPs can carry out digital identity verification to a range of standards or levels of confidence. The Home Office recommends that employers only accept checks via an IDSP that satisfy a minimum of a Medium Level of Confidence. A list of certified providers is available online for you to choose from. It is not mandatory for you to use a certified provider; you may use a provider not featured within this list if you are satisfied that they are able to provide the required checks.
- Satisfy yourself that the photograph and biographic details (for example, date of birth) on the output from the IDVT check are consistent with the individual presenting themselves for work (i.e. the information provided by the check relates to the individual and they are not an imposter).
- You must retain a clear copy of the IDVT identity check output for the duration of employment and for two years after the employment has come to an end.

Should you be found to be employing individuals without their identity and eligibility being verified correctly in the prescribed manner, you will not have a statutory excuse in the event the individual is found to be working illegally by reason of their immigration status. The employer remains liable for any civil penalty if there is no statutory excuse.

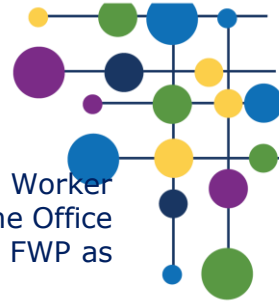
### **Conducting a Home Office online right to work check**

An online right to work check will provide you with a statutory excuse against a civil penalty in the event of illegal working involving the subject of the check. You can do an online check by using the appropriate online service.

It will not be possible to conduct an online right to work check in all circumstances, as not all individuals will have an immigration status that can be checked online. The online right to work checking service sets out what information you will need. In circumstances in which an online check is not possible, you should conduct the manual check.

Currently, the online service supports checks for a range of individuals depending upon the type of immigration documentation they are issued with. The digital proof of immigration status forms part of the Home Office move towards of UK immigration system that is digital by default.

Some individuals have been issued with an eVisa and can only use the online service to prove their right to work.



Biometric Residence Card (BRC), Biometric Residence Permit (BRP) and Frontier Worker Permit (FWP) holders are also only able to evidence their right to work using the Home Office online service. This means that you cannot accept or check a physical BRC, BRP or FWP as proof of right to work.

There are three basic steps to conducting an online right to work check:

Step 1: Use the Home Office online right to work checking service in respect of an individual and only employ the person, or continue to employ an existing employee, if the online check confirms they are entitled to do the work in question.

Step 2: Satisfy yourself that any photograph on the online right to work check is of the individual presenting themselves for work.

Step 3: Retain a clear copy of the response provided by the online right to work check (storing that response securely, electronically or in hardcopy) for the duration of employment and for 2 years afterwards.

Additional information in relation to this topic, including reference to frequently asked questions, can be found online, but in the event of ongoing uncertainty an employer enquiry helpline can be accessed on 0300 790 6268.



## Appendix 2:

### Disclosure and Barring Service and related checks

Those members of staff who undertake, or initiate, DBS and/or other pre-employment checks on employees and potential employees will need to determine the type and extent of such checks, bearing in mind what can be justified in terms of the employee's position. In many instances, this will depend on whether the employee will be engaging in regulated activity.

For all new employees, schools are required to obtain (via the applicant) an enhanced DBS certificate (including barred list information, for those who will be engaging in regulated activity) unless a previous certificate is brought forward from employment in another school in England within the last three months.

Details regarding the procedure for applying for the appropriate level of disclosure should be forwarded to the successful applicant for the position along with the conditional offer of appointment.

#### DBS definition of regulated activity

Regulated activity refers to certain roles carried out by applicants in relation to children and/or vulnerable adults. It covers various types of activities which, by their nature, would entitle an individual to an enhanced DBS check with applicable barred list checks (there are two separate barred lists which contain information of people barred from working with, respectively, children and vulnerable adults).

Activity relating to children is regulated if it involves unsupervised activities: teaching, training, instruction, care for or supervision of children, or providing advice/guidance on well-being, or driving a vehicle only for children.

An enhanced DBS check is the highest level of criminal record check available and will detail both spent and unspent convictions, as well as any cautions, warnings or reprimands the applicant may have received.

Separate barred list checks must only be carried out in the following circumstances:

- For newly appointed staff who are engaging in regulated activity, pending the receipt of an Enhanced Certificate with Barred List information from the DBS and where all other relevant checks have been carried out.
- Where an individual has worked in a post in a school or college that brought them into regular contact with children or young persons which ended not more than three months prior to that person's appointment to the organisation and where all other relevant checks have been carried out.



## Appendix 3:

### Protocol for employing people with a criminal record by including a copy as an appendix to that form.

1. As an organisation using the Disclosure and Barring Service (DBS) to assess applicants' suitability for positions of trust, the school complies fully with the DBS Code of Practice and undertakes to treat all applicants for positions in a fair manner. The school undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of conviction or other information revealed.
2. Criminal records will only be taken into account for recruitment purposes when the conviction is relevant. Unless the nature of the work demands it, applicants for positions within the school will not be asked to disclose convictions which are 'spent' under the Rehabilitation of Offenders Act 1974. Having an unspent conviction will not necessarily bar applicants from employment. This will depend on the circumstances and background to an applicant's offence.
3. The academy selects candidates for interview based on their skills, qualifications and experience relevant to the position applied for. For those positions within the school where an Enhanced or Standard Disclosure and or Barred List is required, job adverts will contain a statement that the successful applicant will be subject to a criminal record check from the Disclosure and Barring Service before the appointment is confirmed. It should be noted that details of criminal convictions should not be required to be provided on an application form. Shortlisted applicants should be requested to disclose any criminal convictions prior to interview and such applicants must be provided with information on where to obtain advice on the disclosure of a criminal conviction and allowed sufficient time to seek such advice.
4. The academy will ensure that staff involved in the recruitment process are provided with information and guidance in relation to the employment and fair treatment of ex-offenders and the Rehabilitation of Offenders Act 1974 and will, on request, provide a copy of the Disclosure and Barring Service Code of Practice to all applicants.
5. If the DBS check (which will only be requested once a conditional offer of employment has been made) reveals a trace, the school will ensure that an open and measured discussion takes place on the subject of any previous history that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
6. Having a criminal record will not necessarily bar an applicant from working with the school. This will depend on both the nature of the position and the circumstances of the offence.



## Appendix 4:

### Safeguarding declarations

Different categories of staff may be required to undergo specific pre-employment checks, or to make relevant declarations, in relation to their precise role within the school. It is not appropriate to ask all members of staff to complete declarations that are more extensive than required by the regulations, as possession of such identifiable data, without adequate justification, potentially represents a breach of data protection legislation.

Those members of staff who are subject to the 2018 update to the Childcare (Disqualification) Regulation 2009 (defined below) should be requested to complete Declaration A whereas all other members of staff who are deemed to be in regulated activity (generally interpreted as any person permanently employed by, and working on the premises of, a school) but who are not subject to the 2018 update to the Childcare (Disqualification) Regulation 2009 should be requested to complete Declaration B.

Staff who should complete Declaration A are those who are employed, and/or provide childcare, in either early years or later years (although this no longer extends to the provision of education (as opposed to childcare) to children in later years).

- Early years means from birth until 1st September following a child's fifth birthday (in other words, up to and including reception age).
- Later years means children under the age of 8.

*Staff subject to/not subject to the above regulation:*

	<u>During school hours</u>	<u>Outside school hours</u>
<i>Nursery/reception age or younger</i>	<i>Subject</i>	<i>Subject</i>
<i>Older than reception age up to age 8</i>	<i>Not Subject</i>	<i>Subject</i>
<i>8 years or older</i>	<i>Not Subject</i>	<i>Not Subject</i>

Staff who are directly concerned in the management of early or later years provision are also subject to the legislation. This will necessarily include the headteacher. It may also include other members of the school's leadership team and any manager, supervisor, leader or volunteer responsible for day-to-day management of such provision.

Staff who are not subject to the above legislation include (but may not be limited to) caretakers, cleaners, transport escorts, catering and office staff i.e. any workers who are not employed to directly provide childcare are not subject to the above legislation.



## Declaration A

(for staff subject to the 2018 update to the Childcare (Disqualification) Regulation 2009)

The trust is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment.

In order to help us process your application/confirm your appointment (*delete as applicable*) we require the following declaration to be completed.

I declare that I, .....  
(please print your full name)

- am not on a relevant barred list (a Department for Education list of people whose employment has been barred or restricted on grounds of misconduct or on medical grounds)
- am not disqualified from work with children
- am not subject to sanctions imposed by a regulatory body (for example the DfE)
- have no criminal convictions, cautions or bindovers, either at home or abroad
- am not known to the police and children’s social care
- have never had any of my own children taken into care, nor have they been the subject of a child protection order or court order
- have never had a registration cancelled in relation to childcare or children’s homes and have never been disqualified from private fostering.

I also undertake to inform the headteacher immediately in the event of any change in circumstances which would render one or more of the above bullet points applicable at any point during the duration of my employment with the Trust/academy.

Signed: ..... Dated: .....

NB: If you are unable to complete the declaration by confirming all of the above points, we ask that you do not sign the declaration but that you provide written details, which will be discussed with you in absolute confidence before any decision is made in relation to your employment by the trust.

Any information of this nature should be provided to ..... (*named person*) in an envelope marked ‘Strictly Private and Confidential’.



## Declaration B

(for staff not subject to the 2018 update to the Childcare (Disqualification) Regulation 2009)

The trust is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment.

In order to help us process your application/confirm your appointment (*delete as applicable*) we require the following declaration to be completed.

I declare that I, .....  
(please print your full name)

- am not on a relevant barred list (a Department for Education list of people whose employment has been barred or restricted on grounds of misconduct or on medical grounds)
- am not disqualified from work with children
- am not known to the police and children’s social care
- am not subject to sanctions imposed by a regulatory body (for example the DfE)
- have no criminal convictions, cautions or bindovers, either at home or abroad

I also undertake to inform the headteacher immediately in the event of any change in circumstances which would render one or more of the above bullet points applicable at any point during the duration of my employment with the Trust/academy.

Signed: ..... Dated: .....

NB: If you are unable to complete the declaration by confirming all of the above points, we ask that you do not sign the declaration but that you provide written details, which will be discussed with you in absolute confidence before any decision is made in relation to your employment by the trust.

Any information of this nature should be provided to ..... (*named person*) in an envelope marked ‘Strictly Private and Confidential’.