



POLICY ON THE RECRUITMENT AND EMPLOYMENT OF APPLICANTS WITH A CRIMINAL RECORD

Introduction

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 Central Foundation Boys' School (CFBS) 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. CFBS reserves the right to amend its content at any time.

This policy outlines CFBS' policy on asking questions about a prospective (or existing) member of staff's criminal records, and carry out Disclosure and Barring Service (DBS) checks to help assess the suitability of applicants and volunteers for positions of trust. We do this in compliance with the provisions of the DBS Code of Practice, a copy of which can be found here <https://www.gov.uk/government/organisations/disclosure-and-barring-service>.

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

CFBS welcomes 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.

The DBS Code of Practice requires us to treat all our job applicants, staff and volunteers who have a criminal record fairly and not to discriminate unfairly against staff and applicants on the basis of a criminal record or other information revealed by a disclosure. However, CFBS reserves 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.

CFBS is committed to providing equality of opportunity for 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 CFBS. We are also required to carry out a DBS check in order to determine your suitability for the role.

The safeguarding of children 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.

CFBS 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 School 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.

CFBS will not unfairly discriminate against any applicant for employment on the basis of conviction or other details revealed. CFBS makes 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 CFBS. 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 CFBS 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 CFBS 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 School.

If CFBS:

- receives an application from a disqualified person;

- is provided with false information in, or in support of, an applicant's application; or
- has serious concerns about an applicant's suitability to work with children,

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

Recruitment of Applicants with a Criminal Record

Once CFBS has 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 where applicable to the role) will be required.

In the starter pack, you will receive comprehensive guidance notes explaining how to complete the DBS application form. If, after reading the guidance, you have any questions please contact the school.

Where you are a member of the DBS update service in the relevant workforce and at the required level, CFBS will, with your permission, carry out a status check on any current certificate.

All employees involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences and will seek appropriate advice before making a decision, where applicable. We also ensure that they have received appropriate guidance and training in relevant legislation to the employment of ex-offenders, as mentioned throughout.

Assessment Criteria

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by a successful candidate during the recruitment process or obtained through a disclosure check, CFBS will ensure that an open and fair discussion takes place with the candidate with a service manager. As a minimum, the following factors will be taken into account before reaching a final recruitment decision:

- whether the conviction or other matter revealed is relevant to the position in question;
- the length of time since the offence or other matter took place;
- the seriousness of any offence or other matter revealed;
- 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 CFBS's 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;
- against 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 CFBS'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 CFBS's normal policy to consider it a high risk to employ anyone who has been convicted of drink driving within the last 10 years.

All employees in a position to make recruitment decisions are suitably trained to identify and assess the relevance and circumstances surrounding a criminal record and will seek appropriate advice before making a decision, where applicable. No decision will be made until your explanation and the above factors have been considered.

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, CFBS will carry out a risk assessment by reference to the criteria set out above. The assessment form must be signed by the Headteacher of CFBS 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, CFBS will, where practicable, defer a final decision about the appointment until the applicant has had a reasonable opportunity to challenge the Disclosure information.

Appeal

You should appeal to the DBS if you believe that the disclosure information is not accurate.

CFBS will decide whether the nature of the inaccuracy is such that a decision on whether to appoint should be postponed until the appeal is completed.

Retention and Security of Disclosure Information

CFBS is committed to ensuring that all disclosure information provided about an individual's criminal record, including any information released in disclosure, 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.

CFBS's 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 CFBS's senior leadership team and HR Manager.
- 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.

CFBS uses the HR@Islington to undertake its DBS checks. HR@Islington has a separate policy statement on the secure storage, handling, use, retention and disposal of Disclosures and Disclosure information which is available from the HR Manager on request.