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RECRUITMENT OF EX-OFFENDERS POLICY (STAFF)

1. INTRODUCTION AND SCOPE

- 1.1 This policy applies to the recruitment and selection of all staff, volunteers and governors at Leicester College. It should be read in conjunction with the College Recruitment and Selection Policy.
- 1.2 For individuals who work at the College via an agency, the College will ensure that confirmation is received via the agency that relevant checks in relation to the employment of ex-offenders have been undertaken.

2. PURPOSE AND AIMS

- 2.1 The purpose of the policy is to outline the process of assessing
 - 2.1.1 A job applicant's suitability to work within Leicester College where a criminal conviction is disclosed by either
 - The job applicant directly;
 - The Disclosure and Barring Service via an Enhanced DBS certificate;
 - The Police or other Law Enforcement Agency, as additional information alongside the DBS certificate.
 - 2.1.2 An existing employee's suitability to continue to work at Leicester College where they have received a criminal conviction or caution during the course of their employment.
- 2.2 This policy outlines a fair and transparent process to enable the College to make fully informed and objective decisions on whether to continue with the appointment (or the employment) of an individual, whilst also ensuring the College meets its safeguarding obligations. Data will be processed in line with the requirements and protections set out in the UK General Data Protection Regulations.
- 2.3 For the purposes of this policy "conviction" refers to a criminal conviction, caution, reprimand or warning, or where legal action is being taken against an individual which may result in a legal penalty.
- 2.4 The College has adopted the Disclosure and Barring Service's code of practice on the handling of Disclosure Information and will adhere to it in all circumstances.

3. REHABILITATION OF OFFENDERS

- 3.1 The Rehabilitation of Offenders Act (The Act) allows most convictions, cautions and reprimands to be considered “spent” after a certain length of time has elapsed. This is known as the “rehabilitation period” and is determined by the sentence or disposal given. The Act provides individuals with spent convictions the legal right not to disclose them when applying for most jobs.
- 3.2 However, most College based roles will fall under the Rehabilitation of Offender Act 1974 (Exceptions) order 1975, e.g. where the post is involved in regulated activity with children or adults and other activities which involve working closely with children or vulnerable adults such as caring for, training, supervising or being solely in charge of children under the age of 18 or vulnerable adults, and are exempt from The Act. The College is therefore entitled to request details of spent and unspent convictions and cautions that are not protected (i.e. eligible for filtering please see paragraph 4.9 below). This information will be taken into account when determining an applicant’s suitability for the role applied for in the College.
- 3.3 Having a criminal conviction will not necessarily prevent an individual from working at the College. Decisions on whether or not to recruit an individual will only be taken following a detailed and considered assessment of all the circumstances.
- 3.4 The College will not discriminate unfairly against any individual on the basis of a conviction, or any other information revealed.

4. PRE-EMPLOYMENT CHECKS

- 4.1 It is unlawful for the College to employ anyone who is barred from working with children or vulnerable adults. Similarly, it is a criminal offense for any person who is barred from working with children or vulnerable adults to apply for a position at the College.
- 4.2 During the recruitment process, all shortlisted applicants will be asked to disclose any relevant spent or unspent convictions and cautions that the College is legally entitled to know about using the Criminal Records Self-Disclosure Form (appendix A). This includes all spent convictions, cautions, except those which are ‘protected’ (see paragraph 4.4 below). This form should be emailed to the recruitment team prior to the interview.
- 4.3 Under the exemption order the following must be disclosed:
 - 4.3.1 All unspent convictions and cautions; and
 - 4.3.2 spent cautions and convictions if they meet the criteria in the table below:

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

4.4 A specified offence is serious and relates to:

- 4.4.1 sexual offending
- 4.4.2 violent offending and / or are relevant to safeguarding children and vulnerable adults;
- 4.4.3 terrorism

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

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

4.5 Where the applicant is successful at the interview stage, the recruitment team will refer to their Criminal Records Self- Disclosure form. Where a criminal record is disclosed, please refer to Section 5 of this policy.

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

4.7 An enhanced DBS certificate will always include:

- 4.7.1 convictions that resulted in a custodial sentence
- 4.7.2 all convictions for specified offences; and
- 4.7.3 adult cautions for specified offences.

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

- 4.8.1 Any adult caution for a non-specified offence received within the last 6 years
- 4.8.2 Any adult conviction for a non-specified offence received within the last 11 years
- 4.8.3 Any youth conviction for a non-specified offence received within the last 5 and a half years

Cautions, reprimands and warnings received when an individual was under the age

of 18 will not automatically appear on an Enhanced DBS certificate.

- 4.9 As a result of the 2013, 2020 and 2023 amendments to the Rehabilitation of Offenders Act 1974 (exceptions order 1975), some minor offences are now 'protected' or 'filtered' convictions or cautions and should not be disclosed or included on a DBS Disclosure Certificate. Information volunteered by an applicant relating to 'protected' convictions and cautions will be disregarded. Further information can be found on the Ministry of Justice website: <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>
- 4.10 Furthermore, there may be occasions where the police choose to disclose information relating to a protected caution or conviction along with the Enhanced Disclosure where it is considered relevant to the role that the individual has applied for. This information will be taken into account as part of the vetting process.
- 4.11 Failure to disclose previous information or relevant offences directly relevant to the position applied for or the provision of false information may lead to an application being rejected or an offer of employment withdrawn. Where this is discovered, after employment has started, this may lead to disciplinary action resulting in summary dismissal with possible referral to the Police. A failure to disclose a previous conviction may also amount to a criminal offence.
- 4.12 The College will make a report to the Police and/or the DBS if:
 - 4.12.1 It receives an application from a barred person;
 - 4.12.2 It is provided with false information in, or in support of an applicant's application; or
 - 4.12.3 It has serious concerns about an applicant's suitability to work with children.

5 WHEN A JOB APPLICANT DECLARES A CRIMINAL CONVICTION/CAUTION

- 5.1 When a job applicant is considered successful at interview by the interview panel, the chair of the panel will inform the recruitment team who will review the Criminal Records Self Disclosure Form. If a conviction, caution or other offence has been disclosed on the form, the recruitment team will complete part A of the Risk Assessment Form (appendix B) and forward to HR Business Partner who will hold a meeting with the applicant to discuss the declared information and complete part B of the Risk Assessment form. The College will then determine whether or not the information provided has an impact on the applicant's ability to undertake the role they are applying for, before a final recruitment decision is made.
- 5.2 The Risk Assessment Form will be sent to the Director of HR and Designated Safeguarding Lead who will complete part C of the Risk Assessment form and:
 - 5.2.1 Conclude whether or not the declared information impacts on the role applied for and
 - 5.2.2 Provide clear rationale of the reasons behind the conclusion
- 5.3 The completed Risk Assessment Form will be retained with all other documentation relevant to the individual's application.

6. WHEN A DBS CERTIFICATE IDENTIFIES A CRIMINAL RECORD

- 6.1 Prior to confirming an offer of employment, the College must have sight of the applicant's original DBS certificate. Where an applicant does not have a current DBS certificate via the DBS update service, the College will apply for one and any employment offer made will be subject to satisfactory clearance.
- 6.2 Where a criminal record is stated on the DBS Certificate (and/or additional information is provided by the Police), and where the risk assessment has not already been undertaken (due to no convictions being stated on the Criminal Convictions Self-Disclosure Form), a member of the recruitment team will complete Part A of the DBS Risk Assessment Form and pass this to the HR Business Partner who will meet the applicant to discuss and complete part B of the Risk Assessment form.
- 6.3 The HR Business Partner will forward the form to the Director of HR who will consult with the Designated Safeguarding Lead to complete part C of the form, make a final recruitment decision and send the completed form back to the HR Business Partner. The form will be retained on the individual's personal file. Any copies taken of the Disclosure Certificate will be destroyed.
- 6.4 In instances where an individual disputes the contents of the DBS disclosure certificate issued to them, the College has the discretion to suspend the recruitment process until such time as the dispute is resolved.

7 CURRENT EMPLOYEES/VOLUNTEERS

- 7.1 Where an employee/volunteer declares a criminal record or advises the College of pending criminal action, or a routine DBS recheck reveals a new conviction or caution has occurred since the last check, a Risk Assessment will be undertaken to establish whether this affects the individual's suitability to continue to undertake their role.
- 7.2 The HR Business Partner will meet with the member of staff/ volunteer and complete the Risk Assessment Form part B, and forward this to the Director of HR who will consult with the Designated Safeguarding Lead and complete part C of the Risk Assessment form. Depending on the nature of the criminal record, the outcome may be:
 - 7.2.1 where the risk assessment concludes that there is no impact on the individual's employment, no further action will be taken
 - 7.2.2 where the assessment concludes that there is an impact, action will be taken in accordance with the College's Staff Disciplinary Policy. For volunteers/casual staff, continued use of such individuals may cease.
- 7.3 Advise will be sought from the LADO where the disclosure or additional information was of a safeguarding nature.

8 THE RISK ASSESSMENT

- 8.1 A Risk Assessment will be undertaken to fully assess information received about a criminal conviction and inform decisions on the individual's suitability to undertake the role applied for/ remain in their current role.
- 8.2 All decisions made in respect of an individual's employment will be based on objective and factual consideration, and the rationale will record that serious consideration has been given to the potential risk of employing the individual.
- 8.3 The risk assessment will contain
- 8.3.1 a summary of the information received and how this was received. If information is received via a DBS check it is not appropriate to summarise any of the information received
 - 8.3.2 the outcome of the assessment and any recommended action to be taken
- 8.4 For existing employees, the outcome of a Risk Assessment may lead to disciplinary action. In such circumstances the Risk Assessment may act as the investigation stage of the disciplinary procedure in which case the employee will be advised of their right to representation.
- 8.5 The individual undertaking the interview will ensure that as part of the process:
- 8.5.1 the applicant/employee agrees that the information recorded on the DBS Disclosure certificate is correct and that it relates to them
 - 8.5.2 the applicant/employee provides a detailed explanation of what happened and context around the incident;
 - 8.5.3 consideration is given to the individual's circumstances; have these changed since the offence was committed?
 - 8.5.4 the degree of remorse expressed by the applicant/employee and their motivation to change.
- 8.6 Following the Risk Assessment, a decision will be made based on the information gathered and their suitability to work/ continue working in the role.
- 8.7 Possible outcomes of the Risk Assessment Process
- 8.7.1 The possible outcomes are:
 - to appoint to post
 - Not to appoint to post

Or for existing employees

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

APPENDIX A

Criminal Records Self-Disclosure Form

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

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

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

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

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

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

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

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

Are you included on either the DBS Children's or Adult's Barred Lists? Yes/No
If yes, please provide details here
(For Teaching & Classroom Support Staff only) Are you, or have you ever been prohibited from teaching by the TRA or sanctioned by the GTCE? Yes/No/Not applicable
If yes, please provide details here
Have you ever lived or worked outside the UK? Yes/No
If yes, please provide details here
Are you subject to any sanctions relating to work with children or vulnerable adults in any country outside the UK? Yes/No
If yes, please provide details here
<p>Please complete the declaration below:</p> <p>I declare that all the information I have provided in this disclosure is full and correct at the time of the application and that I have not omitted anything that could be relevant to the appointment of someone who will work with children. I understand that the recruitment panel may be made aware of any relevant information that I have disclosed in order to discuss the matter(s) with me as part of the recruitment process and that, if my application is successful, a risk assessment of the disclosed information will be held securely on my personal file. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role.</p> <p>Signed: _____ Date: _____</p>

Please return this form to Recruitment@leicestercollege.ac.uk

APPENDIX B

DBS Risk Assessment Form

This form should be completed when a criminal conviction or caution is declared by an individual or a DBS check has shown a conviction or caution.

PART A to be completed by the Recruitment Team

Name:	Post title/ job applied for:
Department/Location:	Name of Line Manager:
HR Business Partner:	Date of Meeting:
Was the information disclosed: On a DBS Disclosure Certificate By the individual? By another source?	
Brief outline of the nature of the disclosure: <i>NB It is not appropriate to record the precise details of any convictions, cautions, reprimands, warnings, or additional information on this form. Instead record the nature of the disclosure, the year it happened, and penalty received.</i>	

Recruitment Information	Comments
1 Has the candidate completed the Criminal Records section on the application form?	
2 Has the Criminal Records Self Disclosure form been completed?	
3 Did the applicant declare the offence/s?	

4 Prohibition/Teachers Status Check - Has a satisfactory Prohibition/Teachers Status Check been completed? (for teaching staff only)	
DBS Information	Comments
1 Is the candidate on the DBS update service?	
2 Has the candidate completed a new DBS application? DBS Certificate number / Date of issue	
3 For new or updated DBS certificates, is this "Enhanced level"?	
4a. If the candidate is going to work with children, does the DBS certificate indicate "None Recorded" against the ISA Children's Barred list information. And /or 4b If the candidate is going to work with vulnerable adults, does the DBS certificate indicate "None Recorded" against the ISA Vulnerable Adults' Barred list information	
5 Has the candidate been a resident outside of the United Kingdom? If yes, was a Certificate of Good Conduct (COGC) or a police check or DBS equivalent from that country sought if applicable?	

PART B. ASSESSING THE RISKS AFTER RISK ASSESSMENT MEETING

This section will be **completed by the HR Business Partner**

DBS Risk Assessment Meeting		
Question	(Please delete as appropriate)	Comments
1. Did the applicant declare the matters?	Yes / No If 'No' state reason	
2. Does the individual agree that the information detailed on the DBS Certificate is correct?	Yes/ No If 'No' what is incorrect and why?	
3. Were any offences work-related or committed within the context of a work setting?	Yes/No If 'Yes' give details	
4. How old was the individual at the time of the offence/s being committed?	Were they a juvenile etc at the time of any offence/s?	
5. How old is the individual now, how recent were the offence/s?		
6. What is the individual's attitude to the offence/s?	e.g. regret/remorse/justified/denial	
7. Would they do anything differently?	Yes / No If 'Yes' specify what	
8. Have the individual's circumstances changed since the offence/s?	Yes / No If 'Yes' specify what	
9. Are there any mitigating circumstances?	Yes / No If 'Yes' specify what	

DBS Risk Assessment Meeting		
Question	(Please delete as appropriate)	Comments
10. Do the matters disclosed form any pattern e.g. repeat offences or repeat motivation (anger/financial/drugs/alcohol etc)	Yes / No If 'Yes' specify	
11. Can the applicant demonstrate any efforts not to re-offend? e.g. Rehabilitation course, anger management course, help for alcohol/drug abuse.	Yes / No If 'Yes' specify	
12. Do any offence/s have relevance to the job role or College environment? Check with Line Manager if further information required.	Yes/No If 'Yes' specify	
13. Does the nature of the job present any opportunities for the post holder to re-offend? Check with Line Manager if further information required.	Yes / No If 'Yes' give details	
14. Could any safeguards reduce/remove any risk? If so, for how long? Speak to Line Manager if applicable.	Yes / No If 'Yes' specify what	
15. What supervision is available and how readily? Check with Line Manager if applicable.	Give details	
16. Any other questions or relevant information	Give details	

PART C. DECISION

This section will be fully completed and authorised by the HR Director on behalf of the Panel following consideration of the information provided:

Having considered the above, can employment be confirmed/continue? Yes/No Reasons for decision:
Are there any restrictions or safeguards to be put in place? Yes/No If yes, how long will these remain in place for (eg during the probationary period)?
Agreed Actions:

PANEL MEMBERS:

Name: Post Title:

Name: Post Title:

Signature: Date:

HR Director on behalf of the Panel

Once a decision has been made, we must not retain DBS / COGC certificate information, or details of convictions, for any longer than is necessary (normally a maximum of 6 months) and any copies of the DBS certificate must be destroyed.

A copy of this completed form should be retained of the individuals' personal file if appointed/ currently employed.