

# Policy on the Recruitment of Ex-Offenders and Disclosures of Convictions by Current Employees

## 1. Recruitment of Ex-Offenders

Under the Rehabilitation of Offenders Act 1974 all positions within the School are exempt. However, amendments to the Exceptions Order 1975 (2013 and 2020) provide that certain spent convictions and cautions are “protected”. Therefore, Highgate is entitled to carry out Enhanced Disclosure checks for all staff and volunteers once an offer is made. Highgate will make this clear on the application form, job advert and any other information provided about the post. Prior to interview, all shortlisted job applicants will be sent the self-disclosure form to declare any previous convictions and cautions not filtered in line with current guidance whether current or spent.

The School will not unfairly discriminate against any candidate for employment on the basis of conviction or other details revealed. The School makes appointment decisions on the basis of merit and ability. If an individual has a criminal record this will not automatically bar him/her from employment within the School. Instead, each case will be decided on its merits in accordance with the objective assessment criteria set out below.

All candidates should be aware that provision of false information is an offence and could result in the application being rejected or summary dismissal if they have been appointed, and a possible referral to the police and/or DBS.

The shortlisted candidate’s self-disclosure form which requests them to declare any relevant convictions, adult cautions or other matters which may affect their suitability to work with children, will be shared with the recruitment panel. The purpose of the self-declaration is so that candidates will have the opportunity to share relevant information and allow this to be discussed and considered at interview, before the DBS certificate is received. At interview Highgate will ensure that open and measured discussions can take place on the subject of offences. Notes will be taken and used to prepare any associated risk assessment prior to the offer of appointment. Failure to reveal information on the self-disclosure form and interview could lead to withdrawal of an offer of employment or the offer of voluntary work.

Under the relevant legislation, it is unlawful for the School to employ anyone who is included on the lists maintained by the DBS of individuals who are considered unsuitable to work with children. In addition, it will also be unlawful for the School 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 also unlawful for the School to knowingly employ someone who works in the relevant settings and is disqualified from providing childcare under the Disqualification under the Childcare Act 2006 (August 2018).

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. The School will report the matter to the Police and/or the DBS if:

- the School receives an application from a disqualified person;
- is provided with false information in, or in support of an applicant's application; or
- the School has serious concerns about an applicant's suitability to work with children.

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, the School will consider the following factors before reaching a recruitment decision:

- whether the conviction or other matter revealed is relevant to the position in question;
- the seriousness of any offence or other matter revealed;
- the length of time since the offence or other matter occurred;
- whether the applicant has a pattern of offending behaviour or other relevant matters;
- whether the applicant's circumstances have changed since the offending behaviour or other relevant matters;
- in the case of disqualification from providing childcare, whether the applicant has or is able to obtain an Ofsted waiver from disqualification; and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person;
- the degree of remorse expressed by the applicant and their motivation to change.

If the post involves regular contact with children, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of any the following offences: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence, serious class A drug related offences, robbery, burglary, theft, deception or fraud.

If the post involves access to money or budget responsibility, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of robbery, burglary, theft, deception or fraud.

If the post involves some driving responsibilities, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted of drink driving.

Highgate will ensure that all staff involved in the recruitment process of staff and volunteers are aware of this Policy and have the relevant training and support. Highgate will undertake to make a copy of this Policy available to any applicant or volunteer who enquires about a post within the School.

## **2. Disclosure of Convictions by Current Employees**

Existing employees are required to disclose any new convictions during the course of their employment. New employees will be advised of this expectation during the induction process and reminders will be issued to staff periodically. Highgate seeks to create an ethos of a safe culture with ongoing vigilance which will be maintained throughout the employment relationship.

Employees are expected to advise Highgate of any new convictions, cautions or reprimands issued during their employment (which wouldn't be filtered in line with current guidance), regardless of how minor they are considered to be. The expectation would be that the employee advises Highgate as early as possible for example at the point of being interviewed by the police in connection with alleged criminal conduct or arrested. HR are able to advise which allegations or convictions are not able to be dealt with any further by the School in line with current DBS filtering guidance i.e. as an employer Highgate are not legally authorised to ask any questions about convictions which have or would be filtered.

Likewise, should a relevant employee become disqualified through the disqualification regulations they must advise the School as early as possible which is to say before the annual audit process.

Where a new conviction is disclosed, a full appraisal of the situation will be carried out by the Head (for teaching staff) or Bursar (for support staff) including whether the conviction is relevant to the post and an assessment of the risks involved. Where there is a significant risk Highgate may consider the introduction of safeguards, moving the employee to an alternative role or dismissal. In order to carry out the appraisal, a version of the risk assessment as outlined at section 1 will be used. Depending on the nature of the new conviction, it may be appropriate to suspend the employee while the matter is investigated. In the case of a disclosure in line with Childcare Disqualification Regulations the employee will need to be suspended immediately in line with KCSIE guidance. Highgate may subsequently seek a waiver through Ofsted.

Disclosure of a matter which does not, in the reasonable opinion of the School, affect the employee's ability or suitability to carry out their role will not usually lead to any disciplinary or other action being taken.

Should a new conviction be disclosed by any member of staff, Highgate are under a legal obligation to report the matter to the Disclosure and Barring Service and, in the case of teachers, to the Department of Education.

If it is believed that an employee deliberately held information about a new conviction or disqualification Highgate may consider investigating and dealing with the matter via the disciplinary procedures which could result in dismissal.

It may be the case that the local Safeguarding Board advise Highgate of a safeguarding issue relating to a member of staff. In such instances Highgate would immediately investigate the matter with the employee concerned in line with the above.

### **3. Clarification**

If any part of this Policy is unclear please get in touch with the HR department.

The Policy will be updated in line with any changes made to Safer Recruitment in Education regulations or ISI guidelines. Any updates will be communicated as appropriate with relevant checks (on both new staff and retrospectively) being applied as required.