

Policy on the Recruitment of Ex-Offenders

The Requirement for Disclosure & Barring Service Checks by the School

Oakham School is registered with an Umbrella Body who is registered with the DBS for the purposes of obtaining access to criminal record checks for employment and voluntary appointments. It is of fundamental importance to Oakham School to ensure so far as possible that those who take up appointments do not pose a risk to the children in its care. It is therefore important for the School to apply for and review the past criminal records of any successful applicants for positions, before making a formal offer of appointment. The School considers it also essential that the confidential and personal Disclosure information from the DBS is used fairly and sensibly in order to avoid unfair discrimination of applicants for appointments at the School. Candidates are selected for interview based on their skills, qualifications and experience: Oakham School actively promotes equality of opportunity for all with the right mix of talent, skills and potential.

Reason for Requiring Disclosure

A Disclosure will only be requested after a risk assessment has indicated that one is proportionate and relevant to the position concerned. For those positions where a Disclosure is required, all recruitment details will contain a statement that a Disclosure will be requested in the event of the individual being offered the position.

Type of Disclosure

Enhanced Disclosure for all posts within the School. The Enhanced Disclosure may also contain information that is held locally by the police.

Application Procedure

All applicants who are offered employment will be subject to a criminal record check from the DBS before the appointment is confirmed. For posts not exempted under the Rehabilitation of Offenders Act 1974, details of 'spent' convictions are not required. However, some posts may be exempted under the ROA 1974 and in this case full criminal record details, including cautions, reprimands or final warnings, as well as convictions, must be given, unless 'protected' as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013)?" Relevant information relating to police enquires or pending prosecution must also be disclosed. In order to speed up the recruitment process, all applicants called for interview will be asked to provide details of their criminal record at interview. This information will only be seen by those who need to see it as part of the recruitment process and information relating to those candidates not appointed will be destroyed immediately.

Applicants will also be required to provide at least 2 items of proof of their identity at interview, including one item of photographic evidence (such as a passport), plus at least one item of address-related evidence (such as a utility bill). Where an applicant has changed his/her name by deed poll or for other reasons (eg marriage, adoption) the School will require evidence of this change of name.

Once an offer of appointment has been made the School will liaise with the applicant for the DBS Application Form to be completed and processed. This should be completed speedily and the School will arrange payment.

Consideration of Disclosure Information by the School

On receipt of Disclosure from the DBS the School shall consider the following:

- i) Whether the conviction or other information is relevant to the position in question.
- ii) The seriousness of the offence or other matter revealed.
- iii) The length of time since the offence or other matter occurred.
- iv) Whether the applicant has a pattern of offending behaviour or other relevant matters.
- v) Whether the applicant's circumstances have changed since the offending behaviour or other relevant matters.
- vi) The circumstances surrounding the offence and the explanation(s) offered by the convicted person.

We ensure that all those in Oakham School who are involved in the recruitment process have received guidance in identifying and assessing the relevance and circumstances of offences. We also ensure that they have received appropriate guidance in the relevant legislation relating to the employment of ex-offenders, eg the Rehabilitation of Offenders Act 1974.

Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act (ROA) 1974 sets out to help people who have been convicted of a criminal offence and who have since lived on the right side of the law. In general a person convicted of a criminal offence and who receives a sentence of no more than 4 years in prison, benefits from the Act if they are not convicted again during a specified period. This period is called the rehabilitation period.

In general terms, the more severe a penalty is, the longer the rehabilitation period. Once a rehabilitation period has expired and no further offending has taken place, a conviction is considered to be 'spent'. Once a conviction has been spent, the convicted person does not have to reveal or admit its existence in most circumstances, including, for example, when applying for a job. In most circumstances, an employer cannot refuse to employ someone, or dismiss them, on the basis of a spent conviction.

There are some exceptions to the general principle whereby spent convictions are declared. When assessing the suitability of a person for certain positions of trust, an employer is entitled to ask a candidate to reveal details of all convictions, whether spent or not. This in part will help ensure that children and other vulnerable groups are protected from those who may wish to do them harm by helping to prevent such people from being appointed to positions of authority and/or trust over them. These positions of trust, or excepted professions, are set out in the Exceptions Order to the ROA.

Detailed Table of spent and unspent convictions

The [ROA 1974](#) provides that, subject to certain exceptions, those convicted of a criminal offence, but who have not re-offended during a specified period from the date the sentence is completed (the rehabilitation period) are deemed to have been rehabilitated and their convictions become "spent". Individuals with spent convictions may hold themselves out as having a clean record.

The length of the rehabilitation period depends on the sentence imposed (not the nature of the offence). The rehabilitation periods applicable to specific sentences are set out in the table below.

On 10 March 2014, amendments to the ROA 1974 introduced by sections 139 and 141 and schedule 25 to the Legal Aid Sentencing and Punishment of Offenders Act 2012 came into force. The key changes include:

- A conviction will only never become spent if an individual is given a custodial sentence of over four years, or has received a public protection sentence.
- The rehabilitation periods after which a sentence becomes spent will be reduced for both adults and young offenders.

The following table sets out the changes to the rehabilitation periods for adult offenders (those aged 18 and over at the time of conviction).

Sentence	New rehabilitation period from 10 March 2014
Custodial sentence over 4 years or a public protection sentence (a custodial sentence for specified sexual and violent offences)	Never spent
Custodial sentence (over 2½ years, up to 4 years)	7 years (beginning with the day on which the sentence, including any period on licence, is completed)
Custodial sentence (over 6 months, up to 2½ years)	4 years (beginning with the day on which the sentence, including any period on licence, is completed)
Custodial sentence (up to 6 months)	2 years (beginning with the day on which the sentence, including any period on licence, is completed)
Fines	1 year (beginning with the date of the conviction in respect of which the fine is imposed)
Absolute discharge	No rehabilitation period

Disclosure & Barring Service Code of Practice

The School agrees to comply with the provisions of the DBS Code of Practice, a copy of which is available upon request.

Security of Disclosure Information

Given the confidential nature of the Disclosure information, the School will ensure that it is stored securely. Documents will be locked away separately from personal files, with restricted access limited to senior members of staff involved in the recruitment. Once a recruitment decision has been made, the School will not retain the Disclosure information for any longer than necessary, which shall normally be less than 6 months. All disclosure information will be destroyed by secure methods (such as shredding or burning). For further details, the School's Security Policy for handling Disclosure Information is available upon request.

Consequences of Failure to Reveal Information

Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment, or the termination of the employment if it has commenced.

Online access to the DBS

Online information about the DBS and access to its services is available on the [Disclosure and Barring Service](#) pages of the gov.uk website. There is also a guide, [DBS content on GOV.UK](#) which lists and provides links to available materials, including those relevant to [recruitment and protection](#).

DBS online Update Service

Since 17 June 2013, individuals who need a new DBS check have been able to subscribe to an online Update Service at a cost of £13 per year (free for volunteers). This allows them to take their DBS checks between jobs where the same type and level of check is required (referred to as moving within "the same workforce"). An employer who needs a recruit to have a DBS check can ask if they are a member of the Update Service and, if they are and consent to the employer doing so, the employer can carry out a free online check to see if any new information has come to light since the date of the original check. The DBS has produced guides for both [employers](#) and [individuals](#).

To undertake a check, an employer will need to enter:

- The name of its organisation.
- The name of the individual undertaking the check on the employer's behalf.
- The current DBS certificate number.
- The surname and date of birth of the DBS Certificate holder (as set out on the DBS certificate).

When the employer undertakes a check it may receive any of the following responses:

- The check did not reveal any information and the most recent Disclosure remains current, as no further information has been identified since it was issued. This means that the original certificate was blank (because there was no information to reveal about the individual) when it was issued and that, as no new information has been found since its issue, the employer is entitled to treat the existing certificate as current and valid.
- The certificate remains current, as no further information has been identified since it was issued. This means that the original certificate revealed some information about the individual when it was issued but that, as no new information has been found since its issue, the employer is entitled to treat the existing certificate as current and valid.
- The certificate is no longer current and that a new DBS check is required to get the most up-to-date information. The employer will then need to apply for a new DBS check to see new information that has come to light since the original certificate was issued.
- The details entered do not match those on the DBS system. This means either that the individual has not subscribed to the Update Service, that the certificate has been removed from the Update Service or that the employer has not entered the correct information. Unless the employer finds an error in the information it has provided, it will need to apply for a new DBS check.

The DBS states that once a certificate is in the Update Service, it will keep it up to date by searching for new information on a regular basis. This means:

- Searching for criminal record conviction and barring information on a weekly basis (as this information can change frequently).
- Searching every nine months for non-conviction information (as this is released on relatively few certificates and changes infrequently).

Challenge to blanket disclosure of convictions and cautions: filtering

The DBS has issued a [Filtering guide](#) which advises employers who use standard job application forms to include the following information:

"The amendments to the Exceptions Order 1975 (2013) provide that certain spent convictions and cautions are 'protected' and are not subject to disclosure to employers and cannot be taken into account. Guidance and criteria on the filtering of these cautions and convictions can be found on the Disclosure and Barring Service website."

The guide also refers to a recommendation by the Ministry of Justice that employers should use the following question when asking about convictions and cautions that a candidate does not have to disclose:

"Do you have any convictions, cautions, reprimands or final warnings that are not "protected" as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013)?"

- **Protected convictions.**
 - A conviction received by a person aged under 18 at the time of the offence resulting in a non-custodial sentence would be removed from a DBS certificate after **five and a half years**.
 - A conviction received as an adult resulting in a non-custodial sentence would be removed from a DBS certificate after **11 years**.
 - However, specified offences are never eligible for filtering, including violent and sexual offences.
 - If a person has committed more than one offence, then details of all of their convictions will always be disclosed.
- **Protected cautions.**
 - A caution administered to a person aged under 18 at the time of the offence would not be disclosed after **two years**.
 - A caution administered to an adult would be removed after **six years**.
 - However, a caution would not be removed if it related to an offence specified as never being eligible for filtering.

Relevant police information (on enhanced DBS certificates)

Before an enhanced DBS certificate is issued the chief officer of every relevant police force is asked to provide any information which they "reasonably believe to be" relevant and ought to be included in the certificate, having regard to the purpose for which the certificate is sought.

The limits of DBS disclosure

Employers need to be aware that there are limits to DBS disclosure. Where criminal convictions are revealed by a DBS check:

- Disclosure will only show basic details of the offence, not the context.

- The DBS certificate is only correct as at the date of issue (however, there is now a system to maintain updated certificates online; see [Applying to the DBS for a standard or enhanced certificate](#)).
- Disclosure may omit details of overseas convictions.

Disputing the content of certificates

1 Disputing the accuracy of information in a certificate

Currently, an applicant who believes that the information contained in a certificate is inaccurate may make a written application to the DBS seeking a new certificate (*section 117(1), Police Act 1997*). A new certificate will be issued where the DBS is satisfied of the inaccuracy in question (*section 117(2), Police Act 1997*).

Since 10 September 2012, when section 82(4) of the PFA 2012 came into force, it has been possible for any person other than the applicant to challenge the accuracy of information contained in a certificate by writing to the Secretary of State who will make a decision as to the accuracy of the information in question (*section 117(1A), Police Act 1997*).

2 Disputing the relevance of police information contained in enhanced certificates

Since 10 September 2012, it has been possible for an individual to challenge the inclusion of relevant information by the police in an enhanced certificate, on the basis that it is not relevant for the purposes for which the certificate is being sought or otherwise ought not to be included in the certificate (*section 117A, Police Act 1997*). This new provision was inserted into the Police Act 1997 by section 82(5) of the PFA 2012.

A challenge will be considered by the independent monitor appointed under section 119B of the Police Act 1997. The monitor will ask the police who provided the information to review their decision and will then decide (having regard to any available guidance) whether a new certificate should be issued.

Dismissing someone for their criminal record

Sometimes employers recruit someone and then learn that they have a criminal record. Whether or not the employer can safely dismiss the employee will depend upon the circumstances:

- If someone is employed and later acquires a criminal record, this may call into question their suitability for the role. However, the employer should not have a knee-jerk reaction to the offence; they should consider what bearing, if any, the offence has on the role and safeguarding requirements.

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