

# Mossley Hollins High School



## Recruitment of Ex-Offenders Policy and Procedure

### Data Protection Statement

The procedures and practice created by this policy have been reviewed under our Data Protection Policy in line with GDPR.

Accepted by the Governing Body 30<sup>th</sup> November 2023

Reviewed: Annually  
Next Review Date: November 2024  
Person Responsible: HR Manager  
Approving Body: Governing Body

## **1. Purpose & Scope**

The aim of this policy is to state our approach towards employing people who have criminal convictions.

We are committed to equality of opportunity for all job applicants and aim to select people for employment on the basis of their individual skills, abilities, experience, knowledge and, where appropriate, qualifications and training.

However, Mossley Hollins High School is an exempt employer as defined in the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and as such, we have a lawful basis for requesting an enhanced DBS disclosure certificate for all employees. In addition, Mossley Hollins High School is a regulated activity provider and for most posts, we have a statutory duty to check that the individual is not barred from regulated work with children and / or adults.

The safeguarding of children is of paramount importance to us and the scrutiny of any unspent cautions or convictions and those which would not be protected under the Ministry of Justice filtering rules is an essential and non-negotiable part of the pre-employment check process.

We will consider ex-offenders for employment on their individual merits. Our approach towards employing ex-offenders differs depending on whether the job is or is not exempt from the provisions of the Rehabilitation of Offenders Act 1974.

### **Jobs covered by the Rehabilitation of Offenders Act 1974**

We will not automatically refuse to employ a particular individual just because they had a previous criminal conviction.

During the recruitment process, we will ask shortlisted job applicants to disclose any unspent 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. The successful applicant will be asked to apply for an Enhanced DBS certificate.

If an applicant has a caution or conviction that is unspent and if the nature of the offence is relevant to their suitability for the job for which they have applied, we will review the individual circumstances of the case and may, at our discretion, decline to select the individual for employment.

### **Jobs that are exempt from the Rehabilitation of Offenders Act 1974**

The vast majority of the roles we are seeking to recruit are covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (roles in regulated positions and in Further Education provision). In these cases, Mossley Hollins High School will require shortlisted applicants to disclose all unspent convictions or bind overs in addition to any criminal history that would not be filtered. Even in these circumstances, however, we will not refuse to employ a particular individual unless the nature of the conviction has relevance to the job for which the individual has applied.

As a result of amendments to the Rehabilitation of Offenders Act in 2013 and 2020, cautions and convictions that meet specified criteria should not be disclosed by applicants and must not be taken into account by potential employers. We encourage all applicants to use the flowchart and guidance provided by Nacro and to seek legal or impartial advice before completing their self-disclosure. We will not take into account any criminal history that would be protected or filtered, even if it is subsequently disclosed on the DBS certificate.

Mossley Hollins High School will, once we have selected the person to whom we wish to offer employment, make a joint application to the Disclosure and Barring Service (DBS) for an enhanced certificate (with the relevant DBS barred list(s) check if the post is in regulated activity).

Mossley Hollins High School is committed to ensuring that all information provided about an individual's criminal convictions, including any information released in disclosures, is used fairly and stored and handled appropriately and in accordance with the provisions of the General Data Protection Regulations and the Data Protection Act 2018. 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.

## 2. The Process

- As a Regulated Activity provider (RAP) all paid employees at Mossley Hollins High School are in regulated activity and therefore subject to an enhanced DBS certificate with check(s) of the relevant DBS barred list(s)
- We request all unsupervised volunteers to complete a DBS application via our school DBS provider. If the applicant is registered with the DBS Update Service then HR will instead carry out an employer check, following written consent from the applicant.
- For those positions where an enhanced DBS check is required, all recruitment advertising will contain a statement that an enhanced DBS certificate (with barred list check(s) where relevant) will be requested in the event of the individual being offered the position and an explanation that pre-employment checks will be carried out and references will be sought.
- All shortlisted applicants are required to complete a criminal record self-disclosure to be returned no less than one day prior to the interview date. This information is to be sent to HR. Failure to return the self-disclosure will result in the offer of interview being withdrawn. We will ensure that the self-disclosure information will only be seen by those who need to see it as part of the recruitment process, please see Appendix 1
- The criminal history self-disclosure will include information for shortlisted applicants on the importance of seeking legal advice and the contact details of organisations that can provide impartial advice
- We ensure that all those who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance on the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974 (exceptions order 1975) (as amended 2013 & 2020) and know how to access advice and support (e.g. from HR, external adviser, NACRO) and relevant registered bodies
- At interview, or in a separate discussion, the recruitment selection panel will ensure that an open and measured discussion takes place on the subject of any offences or related concerns that might be relevant to the position. Failure to reveal information that would not be filtered could lead to withdrawal of an offer of employment
- All potential employees are guided to the Disclosure and Barring Service Code of Practice and a copy is made available on request
- We undertake to discuss any relevant matter revealed on a DBS certificate with the person seeking the position before withdrawing a conditional offer of employment. This discussion and any subsequent risk assessment may be undertaken by the Headteacher or by another appointed person. If the DBS check reveals any matching information against the DBS barred list(s) or any criminal conviction which precludes them from working with children [and / or adults] the applicant is deemed non-appointable. In this circumstance, we would notify the Local Authority Designated Officer in line with the local multi-agency procedures.

## References / useful links

Disclosure & Barring Service

[www.gov.uk/government/organisations/disclosure-and-barring-service](https://www.gov.uk/government/organisations/disclosure-and-barring-service)

Detailed information, fact sheets and FAQs: <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

Filtering guidance from 28/11/20

<https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide>

Ministry of Justice – guidance on the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975 (and self disclosure) <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

National Association for the Care and Resettlement of Offenders (Nacro)

Criminal record support service – advice for applicants and employers <https://www.nacro.org.uk/criminal-record-support-service/>

Filtering flowchart <https://www.nacro.org.uk/news/dbs-filtering-regime-changes-to-come-into-effect-end-of-nov/>

**Appendix 1:**

**Mossley Hollins High School - Employment Self-Declaration and Disclosure Form**

Congratulations on being shortlisted. Please find below Employment Self-Declaration and Disclosure Form that all shortlisted candidates are required to complete and return to Mossley Hollins High School **at least one day prior to interview**. If we have not received this, we reserve the right to withdraw the offer of interview.

All information will be treated as confidential and managed in accordance with relevant data protection legislation and guidance. You have a right of access to information held on you under the Data Protection Act 2018.

***We are 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 check and other relevant checks with statutory bodies.***

We comply with the Disclosure & Barring Service (DBS) code of practice and have a written policy on the recruitment of ex-offenders, both of which are available on request. 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. As a result of amendments to the Rehabilitation of Offenders Act 1974 (exceptions order 1975) in 2013 and 2020, some minor offences are now protected (filtered) and should not be disclosed to potential employers, and employers cannot take these offences into account.

Please read the information [here](#) before answering the following questions. 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](mailto:helpline@nacro.org.uk) or phone 0300 123 1999

Unlock – <http://hub.unlock.org.uk/contact/> phone 01634 247350 text 07824 113848

**NOTE:**

If the role you have applied for requires the completion of Criminal Records Checks, you will also be required to provide a valid DBS (Disclosure and Barring Service) certificate which will provide details of criminal convictions; this may also include a Barring List check depending on the nature of the role (see Criminal Records Check guidance about eligibility for DBS checks).

<b>Applicant Name (including title and preferred name):</b>	
<b>Position Applied For:</b>	
<b>Do you have any convictions or adult cautions that are unspent?</b>	YES / NO <i>(if Yes, please provide further information below)</i>
<b>Do you have any other cautions or convictions that would not be filtered?</b>	YES / NO <i>(if Yes, please provide further information below)</i>

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<b>Are you included on the DBS children's barred list?</b>	YES / NO <i>(if Yes, please provide further information below)</i>
<b>(Teaching posts only) Are you, or have you ever been, prohibited from teaching by the TRA or sanctioned by the GTCE?</b>	Yes / No / Not applicable
<b>*Management posts in independent schools / academies only</b> <b>Have you been prohibited from management of an independent school (s128)?</b>	YES / NO <i>(if Yes, please provide further information below)</i>
<b>Have you lived or worked outside the UK for 12 months or more (whether continuously or in total) in the last 5 years, while aged 18 or over?</b>	YES / NO <i>(if Yes, please provide further information below)</i>
<b>Are you subject to any sanctions relating to work with children in any country outside the UK?</b>	YES / NO <i>(if Yes, please provide further information below)</i>
<b>*Applicants for posts in early years or later years childcare (wrap around care) only</b> <b>The Disqualification under the Childcare Act 2006 Regulations (2018) state that anyone employed to care for children in early years (children under the age of 5) or later years (wrap-around care for children under the age of 8) is disqualified from that work if they meet certain criteria. These criteria include (this is not an exhaustive list):</b> <ul style="list-style-type: none"> <li>• <b>Certain serious criminal offences</b></li> </ul>	YES / NO <i>(if Yes, please provide further information below)</i>

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<ul style="list-style-type: none"> <li>• Court orders relating to the care of your own child</li> <li>• Being prohibited from private fostering</li> </ul> <p><b>Do you have any reason to believe you are disqualified from working in childcare?</b></p>	
<b>Confirmation of Declaration (tick box below)</b>	
	I agree that the information provided here may be processed in connection with recruitment purposes and I understand that an offer of employment may be withdrawn or dismissal may result if information is not disclosed by me and subsequently come to the organisation's attention.
	If successful, I agree to inform the organisation, of any investigations by any agency or organisation in relation to any concerns, criminal arrests, cautions, investigation, offences and/or convictions which may have taken place during or outside of the workplace.
	I understand that the information contained on this form, the results of the DBS check and information supplied by third parties may be supplied by the organisation to other persons or organisations in circumstances where this is considered necessary.
	I declare that all the information I have provided in this disclosure is full and correct at the time of 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 personnel file. I understand that the declaration of a criminal record will not necessarily prevent me from being offered this role.
<b>Applicant Signature:</b>	
<b>Print name:</b>	
<b>Date:</b>	

Please note that, if you are unsuccessful, this disclosure form will be securely destroyed 6 months from the date of interview.