ST JAMES' C OE F INFANT AND NURSERY SCHOOL

RECRUITMENT OF EX-OFFENDERS POLICY & PROCEDURES

2026

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[1] The Governing Body to approve.
[2] The Governing Body are free to determine review period.

REVIEW SHEET

The information in the table below details earlier versions of this document with a brief description of each review and how to distinguish amendments made since the previous version date (if any).

Version Number	Version Description	Date of Revision
1	Original	March 2021
2	Minor update to note that it is an offence for applicants to apply for a regulated activity role if they are barred from working with children or vulnerable adults	July 2022
3	Reviewed, minor changes and updated links to KAHub and external websites only	September 2023
4	Added information in relation to those applying for posts which are 'relevant' in relation to the Childcare Disqualification Regulations	September 2024
	Reviewed (no changes)	Sept 2025
5	changes to terminology and links	Sept 2026

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Recruitment of Ex-Offenders Policy and Procedures

1. Purpose and scope

The aim of this Policy is to provide details of our approach towards employing people who have criminal convictions.

We will abide by the DBS Code of Practice and are committed to equality of opportunity for all role applicants and aim to select people for employment on the basis of their individual talent, skills, abilities, experience, knowledge and, where appropriate, qualifications and training including those with criminal records.

However, St James' CofE Infant and Nursery School (hereinafter referred to as the '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, the 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.

We can only ask an individual to provide details of convictions and cautions that the School are legally entitled to know about. Where a DBS certificate at either standard or enhanced level can legally be requested (where the position is one that is included in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended) and where appropriate Police Act Regulations (as amended), the School can only ask an individual about convictions and cautions that are not protected or filtered.

It is unlawful for the School to employ anyone who is barred from working with children. It is a criminal offence for any person who is barred from working with children to apply for a position at the School.

The School will make a report to the Police and/or the DBS if:

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

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 or filtered 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.

1.1 Roles covered by the Rehabilitation of Offenders Act 1974

We will not automatically refuse to employ a particular individual just because he/she has a previous criminal conviction.

During the recruitment process, we will ask shortlisted applicants to disclose any unspent cautions or convictions but will not ask applicants questions about criminal history that would be filtered or protected, nor expect them to disclose any filtered or protected convictions. The successful applicant will be asked to apply for a DBS certificate at the required standard.

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 role 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. We will undertake a risk assessment and will document our decision to either employ or decline the application for employment. We will, however, treat all applicants for positions fairly and will not discriminate unfairly against any subject of a criminal record check on the basis of a conviction, caution or other information revealed.

1.2 Roles 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 activity positions). In these cases, we will require shortlisted applicants to disclose all unspent convictions or bind overs in addition to any criminal history that would not be filtered or protected. Even in these circumstances, however, we will not refuse to employ a particular individual unless the nature of the conviction has some relevance to the role 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 considered by potential employers. We encourage all applicants to use the Practical guidance provided by Unlock and to seek legal or impartial advice before completing their self-disclosure. We will not consider any criminal history that would be protected or filtered, even if it is subsequently disclosed on the DBS certificate.

We 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 where the post is in regulated activity). Where the individual is registered with the DBS update service in the relevant workforce and at the required level, we will, with the individual's permission, carry out a status check on any current certificate. In order to check the DBS Update service we will require sight of the original DBS Certificate.

We are 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 Data Protection Act 2018.

The School's Policy is to observe the guidance issued or supported by the DBS on the use of disclosure information. In particular, the School will:

- store disclosure information and other confidential documents issued by the DBS in locked, non-portable storage containers, access to which will be restricted;
- not retain disclosure certificates or information or any associated correspondence unless we have a valid reason for doing so and then only for a maximum of 6 months.
- keep a record of the date of a disclosure, the name of the subject, the type of disclosure, the position in question, the unique disclosure 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 without the express permission of the individual to whom the disclosure relates.

If an applicant wishes to dispute any information contained in a disclosure, they may do so by contacting the DBS. In cases where the applicant would otherwise be offered a position were it not for the disputed information, the School may, where practicable and at its discretion, defer a final decision about the appointment until the applicant has had a reasonable opportunity to challenge the disclosure information.

1.3 Roles which are 'relevant' in relation to the Childcare Disqualification Regulations 2009

Childcare disqualification is an additional requirement to the general child safeguarding arrangements provided under the Disclosure and Barring Service (DBS) regime, which apply to all children.

The Childcare Disqualification Regulations 2009 place separate and additional requirements on schools. At the point that an individual is convicted of, or cautioned for, a criminal offence of a specified type or category, or where they meet other disqualification criteria set out in the Regulations, the Childcare Act 2006 and Regulations disqualify staff from:

- providing early years childcare (including reception classes) or later years childcare (wraparound care) to children who have not attained the age of eight; or

- being directly concerned in the management of that childcare.

To ensure that those relevant individuals working (paid or unpaid) in our School are not disqualified from teaching, training, supervising or otherwise caring for the 'relevant' pupil groups under the Childcare Disqualification Regulations 2018, the Governing Body require that, prior to appointment or at the shortlisting stage, an individual completes a criminal record and other sanctions self-declaration form.

In some cases, where we receive information and are satisfied that an individual working in a relevant setting falls within one of the disqualification criteria in the 2018 regulations we will inform the individual of this and explain the implications of disqualification to them, including whether they can apply to Ofsted for a waiver of disqualification (for example, Ofsted cannot grant a waiver to an individual who is on the Children's Barred List) and make clear what information the individual will need to share with Ofsted and why.

2. The process

As a Regulated Activity provider (RAP) almost all paid employees at St James' CofE Infant and Nursery School are in regulated activity and therefore subject to an enhanced DBS certificate with a check of the relevant DBS barred list(s), with an additional requirement to ensure the suitability of those staff who work with relevant pupil groups under the Childcare Act.

In relation to volunteers and contractors, we only request a DBS certificate after a thorough risk assessment has indicated that a check is relevant to the position concerned.

For those positions where an enhanced DBS check for regulated activity is required, recruitment advertising and recruitment briefs 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 of when in the recruitment process criminal information will be requested and considered.

All shortlisted applicants are required to complete a criminal history and other sanctions self-disclosure to be returned no less than 1 day prior to the interview date. This information is to be sent to the Head teacher at the relevant School or to HR, dependent on the role applied for. Failure to return the self-disclosure will result in the offer of interview being withdrawn. We guarantee that the self-disclosure information will only be seen by those who need to see it as part of the recruitment process.

The criminal history and other sanctions 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.

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; and the circumstances surrounding the offence and the explanation(s) offered by the applicant.

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, actual/grievous bodily harm or other serious acts of violence; or serious 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 driving whilst under the influence of alcohol or drugs (within the last ten years).

If a DBS Certificate reveals any convictions, the person concerned will be invited to attend an interview with the Head teacher or HR manager to discuss the conviction(s) and circumstances. Following this meeting a Cause for concern' risk assessment will be carried out and a decision made and communicated back to the applicant concerned. For safer recruitment purposes, until this decision has been made the applicant will not commence employment.

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 guidanceon 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 our HR suppliers, 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 or, if the failure to disclose 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.

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 Head teacher 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 the applicant is deemed non appointable. In this circumstance, we would notify the Local Authority Designated Officer (LADO) in line with the local multi-agency procedures.

3. References and useful links

Disclosure & Barring Service:

- www.gov.uk/government/organisations/disclosure-and-barring-service
- Detailed information, fact sheets and FAQs
- Filtering guidance from 28 November 2020
- DBS Code of Practice

Ministry of Justice:

- Guidance on the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975 (and self-disclosure)

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

- Criminal record support service – advice for applicants and employers
- Practical guidance on DBS Filtering

Unlock – Organisation providing advice for those with criminal records

Help or advice with a criminal record

Which cautions and convictions will be removed from a standard or enhanced DBS disclosure?
Filtered and protected convictions