

# Safer Recruitment Policy



**WYCHWOOD**

SCHOOL • OXFORD

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## Introduction

**Wychwood School is committed to safeguarding and promoting the welfare of children and young people and expects that all staff and volunteers will share this commitment.**

The school is committed to providing the best possible care and education of its pupils and to safeguarding and promoting the welfare of children and young people. All applicants must be willing to undergo child protection screening, including checks with past employers and the Disclosure and Barring Service (DBS). We take this responsibility seriously and in all recruitment of staff for any department; the consideration of safeguarding will have utmost prominence.

Wychwood also places a supportive and flexible working environment as a high priority for our staff as the school understands that these aims are vital in retaining, recruiting and attracting staff of the highest quality.

## Definitions – who is responsible?

The aims of the school's recruitment policy are as follows:

- To recruit staff on their merit, ability and suitability for the position
- To consider all staff equally and dependably
- To ensure that no-one is treated unfairly by reason of protected characteristic (Equality Act 2010)
- To ensure compliance with all relevant legislation, recommendations and statutory guidance published by DfE (Department for Education):
  - a. Keeping Children Safe in Education (KCSIE)
  - b. Disqualification under the Childcare Act 2006 (DUCA)
  - c. Prevent Duty Guidance for England and Wales 2015
  - d. Any guidance published by the Disclosure and Barring Service (DBS)
- To ensure all safeguarding and pre-employment checks are carried out to promote the welfare of children and young people
- To ensure that all employees who work in recruitment and selection of staff are responsible for complying with the provisions of this policy

## Terms of reference:

DBS – Disclosure and Barring Service

TRA – Teachers Regulation Agency

KCSIE – Keeping Children Safe in Education 2022

CV – curriculum vitae

GDPR – General Data Protection Regulation

DSL – Designated Safeguarding Lead

## Procedures

All applicants for employment at Wychwood School will be required to complete an application form containing questions regarding their academic and employment history and their suitability for the role. If there are gaps in their employment or academic history, a satisfactory explanation must be provided. A CV (curriculum vitae) will not be accepted in place of the application form.

Applicants will receive a job description, person specification, application form and the school's safeguarding (child protection) policy (which is also available on the website).

The applicant will be invited to attend a formal interview where skills, experience and interests will be discussed in more detail. All recruitment panels will have at least one member of staff who has been trained in safer recruitment.

Teaching staff may be asked to teach one or more classes with an observer as part of the interview process.

All shortlisted applicants will be tested at interview about their suitability to work with children and at this point any issues that have arisen through the social media checks will be brought to the applicant's attention and discussion on this will be encouraged.

If it is decided to make an offer of employment following the formal interview, any such offer will be conditional on the following:

- Agreement of mutually acceptable start date
- Signing of the contract which will include the school's standard terms and conditions of employment
- Verification of the applicant's identity, address and right to the work in the UK along with professional certificates confirming qualifications. Identity documents that adhere to the DBS identity checking guidelines: <https://www.gov.uk/government/publications/dbs-identity-checkingguidelines/id-checking-guidelines-for-dbs-check-applications-from-3-september2018>
- Receipt of two references (including internal candidates) and these should be professional references where possible (and one should be from the applicant's present employer) and will be followed up on receipt
- Checks with the TRA (Teaching Regulation Agency) will be undertaken for all teaching staff
- If there is "regulated activity" then the receipt of an enhanced disclosure will be required from DBS
- If there is "regulated activity" then the applicant will have an Enhanced Check for Regulated Activity (Section 142 of the Education Act 2022)
- Management and teaching posts will require prohibition checks
- Any applicant who has carried out teaching work outside of the UK, where a sponsorship certificate would be required, the offer is conditional and subject to the visa qualifying rules
- Verification of the applicant's right to work in the UK
- Verification of the applicant's employment history
- Any further checks for overseas applicants including overseas criminal records check, certificate of good conduct and professional references which will be verified
- Medical fitness where appropriate

The school is required to carry out an enhanced DBS check for all staff, supply staff and any board members/governors and proprietor who will be engaged in regulated activity. However, the school believes that anyone working in the school at any level and in any department has access to the pupils and therefore all members of staff should be enhanced DBS checked and other checks would be carried out at all times as required.

The school is aware of its duties under the Equality Act 2010 and no job will be withdrawn without first consulting with the applicant, obtaining medical evidence and considering reasonable adjustments as necessary or suitable alternative employment as appropriate.

In accordance with the official guidance the school carries out a number of pre-employment checks in respect of all prospective employees. In addition to the checks set out above, the school reserves the right to obtain such formal or informal background information about an applicant as is reasonable in the circumstances to determine whether they are suitable for work at the school. This may include internet and social media searches.

Whilst we will continue to work with the expectation that all applicants will be able to bring identification, etc with them to interview, there were alternative and temporary changes to this allowed during the pandemic and therefore from time to time there may be opportunities to initiate right to work checks on the basis of scanned images and live video links but this will not be a regular manner in which to proceed. (<https://www.gov.uk/guidance/coronavirus-covid-19-rightto-work-checks>)

Should an applicant have changed their name by deed poll, marriage, adoption etc. they will be required to provide documentary evidence of this.

The school asks for the date of birth of all applicants to assist with the checks to allow for verification of identity, any unexplained discrepancies in employment and education history. The school does not and will not discriminate on the grounds of age.

### **Referees and References:**

Referees will be asked to complete a pro-forma reference request and for all teaching posts, a minimum of 2 references will be requested in advance of the interview where possible. At least 2 references will be asked of non-teaching applicants but these will not be sought before interview and any offer of employment will be subject to satisfactory references. Please note that Wychwood School will not ask about an applicant's fitness or health issues prior to any offer of employment being made.

NB – teachers are able to request references of their employer prior to giving notice whereas other employees are not in this position and therefore only give references once notice would be given.

All offers of employment are subject to the receipt of the minimum of 2 references being received and verified. One reference must be from a present employer and at least one should be from a post held that involved working with children where possible. Neither reference should be from a relative or someone known to the applicant as a friend only. All referees will be asked if they consider the applicant to be suited to the job to which they have applied and will also be asked if they have any reason to believe that the applicant is unsuitable for the post. Referees will be asked to confirm that the applicant has taken all reasonable opportunities to support fundamental British values, including democracy and mutual respect and tolerance of different faiths and beliefs. This is to assess whether or not they support terrorism or any form of extremism.

A referee, who is a previous employer, will also be asked:

- Applicant's dates of employment
- Salary
- Job role
- Reason for leaving and performance within the role
- Whether the applicant is suited to the job role
- Whether the applicant has been subject or any disciplinary or capability proceedings during the last 24 months of their employment
- If the applicant has taken all reasonable opportunities to support fundamental British values etc.

No open references provided by the applicant will be considered and information provided by the referee will be compared to information given by the applicant. Any discrepancies or questions raised will be discussed with the applicant before any appointment is confirmed. If factual references are received (those which contain only limited information eg job title and dates of employment) then, whilst this may not disadvantage an applicant an additional reference may be required.

The school will make telephone contact with any referee to verify the written reference provided. Internal applicants who apply for an externally advertised role at Wychwood School will have their application assessed in accordance with this procedure. References will be taken up on internal applicants as part of the application process but colleagues at the school may provide the references if needed.

All job offers are made conditional on the receipt of satisfactory references and the school may withdraw any offer of employment at its discretion in the event unsatisfactory references are received.

Under GDPR legislation, if references are provided in confidence, these will not be disclosable as part of a Subject Access Request.

### **Regulated Activity:**

Regulated Activity – the school applies for the enhanced disclosure from the DBS and a check of Children's Barred List in respect of all positions at the school to identify whether an applicant is barred from working with children and to obtain other relevant suitability information.

Regulated Activity is considered to be:

- Frequently carried out – at least once a week or more
- Overnight
- 4 times or more in a 30 day period = period condition
- Provides the opportunity for contact with children
- Voluntary or unpaid work will be regulated if carried out unsupervised

Within the school there are rare instances when a post will not amount to regulated activity and therefore all posts (unless voluntary supervised) will be listed as regulated activity and will require an enhanced DBS.

### **Criminal Record Checks – DBS:**

The DBS will now only issue a DBS certificate to the subject of the check (applicant) only and therefore it is a condition of employment at Wychwood School that the original disclosure certificate is provided to the school as soon as possible. The school will not keep the certificate but needs to have sight of it.

Starting work pending receipt of the DBS may be required and therefore it is at the discretion of the Head and will only be allowed if a risk assessment and all other checks including the prohibition checks have been completed and supervision is in place.

### **Overseas Applicants and Right to Work in the UK:**

**Please Note:** The law places a duty upon every employer to take steps to ensure that all employees have a right to work in the UK. An employer may be liable for a civil penalty of up to £20,000 per illegal worker if they employ someone - inadvertently or not - who does not have the right to undertake the work in question. An employer commits a criminal offence if they employ an illegal worker and know or have reasonable cause to believe that the person has no right to do the work in question. This offence is punishable by up to five years in prison and / or an unlimited fine. Additionally, under the Immigration Act 2016, Immigration Officers now have powers to close down the business premises of employers who repeatedly employ illegal workers.

It is therefore extremely important that employers carry out "right to work" checks on all prospective employees. At Wychwood School we take this duty very seriously.

Under the relevant legislation, the Home Office are required to publish a "code of practice" setting out how they will enforce the law on preventing illegal working. That code of practice includes instructions for employers on how to check whether an employee or prospective employee has the right to work in the UK. Where checks are carried out in accordance with the process outlined in this code of practice, employers will benefit from a "statutory excuse" for the duration of that individual's employment. That statutory excuse will protect the employer from a civil penalty in the event that they inadvertently employ an illegal worker who has presented them with fraudulent or forged documents. The code of practice and a suite of guidance documents on illegal working can be found on the government's website, here:

<https://www.gov.uk/government/collections/employers-illegal-working-penalties>.

The documents include a detailed guidance document for employers (<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>)

### **Working Practice for Process of Overseas Applicants:**

Those applicants with recent periods of international residence and those with no previous UK residence will be asked to provide further information including a criminal records check from the relevant jurisdiction, a certificate of good conduct and references from any employment held. Only original documents will be acceptable.

The school uses the DBS "unusual addresses" guide in such circumstances and uses the guidance from the NSPCC when deciding whether to request overseas information from applicants. The NSPCC recommends that information should be sought on those who have lived overseas for 3 months or more in the last 5 years. The school recognizes that ISSR Regs do not specify a minimum period of overseas residence is required. The school therefore assesses each applicant's situation on its individual facts and requests overseas information from applicants who have lived overseas for periods of 3 months or more in the previous 10 years. This would also apply to cases where the applicant has been in more than one country in the same specified period.

When requesting this information, the school has regard to relevant government guidance and will therefore always require the applicant to apply for a formal check from the country in question – this may come in the form of a criminal records check or as a certificate of good conduct. As responses are likely to be significantly delayed or formal checks not available from some countries, in these circumstances, references and an overseas screening check carried out by a third party company specializing in overseas checks will be undertaken. Referees in these cases would be asked to disclose whether they are aware that the applicant may have been referred to or are the subject of a sanction issued by the regulator of the professional teaching body for that country.

The school may allow an applicant to commence work, pending receipt of a formal check, on a proportional risk-based assessment basis, taking into account all the information that has been obtained during the recruitment process. The continued employment will remain conditional upon the school being provided with the outcome of the formal check and it being considered satisfactory. If there are any concerns or doubt in the absence of this information then the proposed starting date for the applicant will be delayed until the formal check is received.

### **Gap Students:**

Note that if the prospective employee has leave to remain in the UK as a student, then the Home Office require additional checks to be conducted, which includes obtaining evidence of their term dates from their education provider. See the Home Office's guidance (<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>) for more information about ensuring we have the right documents in relation to gap students

When copying passports, a copy needs to be taken of any page with the document expiry date and the holder's name, nationality, date of birth, signature, biometric details and photograph, along with any page(s) containing their current permission to live in the UK and undertake the work in question.

When copying any other document, the document needs to be copied in full. For biometric residence permits this means copying both sides.

Annotate the copies with the date and the name of the person who undertook the check. Suggested wording for this is as follows:

*"Original examined by [• name of person undertaking the check] in the presence of [• name of prospective employee] and copy taken on [• 00 month year]. [• signature of person undertaking the check]."*

### **Prohibition from Teaching Check:**

The school is required to check whether staff who carry out "teaching roles" are prohibited from doing so and use the TRA Teachers' Services system to do so. This check will show whether an applicant has been the subject of a prohibition, or an interim prohibition order issued by a professional conduct panel on behalf of the TRA.

The school also asks all applicants for teaching roles to declare in the application form whether they have ever been referred to, or are the subject of a sanction, restriction or prohibition issued by, the TRA or other equivalent body in the UK. The school takes the position that this information must be provided in order to fully assess the suitability of an applicant for a role which involves "teaching work". Where an applicant is not currently prohibited from teaching but has been the subject of a referral to, or a hearing before, the TRA whether or not that resulted in the imposition of a sanction, or whether a sanction has lapsed or been lifted, the school will consider whether the facts of the case render the applicant unsuitable to work at the school. In carrying out these checks and the required associated information, for roles which involve "teaching work", the school applies the definition of "teaching work" set out in the Teachers' Disciplinary (England) Regulations 2012 which states the that following activities amount to teaching work/roles:

- Planning and preparing lessons and courses for pupils
- Delivering lessons to pupils
- Assessing the development, progress and attainment of pupils

If these activities are supervised by a qualified teacher or other person nominated by the Head, then the activities above do not amount to teaching work. If in any doubt or for roles eg. Sports coaches then the check will be undertaken. For any applicant who has carried out teaching work outside of the UK, the school will ask the applicant whether they have ever been referred to, or are the subject of a sanction issued by, a regulator of the teaching profession in the countries in which they have carried out teaching work. From January 2021, this will include the candidate providing the school with proof of his/her past conduct as a teacher in the form of a letter of professional standing from the professional regulating authority in the country in which he/she has worked.

### **Prohibition from Management Check:**

The school is required to check whether any applicant for a management position (or an internal applicant promotion) is subject to a direction under section 128 of the Education and Skills Act 2008 which prohibits, disqualifies or restricts them from being involved in the management of an independent school (a Section 128 direction). This check applies to the following positions:

- Head
- Teaching and support staff posts on the Senior Management or Leadership Team
- Teaching posts which carry a Head of Department or Faculty role
- Governing Body or Board of Directors including the Proprietor (if applicable)

The relevant information is contained in the Enhanced DBS disclosure certificate and can also be obtained through the TRA Teacher Services system. The school may use both methods or one method for this purpose.

In addition, the school requests information on the application form as to whether an applicant has ever been subject to a referral or a subject to a Section 128 Direction or any other sanction which prohibits, disqualifies or restricts them from being involved in the management of an independent school.

It is the school's position that, in order to fully assess the suitability of an applicant for a management role, it must be provided with the above information. Where an applicant is not currently prohibited from management but has been the subject of a referral to, or hearing before, the Department for Education or other appropriate body whether that resulted in the imposition of a Section 128 Direction or other sanction, or where a Section 128 Direction or other sanction has lapsed or been lifted, the school will consider whether the facts of the case render the applicant unsuitable to work at the school.

### **Charity Commission Requirements:**

The school acknowledges that certain individuals may be automatically disqualified from working in senior management positions, or as trustees within a charity. Therefore, with regard to the following positions:

- Head
- Director of Finance and Operations
- Governors/Board of Directors
- Proprietor

These individuals will be required to provide self-declarations that they are not disqualified from acting in a senior management position nor in a role as a trustee, governor or on the board of directors. Failure to disclose relevant information or should they provide false information which subsequently comes to the school's notice, this may result in the termination of an appointment or the withdrawal of an offer of employment and may also be a criminal offence.

All those required to complete this self-declaration form are under an ongoing duty to inform the school should their circumstances change that results or may result in them becoming disqualified from these roles (previously listed).

To ensure that the school has accurate and up to date information, there will also be checks on the following registers for each of these positions:

- The insolvency register
- The register of disqualified directors maintained by Companies House
- Register of persons who have been removed as a charity trustee

A person who has disclosed this information may apply to the Charity Commission for a waiver of the disqualification and the school in these circumstances may choose to terminate an appointment if the waiver application is rejected by the Charity Commission. The school is under no obligation to await the result of this application before taking such action.

### **Confirmation of Appointment:**

No one may take up their position at the school until all checks have been completed and found to be satisfactory by the member of staff responsible for this and this will then be signed off by the Director of Operations. At this point, the newly appointed member of staff (along with the Head of Dept or line manager)

will be informed in writing that the clearance has been signed off and the agreed date will be confirmed for starting.

He/she may not start until that confirmation has been received, unless a DBS disclosure is delayed and the procedure outlined above (in the DBS section) has been put in place.

### **Contractors and Agency Staff:**

Any contractor engaged by the school (eg. Catering companies, building contractors or others who will be undertaking regulated activity) must complete the same checks for their employees that the school requires of its staff. The school requires that written confirmation is supplied by the external company before any employees may start work at the school.

It is the school's policy not to use agency teaching staff unless all other means of engaging temporary staff have been used. Agencies who supply staff to the school must complete the pre-employment checks which the school would otherwise conduct and must assure the school that these checks have been completed prior to the individual beginning work at the school. The school also requires that the person employed through the agency supplies their Enhanced DBS certificate before they begin work. The school will independently verify the identity of individuals supplied by contractors or agency on arrival.

### **Governors/Directors of the Board:**

The required checks on the individuals for these positions will be made in advance of the appointment and they will be required to undergo the following checks:

- Enhanced DBS disclosure
- Barred list check
- Identity
- Overseas checks if applicable
- Right to work in the UK
- Prohibition from management check
- Check for disqualification from acting as a Charity Trustee or Company Director

The Chair of the Board will be subject to the following checks by the DfE:

- Enhanced DBS disclosure
- Overseas checks (if applicable)
- Right to work in the UK

### **Volunteers:**

The school will request an enhanced DBS disclosure and Children's Barred List information on all volunteers undertaking regulated activity with pupils at or on behalf of the school. Under no circumstances will any unchecked volunteer have unsupervised contact with pupils.

### **Visiting Speakers and Prevent Duty:**

The Prevent Duty Guidance requires the school to have clear protocols for ensuring that any visiting speakers, whether invited by staff or by pupils, are suitable and appropriately supervised. The school is not permitted to obtain a DBS disclosure nor Children's Barred List information on any visiting speaker who does not engage in regulated activity or perform any other regular duties for or on behalf of the school.



The school's protocol for visiting speakers is:

- A Visiting Speaker form is completed and submitted together with the dates approval form in advance of their visit
- The DSL will assess the level of risk of pupils being exposed to radical or extreme views either by the speaker him/herself or the content of the speech
- If it is concluded that a risk exists then the DSL will undertake the risk assessment in the form attached to the Visiting Speaker form
- Where possible, speakers will be booked as a result of recommendations or testimonials which are able to be checked
- The DSL shall ensure all checks undertaken (if applicable) are recorded in the Single Central Register and visitors will be required to sign in and out at reception, wear a visitor's lanyard at all times and be accompanied by a vetted member of staff at all times
- See the Safeguarding (Child protection) policy for further information regarding the Prevent Duty guidance and the definition of "extremism" set out in the KCSIE

### **Criminal Convictions:**

Since May 2013, the DBS began filtering and removed certain specified information relating to spent and minor criminal convictions from all criminal record disclosures. The DBS and Home Office set of filtering rules relating to spent convictions work as follows:

- 18 years and over at time of offence
- Spent criminal conviction committed in the UK when that person was over 18 years will not be disclosed on a DBS certificate (an applicant does not have to disclose)
- 11 years have lapsed since the date of the conviction
- It did not result in a custodial sentence
- It was not imposed for a specified offence
- If a person has more than one criminal offence on their record then these will always be listed
- If a person received a caution more than 6 years earlier it will not appear on the list of "specified offences"
- A spent conviction if the person was under the age of 18 years will not be disclosed (applicant does not have to disclose)

"Specified Offences" will always be disclosed.

For further information and details on "specified offences" on the above please use the link below:

<https://www.gov.uk/government/publications/dbs-list-of-offences-that-willnever-be-filtered-from-a-criminal-record-check>

### **Policy on the Recruitment of Ex-Offenders:**

The school will not unfairly discriminate against any applicant for employment on the basis of conviction or other details disclosed. The school will make appointments on the basis of merit and ability and whilst, if an applicant has a criminal record, this will not bar them automatically from employment; each case will be decided on its merits in accordance with the assessment criteria as listed.

All positions within the school are exempt from the provisions of the Rehabilitation of Offenders Act 1974 and all applicants must therefore declare all previous convictions and cautions, including those which would normally be considered as “spent”. A failure to disclose a previous conviction (which should be declared) may lead to an application being rejected or if already employed could lead to summary dismissal on the grounds of gross misconduct. A failure to disclose could also amount to a criminal offence.

It is a criminal offence for a school to employ anyone who is barred from working with children and for anyone in this position to apply for a position in a school. In this situation, the school would make a report to the police and/or DBS or if the during the application process that there was 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
- 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
- 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 or theft
- been convicted of 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 and/or dangerous driving within the last ten years

Should any of the above be the case for an applicant, and the information has been volunteered by the applicant, then the school will carry out a risk assessment by reference to the criteria set out above and the Head will sign this off before a position is confirmed or offered.

#### **Data Protection and Retention:**

The School will process and retain personal information of prospective staff, staff and Board Members in accordance with its Recruitment Privacy Notice, Staff Privacy Notice and Data Protection Policy.

### **Safeguarding and Welfare of Pupils :**

All staff are trained so that they understand that they are expected and encouraged to raise concerns they have, whether related to the safeguarding and welfare of pupils, the conduct of staff or other matters, during the course of their employment in accordance with the school's policies (and in particular the Safeguarding (Child Protection) Policy (*which incorporates the policy relating to whistleblowing regarding safeguarding matters and the Code of Conduct for Working with Children and Young Adults*)).

### **Referrals to the DBS and Teaching Regulation Agency (TRA):**

This policy is primarily concerned with the promotion of safer recruitment and details the pre-employment checks that will be undertaken prior to employment being confirmed. Whilst these are pre-employment checks the school also has a legal duty to make a referral to the DBS in circumstances where an individual:

- has applied for a position at the school despite being barred from working with children
- has been removed by the school from working in regulated activity (whether paid or unpaid)
- has resigned prior to being removed, because they have harmed, or pose a risk of harm to, a child

If the individual referred to the DBS is a teacher, the school may also decide to make a referral to the TRA.