



# Southend East Community Academy Trust

“Strong Partnerships, Strong Community, Strong Schools”

## Recruitment & Selection Policy & Procedure

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Reviewed by : Gabriella Ore

Recommended by : Trustees

Signed by Chair :



# **Recruitment & Selection Policy & Procedure**

## **1. Introduction**

The SECAT Recruitment and Selection Policy sets out the key considerations that must be adopted into organisational practice. It aims to balance the various requirements for effective recruitment, i.e. it needs to be efficient, effective and safe. Efficient means that the process is carried out economically and without any undue delay, bearing in mind the number of statutory checks required. Effective means the process succeeds in securing suitable, appropriately qualified candidates for any given role. Safe means that SECAT does not employ anyone who is unsuitable to work with children and/or who potentially poses harm to them.

## **2. Aims**

SECAT recognises that recruitment of competent and enthusiastic employees is critical in providing the best possible education to its pupils. It is vital that the most skilled teaching staff who, can transmit learning and enthusiasm to pupils are attracted and retained and it is equally important to recruit the most able staff to work with them through the various activities of the Trust to ensure that the focus is on provision of excellent service to pupils and the wider community.

It is also important that SECAT practices safe recruitment at all times, in line with relevant legislation and guidance. It is vitally important to have in place systems and practices that minimise as far as possible any chance of recruiting those who seek to harm children in any way and through the promotion of the safe recruitment practices we will follow, deter such individuals also.

## **3. Key legislative and statutory requirements**

### **Equal Opportunities**

SECAT is an Equal Opportunities employer and undertakes not to unlawfully discriminate against any candidate, internal or external on the basis of their:

- Age
- Disability
- Gender reassignment
- Marriage or civil partnership
- Pregnancy and Maternity
- Race
- Religion of belief
- Sex
- Sexual orientation

More information on this is provided in the Recruitment and Selection Procedure.

### **Safer Recruitment**

SECAT is aware of and committed to complying with all aspects of safer recruitment guidance as set out in:

- Keeping Children Safe in Education, (KCSIE) (Department for Education Statutory Guidance, September 2016)
- Disqualification under the Childcare Act 2006, Department for Education, June 2016

SECAT will also comply with any guidance notes that are published by the Local Safeguarding Children's Board (LSCB) and /or Local Authority Designated Officer, (LADO).

As part of KCSIE SECAT will ensure that at least one interview panel member has been trained in safer recruitment. This training which must include at least the requirements of KCSIE can be accessed from various bodies and SECAT will consult with the LCSB in sourcing appropriate training.

#### **4. Pre-employment vetting**

SECAT will apply a number of pre-employment/vetting procedures. This will include:

**Employment history checking.** This includes the careful screening of application forms to identify employment gaps and anomalies which can be explored prior to or during interviews. It will also include taking up references prior to interview. Such references should not include questions about health unless there is a specific requirement of the role that entails this but should seek to verify previous employment. A reference will be sought from the last employer and last teaching employer.

**Identity checking:** Checks must be made to assure SECAT that the successful candidates are who they claim to be before they can take up post. In practice, this will be done as part of the DBS checking process and the DBS guidance specifies a list of acceptable documents.

**The right to work in the UK:** Under UK asylum and immigration legislation all prospective employees must be able to demonstrate the right to work in the UK. The exact requirements in terms of documentary proof are set out on the government website. All applicants invited to interview will be asked to bring proof of the right to work in the UK. This is expanded upon in the procedure.

**Safeguarding Children and Rehabilitation of Offenders:** The Rehabilitation of Offenders Act 1974, as amended allows SECAT to ask applicants to disclose both spent and unspent convictions and/or cautions bar those which would be filtered from the Police National Computer when it is processed by the Disclosure and Barring Service. SECAT will not discriminate unfairly against an employee with a record of convictions and/or cautions but reserves the right to refuse employment to any applicant whose criminal history makes them unsuitable to work with children, for example people with a conviction for a crime of sexual abuse.

**Disclosure and Barring Service, (DBS):** SECAT will require all employers to undergo a DBS check .The majority of school employment meets the definition of regulated activity and applicants for such posts will be expected to complete an enhanced list with barred list check. More information is provided in the Recruitment and Selection Procedure. No employee will usually be allowed to start without a

satisfactory DBS check but in exceptional cases SECAT may decide to commence employment providing a risk assessment is undertaken in line with the DBS Check and Rehabilitation of Offenders Act policy. Also a barred list check must be obtained before commencement, in line with “Keeping Children Safe in Employment”.

**Prohibition from teaching check:** Individuals employed to do teaching work will also be subject to a Prohibition from Teaching check. The check can be run through the National Council for Teaching and Leadership (NCTL) Teacher Services system.

**Section 128 checks:** For certain positions a check will need to be done to check whether the candidate is subject to a Section 128 Direction by the Secretary of the State. A person who is prohibited is unable to participate in the management of an independent school such as a management position in an independent school, academy or free school as; an employee, a trustee of an academy or free school trust; a governor on any governing body in an independent school, academy or free school that retains or has been delegated any management responsibility. A check can be carried out through the Teacher Services system.

**English Language requirement for Public Sector workers:** In line with legislation introduced into the UK in 2017 SECAT is obliged to ensure that staff in customer-facing roles are fluent in the English Language. In summary candidates who are customer-facing which will include teaching and support staff but most likely exclude staff who are responsible for e.g. maintenance activities. Standards of fluency can be assessed normally as part of the selection interview and the requirement for it should be built into job descriptions and person specifications. For more detailed guidance please refer to appendix 1.

**Disqualification under the Childcare Act 2006:** Under this act individuals may be disqualified from registration on the Ofsted early years register or the general childcare register from provision of childcare in a number of settings. More detail is provided in section 6 of the recruitment and selection procedure.

## 5. Single central record

Each academy within SECAT must keep a single central record, or register covering all staff, including supply staff and teacher trainees on salaried routes, who work at the relevant academy. For independent schools, including academies and free schools the record must include all members of the proprietor body, including governors or trustees.

The information that must be recorded is whether the following checks have been carried out or certificates obtained, and the date on which each check was completed or certificate obtained:

- An identity check
- A barred list check
- An enhanced DBS check
- A section 128 check
- Further checks on people who have worked outside the UK
- A check of professional qualifications
- A check to establish the person’s right to work in the UK

For supply staff, SECAT should also include whether written confirmation has been received that the employment business/agency supplying the member of staff has carried out the relevant check and obtained appropriate certificates, the date the confirmation was received and whether any enhanced DBS check certificate was provided in respect of the member of staff.

## **6. Pay**

Pay is a key factor affecting relationships at work. SECAT recognises that it is vital that its pay systems are appropriate, clear, provide value for money and reward staff fairly for the work they perform.

The salary offered will normally be at the minimum entry point to the evaluated salary level, in the case of support staff. Teaching staff will be paid in line with the School Teachers Pay and Conditions Document (STPCD). Exceptions to this must be approved by the Headteacher and Governing Body or Trustees.

## **7. Induction and probation**

Successful candidates, who are new to SECAT, must be properly inducted. All staff will undertake SECAT's induction programme. All newly qualified teachers (NQTs) will also undertake Induction in line with statutory guidance.

A thorough and well-structured induction process is extremely important in assisting new employees to settle in quickly and can aid their long-term retention. See separate policy document

# Procedure

## 1. Introduction

This procedure supports the Recruitment and Selection Policy in its key aims; of securing appropriate talent for the good running of each Academy within the Trust and ensuring the safety of the pupils we educate by both deterring and screening out applicants who are not appropriate to be employed in a children's educational environment. The procedure also sets out good general recruitment and selection practice, equal opportunities considerations and safer recruitment, taking into account relevant legislation and local and national statutory guidance.

In doing so the procedure takes a "step by step" approach, seeking to mirror the natural steps of the recruitment and selection process.

## 2. Defining the role

The recruiting manager is responsible for ensuring a job is accurately defined before it is advertised. This is important for a number of reasons. It is important to define the requirements of the role properly and accurately although bearing in mind it is an overview and not a detailed description. This will assist in attracting candidates with a correct understanding of the role and can also assist in ensuring it is properly graded. The actual requirements of a role can change over time, as indeed can the requirement for that role at all. It is important therefore that the manager carefully assesses the requirement for the role; this will include whether the same hours or working patterns are still appropriate or whether the post should be replaced with a different one.

The outcome of this analysis will be the revised job description and person specification. The job description will set out the overall purpose of the role, the location of it and the key requirements, responsibilities and duties of the post. It will also generally include the reporting arrangements of the posts, i.e. who it is accountable to/for.

The person specification will set out the profile of the ideal candidate for the role in a number of respects. It should set out; the educational and qualification requirements of the post; any knowledge requirements beyond the educational ones, e.g., post-qualification training; any particular skills required; experience, and personal qualities. It may also set out the requirement to be registered with a professional governing body or to be a member of a professional institute. The job description and person specification may also set out, where applicable the English Language requirements for Public Sector Workers. This will only apply to customer facing roles and can be measured in the usual way that communication skills can be measured in an interview.

In setting out these requirements it is important that they are genuinely and objectively related to the job and steps are taken to avoid any form of unlawful discrimination. Some examples of what to avoid are:

- An unjustified requirement for a full driving licence. Asking for this when there is a genuine requirement, e.g. for a mini-van or minibus driver is justified; asking for it when there is no/little requirement for travel, particularly if this can be done via public transport is likely not to be justifiable and therefore discriminatory.
- Requiring a certain number of years' experience. There may be posts where it is possible to objectively stipulate a certain number of years' experience or service in a role but it is more likely to discriminate on the grounds of age, where younger groups of people will have had less opportunity to amass that experience. It also ignores the fact that different people learn at a different rate so an amount of experience specified in relation to time served may not be meaningful.

The job description and person specification will also usually contain some standard clauses such as health and safety, equal opportunities and a clause dealing with the right to request that the post-holder undertakes other duties not contained in the job description that are commensurate with the nature (and grading) of the post.

The job description will also set out the safeguarding responsibilities of the post in addition to the requirement for DBS checks and the level of those checks, which will be covered later in this procedure.

### **3. Advertising the vacancy**

The role will be advertised through the SECAT recruitment service/agency used by the relevant academy. It is only strictly necessary to externally advertise head and deputy head roles, (other than in exceptional circumstances where this requirement may be waived) but it is desirable for a number of reasons to advertise externally; it will be more likely to satisfy equal opportunities requirements as it is more likely to be seen by members of underrepresented groups in the community. It is also possible that it will bring in new staff with different ideas that may benefit the organisation.

### **4. Application forms**

Application forms must be used in preference to CVs. Application forms require full disclosure of employment history in a way that CVs do not. Additionally they are a better platform for rigorous and consistent assessment than CVs which can be forwarded in a variety of different formats.

Application packs should be issued with clear instructions that application forms only will be accepted although an applicant may supply a CV in addition to the form.

Application forms should require the following information as a minimum:

- Personal details and National Insurance number
- Relevant academic/professional/ vocational qualifications, date and awarding body.
- Full chronological history of full and/or part time employment since leaving secondary school/sixth form/higher education, including
  - Voluntary work, education and training
  - Reasons for leaving jobs
  - Any gaps to be fully accounted for
- Two referees, one of which must be the current or most recent line manager.

The application form should contain an equal opportunities monitoring section which can be separated from the main body of the application form and retained separately. Ideally, the form will also allow an anonymous ID number to be assigned and the candidate name will be retained with the equal opportunities form.

The pack should make it clear that references will be requested prior to interview and seek the authority of the applicant to seek to do this if they are short-listed. It should make clear that if the applicant does not give permission they will be required to withdraw from the process.

The application pack should advise candidates of the requirement to undergo a DBS check and state at what level the check will be and also contain a rehabilitation of Offenders Act 1974 (as amended) statement. The statement suggested which is based on guidance by the Ministry of Justice and the government website is:

“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).

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.” For further information about protected cautions or convictions please refer to the DBS filtering guide available on the gov.uk website.

## **5. Selection process**

### **5.1 Short-listing**

Ideally, short-listing should be completed by the same people who will sit on the interview panel or failing that, two people from the panel, including the line manager. Those completing the short-listing exercise should assess whether the individual applicants met the essential criteria of the person specification that can be measured at this stage. (Some may only be capable of measurement at interview/testing stage in which case they should not be used for assessment in short-listing).

It is important that this forms the sole basis of assessment and that no assumptions are made. Care must be taken to avoid decisions that could be perceived as discriminatory.

Where it is not possible to create a manageable short-list by using only essential criteria the short-listing personnel may assess against such desirable criteria as are measurable. The same criteria need to be applied consistently to each application in this case.

The short-listing panel in general and recruiting manager in particular should scrutinise the form for gaps in employment, anomalies or inconsistencies. Gaps in employment should be explained on the application but consideration of them is advised as the panel should assess the credibility of the explanation. Questions need to be asked at the interview on these gaps or inconsistencies. These will not form part of the scored or measured interview but the answers should be considered as there should be no doubts about the appointee's history.

## **5.2 Interview preparation**

Before the interview the recruiting manager, (who will normally chair the panel) needs to have considered and organised the following.

**The interview panel.** This should contain at least two people. Ideally it will have an element of diversity in terms of, for example, age, sex, disability. It is a requirement of "Keeping Children Safe in Recruitment" (KCSIE), DfE 2016, that one of the panel members will have received "safer recruitment" training. The training should include as a minimum the contents of KCSIE. The [SECAT] will source relevant training following consultation with the Local Safeguarding Children's Board.

**The venue,** which will need to be accessible.

**The method of assessment,** i.e. will assessment be by interview alone, will it feature a presentation, and will there be a functional or psychological test?

The panel will need to agree questions to be asked and the order in which they are asked. All forms of assessment, including test and interview question to be used need to relate back and test elements of the person specification. Care needs to be taken to avoid any form of discriminatory aspect entering the questions. For example it is not at all advisable to ask questions about childcare, future marriage plans or any questions that imply assumptions relating to age e.g. the work is demanding; how do you think you will cope at your age?

It is important also to prepare standardised questions. This does not prevent probing or follow-up questions being asked, but there should be a pre-planned and standard "core" of questions to which follow-ups are used to clarify or scrutinise any particular points. The scoring or measurement of answers needs to be defined. It is therefore highly advisable that the panel agree the features they expect of the ideal answer so that they can grade the responses they get. The panel will also need to allow for unanticipated responses that may still answer the questions posed.

The panel will need to decide a pass mark. The interview should be used to assess candidates against the person specification, not each other and it is not a simple case that the "best" candidate gets the job. It should be that the best of the appointable candidates, as defined by the pass mark gets the job. If no candidate achieves the pass mark it is better to not appoint and reappraise the situation.

If additional tests are to be used the candidates should be notified of this to allow the candidates to prepare appropriately and facilities should be ready for use on the day, e.g. flip chart, whiteboard or a laptop; for PowerPoint presentations or for in-tray exercises.

The panel should also consider how long they anticipate it might take to make a decision so that candidates can be advised. They should also agree who will provide feedback.

The short-listing panel will need to agree who will be short-listed and other details that will make up the interview schedule, i.e. interview length, start times, lunch or rest breaks, test start times.

### **5.3 Before the interview**

Candidates need to be invited to attend and given clear reporting instructions, including time, date venue and details of any additional tests. Candidates should be advised references will be sought prior to interview and that if they do not wish their referees to be contacted then they would need to withdraw their application.

References at this stage should not request details of sickness absence or other medical information as this may contravene the Equality Act in relation to disability. Exceptions are allowed if it is essential that applicants can physically carry out a function that is intrinsic to the role but advice must be sought from the HR provider before such a reference request is issued.

The candidates should be asked to provide proof of right to work in the United Kingdom with them at this point. It is recommended that for a full list of appropriate documents managers may wish to refer to the gov.uk website, but it is usual to ask applicants to bring a copy of their passport as this is an appropriate document. Where particular qualifications are required the candidate should be asked to bring original certificates of which copies can be taken. Similarly, if professional membership and/or registration are needed, candidates should be asked to bring them to the interview.

### **5.4 The interview**

Consideration needs to be given to any candidates who are not able to attend. It is not essential that their interview be re-scheduled to allow attendance but careful consideration needs to be given as to the reason given. For example if it needs to be re-arranged due to childcare arrangements or religious observance then a failure to rearrange may be discriminatory.

The interview itself can be broken down into a number of stages; there may be a pre-interview stage where any right to work documents are gathered, scrutinised and photocopied. The photocopy should be signed as seen and dated by the recruiting manager or an appropriate individual delegated by them to do it.

**Introductions;** the candidate should be introduced to the panel members and vice versa. Any relevant role information or context can be provided here and the format of the interview explained. This is a good opportunity to explain to the candidate when and how they will receive feedback post-interview. If the candidate has been asked to do a presentation this will normally follow the introductions.

**Information gathering.** This is the point of the interview when the panel will gather information from the candidate by asking them questions. During this phase, the panel member asking the questions should not take notes so that they can properly focus on the candidate. The other panel members should take notes. At this point the purpose is to gather information and not to form opinion. Panel members should take a note of questions and answers and not write comments at this point.

The panel members should follow the agreed order of questions, including the standard person specification based questions and any queries regarding employment gaps if applicable.

**Clarification.** It is common practice for the panel to give the candidate the opportunity to ask any points of clarification at this point.

**Close.** This is an opportunity to cover any information not given in the introductions and will provide an opportunity to explain the process and timescale for feedback, the process for taking up references, DBS and any other checks. At this point it should be made clear to the candidate that were there to be an offer of appointment it would be conditional upon satisfactory checks.

**The decision.** The panel should discuss each applicant individually, assign comments and a score. The first phase after that will be to see whether the candidates meet the minimum standard for the post. Where more than one candidate meets the minimum requirements the successful candidate will be the one who scores more highly.

If no candidate meets the minimum standard then an appointment should not be made at this point.

Thereafter, if there is a suitable candidate then a conditional offer of appointment may be made and a number of pre-appointment checks performed as detailed in the following section.

**Conditional offer.** This can be made verbally but must also be confirmed in writing. The offer should make clear that it is conditional upon receipt of the following information, which must be satisfactory to SECAT.

## **6. Pre-employment checks**

A number of pre-employment checks must be completed before the successful candidate can be given an unconditional offer of employment and commence work. These are described below. All the checks referred to are as stipulated by "Keeping Children Safe in Employment".

## **6.1 Verification of identity**

The candidate's identity must be verified to ensure they are who they claim to be and not an imposter who may pose a threat to SECAT's pupils. Guidance is provided on the gov.uk website but in practical terms ID verification is a requirement of the DBS process so it is recommended that the ID check be incorporated in the DBS check process, but with an independent record being kept. The candidate can be asked to bring into the interview a copy of their passport which would serve as proof of identity.

## **6.2 DBS Check**

The normal level of check to be applied in the Trust will be either an enhanced check or enhanced with barred list check.

An enhanced check would show any spent and unspent cautions, convictions, reprimands and final warnings, minus any that were filtered out in accordance with the law. (Such cautions and convictions as would be filtered would not be for a manner of offence that makes someone unsuitable to work with children.

An enhanced with list check also includes a check of the DBS barred lists, which will disclose whether the individual is barred from working with children.

An enhanced with barred list check is performed for staff working in a regulated activity, which includes:

- a. Teaching, training, instructing, caring for or supervising children if the person is unsupervised, or providing advice or guidance on well-being, or driving a vehicle only for children,
- b. Work for a limited range of establishments (known as specified places), which includes schools and colleges with the opportunity for contact with children, but not including work done by supervised volunteers.

The above work is only classified as regulated if done regularly. This is taken to mean in the case of bullet point a if it performed for more than three days out of thirty or, also in the case of bullet point a, (except for driving a vehicle only for children) the work is done between 2 and 6 a.m. and gives the person the opportunity to have face to face contact with children.

Some work will always be classed as regulated activity regardless of frequency or whether or not they are supervised. This includes:

- Relevant personal care or health care provided by or under the supervision of a health care professional.

Personal care includes helping a child, for reasons of age, illness or disability, with eating or drinking, or in connection with toileting, washing, bathing and dressing.

Health care means care for children provided by, or under the direction or supervision of, a regulated health care professional.

Applicants whose DBS check is not returned will not usually be allowed to commence until such time as a satisfactory check is received. However, in exceptional circumstances the Trust may decide an applicant can start employment before their DBS check is complete providing that a full risk assessment is carried out in conjunction with SECAT DBS check and Rehabilitation of Offenders Policy. Additionally a Barred list check must be obtained before the applicant can commence.

DBS checks and Barred List checks are both overseen by DBS and can be processed through SECAT's HR provider/DBS umbrella organisation. The impact of a DBS check being returned with convictions, cautions or additional information under a Barred List check is covered in section 7, Rehabilitation of Offenders and Safeguarding.

### **6.3 Verification of candidate's mental and physical fitness to do the job**

This will be assessed post interview by the SECAT's Occupational Health Provider post interview.

### **6.4 Verification of the right to work in the UK**

This may previously have been validated at interview but if it has not it must be completed before the individual takes up employment. Ideally the candidate will provide a passport demonstrating their right to work in the UK but failing that the HR Service provider will be able to advise on what documents can be used to verify the right to work in the UK. A list of such documents is available on the gov.uk website.

### **6.5 Additional checks for candidates who have lived or worked outside the UK**

An additional requirement added under the Immigration Act 2016 for overseas workers on tier 2 sponsorship is that they must obtain a criminal record certificate for each country in which they have resided continuously or cumulatively for 12 months or more in the 10 years prior to making their visa application. It is for the individual to gather this information and provide it to the employer. Professions covered by this stipulation include nursery, primary and secondary teaching professionals.

In addition to the checks that are performed for all staff, SECAT must make any further checks they think appropriate so that any relevant events outside the UK can be considered. This should include a check for information about any teacher sanction or restriction that an EEA professional regulator has imposed, using the NCTL Teacher Services system. Such a restriction does not prevent a person being employed in the UK but SECAT should consider the circumstances leading to the restriction or sanction being imposed when considering a candidate's suitability for employment. Separate guidance is available on DBS checks for overseas applicants on the government website.

Such checks do not need to be made if in the three months prior to appointment the applicant has worked:

- In a school in England in a post which brought them into regular contact with children or young persons in any post in a school, or

- In an institution within the further education sector in England or in a 16-19 Academy, in a post involving provision of education which brought the person regularly into contact with children or young persons.

## **6.6 Verification of Professional Qualifications**

If not already verified at the interview the original qualifications certificates should be obtained and a copy kept.

## **6.7 Prohibition from Teaching Check**

A check should be made for teaching staff that they are not prohibited from teaching. This can be done via the NCTL Teacher Services system. A person who is prohibited may not legally be employed as a teacher.

**N.B. for Qualified Teacher positions.** A check must also be made that the teacher has QTS, (Qualified Teacher Status) and this can also be checked on Teacher Services.

## **6.8 Section 128 check**

For certain management positions as detailed below, a section 128 direction check will also need to be done. A Section 128 Direction prohibits or restricts a person from taking part in the management of an independent school. A person who is prohibited is unable to participate in any management of an independent school, such as:

- A management position in an independent school, academy or free school as an employee;
- A trustee of an academy or free school trust
- A governor on any governing body in an independent school, academy or free school that retains or has been delegated any management responsibilities.

A check for a section 128 direction can be carried out using Teacher Services. If the prospective employee is to be engaged in regulated activity a DBS Barred list check will also identify a section 128 direction.

## **6.9 Disqualification under the Childcare Act 2006**

Under this act individuals may be disqualified from registration on the early years register or the general childcare register from provision in a nursery, primary or secondary setting of:

A. Early years childcare, which covers ages from birth to reception age (the 31<sup>st</sup> August following the child's fifth birthday). Early years childcare means any form of childcare up to reception age, including education in nursery and reception classes and/or supervised activity, such as breakfast clubs, lunchtime supervision and after school care provided by school, both during and outside school hours for children in this age range.

B. Later years childcare. This covers those children above reception age but under age 8 in childcare provided outside school hours, including before school settings,

such as breakfast clubs and after school provision but excluding education or supervised activity for children above reception age during school hours, (including extended school hours for co-curricular learning activities, e.g. school choir, sports team.

C. Direct involvement in the management of early or later years childcare. This would cover a school Headteacher or other members of management with direct responsibility for day to day management of childcare.

It is a criminal offence to employ a person who is disqualified under the Act. For the purpose of this legislation an employed person may also be a volunteer, casual worker or self-employed contractor who is directly concerned with the provision of childcare. An employer may have a legal excuse if they can prove that they did not know and had no reasonable grounds for knowing that a person they employed was disqualified.

Disqualification can also include *disqualification by association*. This covers a situation where an employee or prospective employee lives in the same household where a disqualified person lives or is employed. In such a situation the applicant is only required to declare what they know in terms of disqualification. They are not obliged to ask householders to disclose to them whether they are, or may be disqualified. They are not required to disclose any offences that would be filtered by the Police National Computer.

It may be possible for the applicant to seek a waiver from disqualification from Ofsted. Guidance on the circumstances where this may be possible is available on the Ofsted section of the gov.uk website. The website lists where a waiver can or cannot be granted. In the case of serious criminal offences such as sexual offences a waiver will not be granted. If, SECAT is satisfied that the applicant is or is likely to be disqualified by Ofsted they may agree to them seeking a waiver in cases where they are able to.

In order to obtain sufficient information from a prospective employee as to whether they are, or may be disqualified by Ofsted under this Act, SECAT academies should issue the self-declaration form (Appendix 1) to a prospective employee. If the employee is or is likely to be disqualified then reference can be made to the Ofsted guidance on the gov.uk website on how to proceed to apply for a waiver.

## **6.10 References**

As stated earlier in the procedure, references should be sought prior to interview, albeit without health details that may be discriminatory. If they are not obtained prior to interview then references must be chased. At least two references for the successful candidate should be kept on file, one from the most recent employer. If the most recent employer was not an education establishment a further reference should also be sought from the most recent education employer of the candidate. Where the prospective employee has a limited career history, e.g., a school leaver or graduate it may be possible to seek a character reference from the educational establishment where they studied.

References should be viewed and used as factual information to support the appointment decision, not as the basis of it.

References requests should include information on:

- Candidate suitability for the post
- The qualities and experience the candidate has;
- Details of any disciplinary offences against children or if there have been any child protection concerns, if the post involves working with vulnerable groups, and the outcome of them;
- The referee's relationship to the candidate;
- Whether the referee is satisfied that the candidate is suitable to work with children and if not, the referee's concerns and rationale as to why the candidate is not suitable.

Upon receipt references should be scrutinised carefully to ensure questions have been answered fully and satisfactorily, with no gaps or anomalies. If further information is needed this can be done by letter or by phone call provided a record of the conversation is kept.

Any disciplinary offences revealed must be carefully considered in light of the nature of the post the prospective candidate is applying for. HR advice should be sought if a concern arises.

### **6.11 Single Central Record**

A record of the above checks being carried out and the date any checks/certificates were received back will form part of the Single Central Record, which is described in more detail in the policy.

### **6.12 Certificates of Sponsorship**

If the person to be appointed is from a non-EU country a Certificate of Sponsorship may be required, in which case it will not be legal to employ the person until one is obtained.

The criteria for issuing a Certificate of Sponsorship is that:

- The job is in a "designated shortage " occupation, or
- Passes the "Resident Labour Market test"
- The job is at National Qualification Framework, (NQF) level 6 or above, and
- Minimum salary levels are met.

Advice should be sought from the HR service provider before offering a post in this situation. Further guidance can also be obtained from the gov.uk website.

## **7. Safeguarding and Rehabilitation of Offenders**

SECAT undertakes not to discriminate unfairly against employees with a criminal record. Where, therefore information comes to light that a prospective employee has a conviction or caution this will not automatically mean that they are barred from employment. The type and severity of offence, and the time that has lapsed since it was issued must be weighed against the nature of the role and where applicable the subsequent employment history of the individual in determining suitability for the role. Further details can be found in the SECAT's DBS checks and Rehabilitation of Offenders Policy.

## **8. Withdrawal of offer**

Once a conditional offer of employment has been made it can be withdrawn if the checks it was conditional upon are not satisfactory to the employer. The offer may also be withdrawn on the grounds of legality, e.g., the right to work in the UK or a person being on the barred list in which case they may not be legally employed in regulated activity.

It is recommended that the recruiting manager consult with SECAT's HR provider before withdrawing an appointment. If concerns are raised during the process in respect of safeguarding, these must also be discussed with/reported to the LADO.

## **9. Unconditional offer of appointment**

When all pre-employment checks are returned and are satisfactory to SECAT an unconditional offer of appointment can be made. At this stage the recruiting manager must also seek to finalise the pay and an induction plan for the pending employee.

## English Language Requirement for Public Sector Workers – application in Schools and Academies

### Introduction

The Code of Practice on the English language requirement for public sector workers, effective from October 2016, sets out the statutory duty of Public Authorities to ensure that employees with customer facing roles speak English fluently. SECAT will ensure that employees, including agency and supply staff in customer facing roles are able to converse to a degree of fluency in the English language sufficient to fulfil all spoken aspects of the role with confidence.

Schools and Academies need to determine which of their posts meet the Code of Practice criteria of 'customer facing roles'. This must include all of their staff who work in customer-facing roles including permanent and fixed-term employees, apprentices, self-employed contractors, and agency temporary workers. They need to include provisions in recruitment of staff.

### Definitions and Criteria

The Code of Practice sets out that 'Member of the public' should be given its usual dictionary meaning for members of the general population. It notes that public authorities may use other terminology to describe a person using, interacting or receiving a service such as 'customer' or 'client'.

The Code of Practice states:

1. Members of staff who, as a regular and intrinsic part of their role, are required to speak to members of the public in English are considered as working in a customer-facing role. Customer-facing roles would include, but are not limited to the following illustrative examples:
  - A work coach directly employed by the Department of Work and Pensions would be viewed as operating in a customer-facing role, as s/he will have face-to face interactions with the public, in the form of claimants, on a daily basis.
  - A local government employee working in customer service, receiving calls and fielding queries from the public would be viewed as operating in a customer facing role, as they will have regular telephone and face-to-face interactions with the public.
  - A teaching assistant required to communicate with pupils to support their learning, would be viewed as operating in a customer-facing role.
2. As shown in these examples, both face-to-face and telephone conversations bring a role within the scope of the fluency duty. The degree of interaction with the public needs to be regular and planned to be an intrinsic part of the job role, as defined in a job description or in clear occupational goals.
3. The examples set out below are of roles that require occasional interaction with the public and this interaction is therefore not a regular or an intrinsic part of the role. These roles are not, therefore, considered customer-facing and would be outside the scope of the fluency duty:

- A local authority employed street cleaner would not be viewed as a customer facing role as their main duties do not require regular interaction with members of the public.
- A clerical officer or IT user technician providing internal support within an organisation would not be viewed as a customer-facing role as they are not required to communicate with members of the public over the telephone or face to-face on a regular basis.

4. When determining whether a role is customer-facing or not, employers should consider the following aspects of the work involved:

- is there a business need for interaction with the public;
- what is the frequency and form of this interaction;
- what is the level of service quality and responsiveness expected by the public;
- what is the proportion of the role which would require spoken interaction with members of the public;
- what is the nature of the role; and
- is English language the primary language required for the role?

5. For example, taking these considerations into account, the fluency duty is unlikely to apply to members of staff whose role involves performing content or editorial functions for a public service broadcaster, such as journalists, programme-making roles or broadcast output. The nature of these roles may require interaction with members of the public, but the extent, frequency and form of interaction with the public either face-to-face or by telephone is likely to be limited and thus not an intrinsic part for the effective performance of the role.

Using this definition, staff who work with pupils will be included (which will mean teaching, classroom support and mid-day staff) and it is likely that office staff who interact with pupils and/or parents/carers of pupils will also be included. Catering staff may be included, but it is less likely that site staff or cleaners would be.

### **Action required**

Schools and Academies should:

- identify those posts they believe fall within the criteria of English language requirement for public sector workers with customer facing roles
- insert that requirement in the Person Specification for those posts
- make it clear in adverts and Job Descriptions the necessary standard of spoken English required for the sufficient performance of the customer-facing role – this can be “The ability to converse at ease with pupils/parents/carers/service users and provide a service in accurate spoken English is essential for the post”, or similar
- ensure those responsible for evaluating candidates for those posts understand the spoken language requirements for the role and use an objective method of evaluating candidates against clear criteria set out in the Person Specification
- notwithstanding this, ensure that their recruitment processes do not contravene the Equality Act 2010; all job applicants must be treated in the same way at each

stage of their recruitment process (save for any reasonable adjustments required for disabled applicants)

- apply these language requirements to agency workers (including Supply Teachers) and set them out in the relevant Contract or Service Level Agreement with the Agency

## DISQUALIFICATION FROM EARLY YEARS OR CHILDCARE PROVISION

### SELF-DECLARATION FORM (RECRUITMENT)

SECAT considers that the post for which you have applied is one in which it would be a criminal offence under the Childcare Act 2006 and the Childcare (Disqualifications) Regulations 2009 to employ staff who are disqualified from registration by Ofsted on the early years register or the general childcare register.

The Government has also published in June 2016 guidance called “Disqualification under the Childcare Act 2006”:

(<https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006>)

Which you are advised to read, as it explains what disqualified people must not do, how you know if you are disqualified, who can apply to Ofsted to waive their disqualification and the process of applying to waive a disqualification.

Please answer the following questions by circling “YES”, “NO” or by providing the requested information as appropriate:-

1. To the best of your knowledge, are you disqualified from registration by Ofsted on the early years register or the general childcare register?

YES / NO

If your answer to question 1 is “NO” you do not need to answer the questions below.

2. Does Ofsted have the power to waive the disqualification? YES/NO

If your answer to question 2 is “NO” you do not need to answer the questions below.

3. Have you applied to Ofsted to waive the disqualification? YES/ NO

If your answer to question 3 is “NO” you do not need to answer the questions below.

4. Have Ofsted refused your application for the waiver? YES/NO

If your answer to question 4 is “YES” you do not need to answer questions 8 to 9 below

If your answer to question 4 is “NO” you do not need to answer questions 5 to 7 below.

5. Have you appealed to the Tribunal against Ofsted’s refusal of your application for the waiver? YES/NO

If your answer to question 5 is "NO" you do not need to answer the questions below.

6. Has the Tribunal rejected your appeal? YES/NO

If your answer to question 6 is "YES" you do not need to answer the questions below

7. When do you expect to receive a decision from the Tribunal on your appeal?

8. What was the date on which you applied to Ofsted to waive the disqualification?

9. When do you expect to receive a decision from Ofsted on your application for a waiver?

10. If you are waiting for a decision from Ofsted on your application for a waiver, please attach a copy of the form you completed which you sent to Ofsted applying to waive the disqualification.

If you are waiting for a decision from the Tribunal on your appeal against Ofsted's refusal of your application for a waiver, please attach a copy of Ofsted's decision and a copy of your appeal to the Tribunal.

Once you have completed this form, please return it and any attachments to the relevant academy office.

**PLEASE NOTE THAT IF YOU GIVE ANY ANSWER(S) IN THIS FORM WHICH YOU KNOW OR BELIEVE TO BE UNTRUE , OR WHICH YOU KNOW OR BELIEVE MAY BE UNTRUE, THEN IN THE EVENT OF YOUR BEING EMPLOYED IN THE POST SUCH ANSWER(S) MAY RESULT IN YOUR BEING SUMMARILY DISMISSED FROM THAT POST ON THE GROUNDS OF GROSS MISCONDUCT**

Candidate's name.....

Candidate's signature .....

Date signed by candidate .....

Date form considered by SECAT.....

Signature of person who considered the form on behalf of SECAT.

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