



## RECRUITMENT, SELECTION AND DISCLOSURE POLICY AND PROCEDURE

### Introduction

Malvern College (**College**) is committed to providing the best possible care and education to its pupils and to safeguarding and promoting the welfare of children and young people. The College is also committed to providing a supportive and flexible working environment to all its staff. The College recognises that, in order to achieve these aims, it is of fundamental importance to attract, recruit and retain staff of the highest calibre who share this commitment.

The aims of the College's Recruitment Policy are as follows:

- to ensure that the best possible staff are recruited on the basis of their merits, abilities and suitability for the position;
- to ensure that all job applicants are considered equally and consistently;
- to ensure that no job applicant is treated unfairly on any grounds including race, colour, nationality, ethnic or national origin, religion or religious belief, sex or sexual orientation, marital or civil partner status, disability or age;
- to ensure compliance with all relevant legislation, recommendations and guidance including the statutory guidance published by the Department for Education (**DfE**), Keeping Children Safe in Education – September 2018 (**KCSIE**), Disqualification under the Childcare Act 2006 (**DUCA**), the Prevent Duty Guidance for England and Wales 2015 (the **Prevent Duty Guidance**) and any guidance or code of practice published by the Disclosure and Barring Service (**DBS**); and
- to ensure that the College meets its commitment to safeguarding and promoting the welfare of children and young people by carrying out all necessary pre-employment checks.

Employees involved in the recruitment and selection of staff are responsible for familiarising themselves, and complying, with the provisions of this policy.

All members of the Human Resources team, as well as other key staff, are Safer Recruitment trained and applicants are made aware during the recruitment process of the importance that Malvern College places on Child Protection and Safeguarding and that all staff are expected to play a full and active part in safeguarding and promoting the welfare of our pupils.

**Date of Policy:** 03.09.18

**Next review:** September 2021

**Owner:** Kate Tripp, Head of HR



## **Data protection**

The College is legally required to carry out the pre-employment checks detailed in this procedure. Staff and prospective staff will be required to provide certain information to the College to enable the College to carry out the checks that are applicable to their role.

The College will also be required to provide certain information to third parties, such as the Disclosure and Barring Service and the Teaching Regulation Agency (previously known as the National College for Teaching and Leadership (NCTL)). Failure to provide requested information may result in the College not being able to meet its employment, safeguarding or legal obligations. The College will process personal information in accordance with its Staff Privacy Notice.

## **Recruitment and selection procedure**

All applicants for employment will be required to complete an application form containing questions about their academic and employment history and their suitability for the role. Incomplete application forms will be returned to the applicant where the deadline for completed application forms has not passed. Should there be any gaps in academic or employment history, a satisfactory explanation must be provided. A curriculum vitae will not be accepted in place of the completed application form.

Applicants will receive a job description for the role applied for. Application forms, job descriptions and the College's Safeguarding Policy are available to download from the College's website and can be printed and forwarded to applicants on request.

The applicant may then be invited to attend a formal interview at which his / her relevant skills and experience will be discussed in more detail. All shortlisted applicants will be asked at interview about their suitability to work with children.

## **Pre-employment checks**

In accordance with the recommendations set out in KCSIE, DUCA and the requirements of The Education (Independent College Standards) Regulations 2014 and the *Boarding Colleges: National Minimum Standards* the College carries out a number of pre-employment checks in respect of all prospective employees.

In addition to the checks set out below, the College 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 to work at the College. This may include internet and social media searches.

In fulfilling its obligations the College does not discriminate on the grounds of race, colour, nationality, ethnic or national origin, religion or religious belief, sex or sexual orientation, marital or civil partner status, disability or age.

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

### *Verification of identity and address*

All applicants who are invited to an interview will be required to bring with them evidence of identity, right to work in the UK, address and qualifications. Where an applicant claims to have changed their name by deed poll or any other means (e.g. marriage, adoption, statutory declaration) they will be required to provide documentary evidence of the change.

The College asks for the date of birth of all applicants (and proof of this) to assist with the vetting of all applicants. Proof of date of birth is necessary so that the College may verify the identity,, and check for any unexplained discrepancies in the employment and education history, of all applicants. The College does not discriminate on the grounds of age.

### *References*

All offers of employment will be subject to the receipt of a minimum of two references which are considered satisfactory by the College. One of the references must be from the applicant's current or most recent employer. If the applicant's most recent employer is not from the education sector then the second reference must confirm employment in the sector, where this is applicable to the applicant's employment history. Neither referee should be a relative or someone known to the applicant solely as a friend.

All referees will be asked whether they believe the applicant is suitable for the job for which they have applied and whether they have any reason to believe that the applicant is unsuitable to work with children. Referees will also be asked to confirm that the applicant has not been radicalised so that they do not support terrorism or any form of "extremism" (see below).

If the referee is a current or previous employer, they will also be asked to confirm the following:

- the applicant's dates of employment, salary, job title / duties, reason for leaving, performance, sickness\* and disciplinary record;
- whether the applicant has ever been the subject of disciplinary procedures involving issues related to the safety and welfare of children (including any in which the disciplinary sanction has expired), except where the issues were deemed to have resulted from allegations which were found to be false, unsubstantiated, unfounded or malicious; and
- whether any allegations or concerns have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, except where the allegation or concerns were found to be false, unsubstantiated or malicious.
- whether the applicant could be considered to be involved in "extremism" (see below)

(\*questions about health or sickness records will only be included in reference requests sent out after the offer of employment has been made.)

The College will only accept references obtained directly from the referee and it will not rely on references or testimonials provided by the applicant or on open references or testimonials. All electronic references received will be confirmed that they are from a legitimate source and verified.

The College will compare all references with any information given on the application form. Any discrepancies or inconsistencies in the information will be taken up with the applicant and the relevant referee before any appointment is confirmed.

Where a reference is not received prior to interview it will be reviewed upon receipt. Any discrepancies identified between the reference and the application form and/or the

interview form will be considered by the College. The applicant may be asked to provide further information or clarification before an appointment can be confirmed.

If factual references are received i.e. those which contain limited information such as job title and dates of employment, this will not necessarily disadvantage an applicant although additional references may be sought before an appointment can be confirmed.

The College may, at its discretion, make telephone contact with any referee to verify the details of the written reference provided.

References will be sought for candidates who are already employed by the College that apply for roles internally. The reference must be from a senior person with appropriate authority.

### **Criminal records checks**

In May 2013, the DBS commenced the filtering and removal of certain specified information relating to old and minor criminal offences from all criminal records disclosures. The DBS and the Home Office have developed a set of filtering rules relating to spent convictions which work as follows:

#### **For those aged 18 or over at the time of an offence**

An adult conviction for an offence committed in the United Kingdom will be removed from a DBS disclosure if:

- eleven years have elapsed since the date of conviction;
- it is the person's only offence; and
- it did not result in a custodial sentence.

It will not be removed under any circumstances if it appears on a list of "**specified offences**" which must always be disclosed. If a person has more than one offence on their criminal record, then details of all their convictions will always be included.

A caution received when a person was aged 18 or over for an offence committed in the United Kingdom will not be disclosed if six years have elapsed since the date it was issued, and if it does not appear on the list of "specified offences".

#### **For those aged under 18 at the time of an offence**

A conviction for an offence committed in the United Kingdom will be removed from a DBS disclosure if:

- five and a half years have elapsed since the date of conviction;
- it is the person's only offence; and
- it did not result in a custodial sentence.

Again, the conviction will not be removed under any circumstances if it appears on the list of "**specified offences**", or if a person has more than one offence on their criminal record.

A caution received when a person was aged under 18 for an offence committed in the United Kingdom will not be disclosed if two years have elapsed since the date it was issued and if it does not appear on the list of "**specified offences**".

### *The list of "specified offences" which must always be disclosed*

This contains a large number of offences, which includes certain sexual, violent and other offences that are considered so serious they will always be disclosed, regardless of when they took place or of the person's previous or subsequent criminal record. The list of "specified offences" can be found at:

[www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check](http://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check)

### **Regulated activity**

The College applies for an enhanced disclosure from the DBS and a check of the Children's Barred List (now known as an Enhanced Check for Regulated Activity) in respect of all positions at the College which amount to "regulated activity" as defined in the Safeguarding Vulnerable Groups Act 2006 (as amended). The purpose of carrying out an Enhanced Check for Regulated Activity is to identify whether an applicant is barred from working with children by inclusion on the Children's Barred List and to obtain other relevant suitability information. Any position undertaken at, or on behalf of the College will amount to "regulated activity" if it is carried out:

- frequently, meaning once a week or more; or
- overnight, meaning between 2.00 am and 6.00 am; or
- satisfies the "period condition", meaning four times or more in a 30 day period; and
- provides the opportunity for contact with children.

Roles which are carried out on an unpaid / voluntary basis will only amount to regulated activity if, in addition to the above, they are carried out on an unsupervised basis.

It is for the College to decide whether a role amounts to "regulated activity" taking into account all the relevant circumstances. However, nearly all posts at the College amount to regulated activity. Limited exceptions could include an administrative post undertaken on a temporary basis in the College office outside of term time or voluntary posts which are supervised.

### **DBS Disclosure Certificate**

The DBS issues a DBS disclosure certificate to the subject of the check only, rather than to the College. It is a condition of employment with the College that the **original** disclosure certificate is provided to the College within two weeks of it being received by the applicant. Original certificates should not be sent by post. Employment will remain conditional upon the original certificate being provided and it being considered satisfactory by the College.

If there is a delay in receiving a DBS disclosure the Head, or in the case of Support Staff the Bursar, has discretion to allow an individual to begin work pending receipt of the disclosure. This will only be allowed if all other checks, including a clear check of the Children's Barred List (where the position amounts to regulated activity), have been completed and once appropriate supervision has been put in place. In these cases, a Risk Assessment will be completed and approved prior to the individual starting work. The Risk Assessment will be reviewed at least once a fortnight to ensure that it is still accurate and valid until the DBS certificate is seen.

## **Applicants with periods of overseas residence**

DBS checks will still be requested for applicants with recent periods of overseas residence and those with little or no previous UK residence. The College will take into account the "DBS unusual addresses guide" in such circumstances.

The College takes into account the guidance issued by the NSPCC when deciding whether to request overseas information from applicants, which recommends that such information should be sought on those who have lived overseas for periods of three months or more in the last five years. However, the College recognises that Education (Independent College Standards) Regulations 2014 do not specify that a minimum period of overseas residence is required. The College therefore assesses each applicant's situation on its individual facts.

Where applicants are asked to provide further overseas information this will include a criminal records check from the relevant jurisdiction(s) or a certificate of good conduct (as appropriate) and / or references from any employment held.

Work can only commence once sufficient overseas information has been received and only if the College has considered that information and confirmed that the applicant is suitable to commence work at the College.

### **Prohibition from teaching check (s.142)**

The College is required to check whether staff who carry out "teaching work" are prohibited from doing so. The College uses the Teaching Regulation Agency Teacher Services system to check whether successful applicants are the subject of a prohibition, or interim prohibition order issued by a professional conduct panel on behalf of the Teaching Regulation Agency.

In addition the College asks all applicants for roles which involve "teaching work" (and their referees) 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 Teaching Regulation Agency or other equivalent body in the UK.

It is the College's 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 hearing before, the Teaching Regulation Agency (or other equivalent body) whether or not that resulted in the imposition of a sanction, or where a sanction has lapsed or been lifted, the College will consider whether the facts of the case render the applicant unsuitable to work at the College.

The College carries out this check, and requires associated information, for roles which involve "teaching work". In doing so the College applies the definition of "teaching work" set out in the Teachers' Disciplinary (England) Regulations 2012 which states that the following activities amount to "teaching work":

- planning and preparing lessons and courses for pupils;
- delivering lessons to pupils;
- assessing the development, progress and attainment of pupils; and
- reporting on the development, progress and attainment of pupils.

The above activities do not amount to "teaching work" if they are supervised by a qualified teacher or other person nominated by the Head. If in any doubt or if the applicant has taught previously, or may teach in future, the check will be undertaken, including for sports coaches.

In addition, for all appointments made on or after 18 January 2016, where an applicant has carried out teaching work outside of the UK, the College will ask the applicant (and their referees) 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. This will include checking for the existence of any sanctions issued by regulators of the teaching profession in other EEA countries using the Teaching Regulation Agency Teacher Services system.

### **Prohibition from management check (s.128)**

The College is required to check whether any applicant for a management position 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 College (**a section 128 direction**).

This check applies to appointments to the following positions made on or after 12 August 2015:

- Head;
- All posts on the Senior Management Team (whether teaching or support staff); and
- teaching posts which carry a departmental head role.

It also applies to appointments to the governing body.

The relevant information is contained in the enhanced DBS disclosure certificate (which the College obtains for all posts at the College that amount to regulated activity). It can also be obtained through the Teaching Regulation Agency Teacher Services system. The College will use either, or both, methods to obtain this information.

In addition, the College asks all applicants for management roles to declare in the application form whether they have ever been the subject of a referral to the Department for Education, or are 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 College.

It is the College'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 College will consider whether the facts of the case render the applicant unsuitable to work at the College.

### **Medical fitness**

The College is legally required to verify the medical fitness of anyone to be appointed to a post at the College, after an offer of employment has been made but before the appointment can be confirmed.

It is the College's practice that all applicants to whom an offer of employment is made must complete a Health Questionnaire. The College will arrange for the information contained

in the Health Questionnaire to be reviewed by the College's medical advisor. This information will be reviewed against the Job Description and the Person Specification for the particular role, together with details of any other physical or mental requirements of the role i.e. proposed timetable, extra- curricular activities, layout of the College etc.

If the College's medical advisor has any doubts about an applicant's fitness the College will consider reasonable adjustments in consultation with the applicant. The College may also seek a further medical opinion from a specialist or request that the applicant undertakes a full medical assessment.

The College is aware of its duties under the Equality Act 2010. No job offer will be withdrawn without first consulting with the applicant, obtaining medical evidence, considering reasonable adjustments and suitable alternative employment.

### **Contractors and agency staff**

The College must complete the same checks for contractors and their employees undertaking regulated activity at the College as it does for its own employees. The College requires written confirmation from the contractor that it has completed these checks on all of those individuals, including name, checks and dates, whom it intends will work at the College before any such individual can commence work at the College.

Agencies who supply staff to the College must also complete the pre-employment checks which the College would otherwise complete for its staff. Again, the College requires confirmation that these checks have been completed before an individual can commence work at the College.

The College will independently verify the identity of individuals supplied by contractors or an agency as set out above and requires the provision of the DBS disclosure certificate before those individuals can commence work at the College.

### **Volunteers**

The College 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 College (the definition of regulated activity set out above will be applied to all volunteers).

The College may request an enhanced DBS disclosure without Children's Barred List check on all volunteers who do not undertake regulated activity. This is likely to be because their volunteering duties are subject to regular, day to day supervision by a fully checked member of staff or by a volunteer who the College has deemed appropriate to supervise and ensure the safety of those pupils in their care.

Under no circumstances will the College permit an unchecked volunteer to have unsupervised contact with pupils.

It is the College's policy that a new DBS certificate is required for volunteers who will engage in regulated activity but who have not been involved in any activities with the College for three consecutive months or more. Those volunteers who are likely to be involved in activities with the College on a regular basis may be required to sign up to the DBS update service as this permits the College to obtain up to date criminal records information without delay to each new activity in which a volunteer participates.

In addition, the College will seek to obtain such further suitability information about a volunteer as it considers appropriate in the circumstances. These may include (but not be limited to):

- formal or informal information provided by staff, parents and other volunteers;
- character references for the volunteer's place of work or any other relevant source; and
- an informal safer recruitment interview

### **Visiting Speakers and the Prevent Duty**

The Prevent Duty Guidance requires the College to have clear protocols for ensuring that any visiting speakers, whether invited by staff or pupils, are suitable and appropriately supervised.

The College is not permitted to obtain a DBS disclosure or Children's Barred List information on any visiting speaker who does not engage in regulated activity at the College or perform any other regular duties for, or on behalf of, the College.

All visiting speakers will be subject to the usual visitors protocol which will include signing in and out, the wearing of a visitors badge at all times and being escorted by a fully vetted member of staff between appointments.

The College will also obtain such formal or informal background information about a visiting speaker as is reasonable in the circumstances to decide whether to invite and/or permit a speaker to attend the College. In doing so, the College will always have regard to the usual visitors' protocol, the Prevent Duty Guidance, the College's Visiting Speaker Policy and the definition of "extremism" set out in KCSIE which states:

*"Extremism" is the vocal or active opposition to our fundamental values, including the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs. This also includes calling for the death of members of our armed forces,".*

In fulfilling its Prevent Duty obligations, the College does not discriminate on the grounds of race, colour, nationality, ethnic or national origin, religion or religious belief, sex or sexual orientation, marital or civil partner status, disability or age.

### **Policy on recruitment of ex-offenders**

#### **Background**

The College will not unfairly discriminate against any applicant for employment on the basis of conviction or other details disclosed. The College makes appointment decisions on the basis of merit and ability. If an applicant has a criminal record this will not automatically bar them from employment with the College. Each case will be decided on its merits in accordance with the objective assessment criteria set out below.

All positions within the College are exempt from the provisions of the Rehabilitation of Offenders Act 1974. All applicants must therefore declare all previous convictions and cautions, including those which would normally be considered "spent" except those received for an offence committed in the United Kingdom if it has been filtered in accordance with the DBS filtering rules (see above).

A failure to disclose a previous conviction (which should be declared) may lead to an application being rejected 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.

It is unlawful for the College 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 College. The College 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.

### **Assessment criteria**

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 College 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 College'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; or
- 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 College'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 College's normal policy to consider it a high risk to employ anyone who has been convicted of drink driving within the last ten years.

## **Assessment procedure**

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 College will carry out a risk assessment by reference to the criteria set out above. The assessment form must be signed by the Bursar, for support staff and the Head for teaching staff before a position is offered or confirmed.

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 College 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.

## **Retention and security of disclosure information**

The College's policy is to observe the guidance issued or supported by the DBS on the retention and use of disclosure information.

## **Referrals to the DBS and Teaching Regulation Agency**

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 College also has a legal duty to make a referral to the DBS in circumstances where an individual:

- has applied for a position at the College despite being barred from working with children; or
- has been removed by the College from working in regulated activity (whether paid or unpaid), or 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 College may also decide to make a referral to the Teaching Regulation Agency.

## **Queries**

If an applicant has any queries on how to complete the application form or any other matter they should contact the Human Resources Department.

**Author:** Kate Tripp, Head of Human Resources  
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