



## **POLICY ON USE OF THE DISCLOSURE AND BARRING SERVICE AND THE EMPLOYMENT OF EX-OFFENDERS**

### **1. Purpose of the Policy**

The Challenge Academy Trust (TCAT) and the schools and colleges in TCAT value an environment which promotes equality and safety. As an organisation using the Disclosure and Barring Service (DBS) to assess job applicants' suitability for positions of trust, TCAT complies fully with the Code of Practice and undertakes to treat all applicants for all positions fairly and equitably.

This Policy should be read in conjunction with the Schools' and College's **Recruitment and Selection Policies** and the **Safeguarding Policies**.

### **2. What is the Disclosure and Barring Service**

The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. The DBS has replaced the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA).

### **3. Use of the Disclosure and Barring Service and the Recruitment Process**

The TCAT recognises its duties under the Rehabilitation of Offenders Act 1974. The nature of the positions offered by TCAT allows us to ask questions about an individual's entire criminal record. We ask about 'spent' convictions as defined in the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 1986 (SI 1986 no 1249). Attached as an Annex to this document is a further document entitled "**Additional Information and Guidance in Relation to the Recruitment of Ex-Offenders**".

TCAT is required to use the national DBS in assessing the suitability of job applicants for employment in positions of trust. In doing so, TCAT complies fully with the Code of Practice.

A Disclosure is requested for all successful candidates due to the nature of the work of the Trust. Adverts and post details contain a statement confirming that a Disclosure will be requested in the event of the successful candidate being offered the position.

We encourage job applicants called for interview to provide details of their criminal record at an early stage in the application process, except for certain spent convictions and cautions which are 'protected' so not subject to disclosure to employers and that cannot be taken into account. We request that any information not subject to this filtering is sent under separate, confidential cover, addressed to the relevant Personnel/Business Manager, and we guarantee that this information will only be seen by those who need to see it as part of the recruitment process.



We ensure that all those involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders, e.g. the Rehabilitation of Offenders Act 1974.

At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter which might be relevant to the position. Failure to reveal information which is directly relevant to the position could lead to the withdrawal of an offer of employment.

We make every subject of a DBS check aware of the Code of Practice and make a copy available upon request.

We undertake to discuss any matter revealed in a DBS check with the person seeking appointment before withdrawing a conditional offer of employment. Having a criminal record will not necessarily bar you from working for TCAT. It will depend on the nature of the position and the circumstances and background of the offence(s).

#### **4. Consideration of Disclosed Matters**

Where an offence has been identified, account will be taken of the following when consideration is given on whether or not to offer or to withdraw the offer of employment:

- Whether the conviction or other matter revealed is relevant to the position in question.
- The seriousness of any offence 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 the other relevant matters.
- Whether the offence has since been decriminalised by Parliament.

The Principal is able to exercise some discretion in allowing people to start work pending the result of a DBS check, provided that other pre-employment checks have been carried out and that arrangements have been implemented to ensure that no risk to children or vulnerable adults could arise.

In general, however, TCAT will ensure that each person offered employment obtains a DBS Certificate for Child Workforce, and that s/he shares this with TCAT within **28** days of its issue.



## **5. Other Pre-Employment Checks on Job Applicants**

In line with national guidance and with the Schools'/College's Safeguarding Policies, Personnel/Business Manager Team will undertake the following checks in addition to the DBS check:

- Identity check to establish that applicants are who they claim to be
- Academic qualifications are checked to ensure that qualifications are genuine
- Professional and character references are taken up
- Checks to satisfy health and physical capacity
- Previous employment history is examined, with any gaps accounted for
- Any additional checks in line with the latest Department for Education guidance.

Should any of the checks be unsatisfactory, any conditional offer of employment may be withdrawn.

## **6. Continued Employment**

TCAT will undertake periodic DBS checks on a random sample of staff. Furthermore, the Trust reserves the right to require the holders of certain posts to register under the DBS for the annual DBS Update Service. Should any of the checks be unsatisfactory, then employment at the Trust may be terminated.

## **7. Register of Checks**

The Personnel/Business Manager teams in each school/college maintains a single, central up-to-date register detailing the range of checks made. This register covers all staff, volunteers and, where appropriate, contractors. Since it is currently the policy of the Trust Board that all Members/Trustees/Governors, including co-opted members, shall also obtain DBS clearance, the register shall also include Members/Trustees/Governors and co-opted members.

## **8. Supply Staff**

TCAT takes steps to ensure that all supply staff have undergone the necessary checks.

## **9. Policy Statement on Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information**

As an organisation using the DBS to help assess the suitability of applicants for positions of trust, the Trust complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage,



retention and disposal of certificate information and has the following policy on these matters.

### **Storage and Access**

Disclosure information is never kept on an applicant's personnel file and is always kept separately and securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

### **Handling**

In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. The College maintains a record of all those to whom certificates or certificate information has been revealed and we recognise that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

### **Usage**

Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

### **Retention**

Once a recruitment (or other relevant) decision has been made, the Trust does not keep certificate information for any longer than is necessary. This is generally for a period of up to 6 months to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than 6 months, the Trust will consult the DBS about this and will give full consideration to the Data Protection Act and Human Rights Act and inform the individual concerned before doing so. Throughout this time, the conditions regarding safe storage, appropriate and strictly controlled access will prevail.

### **Disposal**

Once the retention period has elapsed, the Trust will ensure that any DBS certificate information is immediately destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure container. TCAT will not keep any photocopies or other images of the certificate or any copies of the contents of a certificate. However, notwithstanding the above, TCAT will keep a record of the date of issue of a certificate, the name of the applicant, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificate and the details of the recruitment decision taken.

## **10. Complaints**

If individuals believe the Policy or Code of Practice has not been followed, they may raise their concern through the relevant Grievance/Complaints Procedure (for TCAT employees only) or the College Complaints Procedure.



## **Annex**

### **ADDITIONAL INFORMATION & GUIDANCE IN RELATION TO THE RECRUITMENT OF EX-OFFENDERS**

#### **Filtering Offences**

From 29 May 2013, the DBS removed certain specified old and minor offences from criminal record certificates issued. The filtering rules, together with the list of offences that will never be filtered, are available from:

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>.

A conviction received when the person was 18 or over will not be disclosed only if:

- (i) 11 years have elapsed since the date of conviction;
- (ii) it is the person's only conviction; and
- (iii) it did not result in a custodial sentence.

Even then, it will only be removed if it does not appear on the list of specified offences which must always be disclosed. If a person has more than one conviction, then details of all their convictions will always be included.

A conviction received when the person was under 18 would become eligible for filtering after 5.5 years – unless it is on the list of specified offences which must always be disclosed, a custodial sentence was received or the individual has more than one conviction.

A caution received when the person was 18 or over will not be disclosed if six years have elapsed since the date of issue and, if it does not appear on the list of specified offences which must always be disclosed.

A caution received when the person was under 18 will not be disclosed if 2 years have elapsed since the date of issue – but only if it does not appear on the list of specified offences which must always be disclosed.

List of specified offences which must always be disclosed: Certain sexual, violent and other offences are considered so serious that they will always be disclosed, regardless of when they took place and the person's criminal record. These offences are described in the Order and a list of offences which are always disclosable has been derived from the Order and set out below. The list is attached and arranged alphabetically by Act of Parliament and offences are shown sequentially by section within each Act.

The following categories of offences would also always be disclosed:

- (i) an offence which has been superseded (directly or indirectly) by any of the offences on the list below
- (ii) an offence of attempting or conspiring to commit any of the offences on the list



- (iii) an offence of inciting or aiding, abetting, counselling or procuring the commission of any of the offences on the list
- (iv) an offence under the law of Scotland or Northern Ireland or any foreign country which corresponds to any of the offences on the list
- (v) certain offences under legislation applicable to the armed forces which correspond to any of the offences on the list.

The list of offences can be found at <https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check> and will be updated to reflect changes to legislation in the future.