

QUEEN ALEXANDRA COLLEGE

Employment of People with a Criminal Record

1. INTRODUCTION

1.1. There are important social and business considerations for employers facing up to the challenge of employing people with criminal records. Employment decisions must be made in balanced ways that maintain a duty of care to employees, volunteers, learners and customers, protect business interests and give access to the widest pool of talent.

1.2. Owing to the vulnerable nature of our learners, it is the policy of Queen Alexandra College that all new employees and volunteers will be subject to a Disclosure check by the Disclosure and Barring Service. The Director of HR will determine the appropriate level of Disclosure and will be responsible for the processing of the Disclosure application. The full cost of the Disclosure will be met by QAC. This Policy should be read in conjunction with the College's Recruitment and Selection Policy and Protection of Vulnerable People ('Safeguarding') Policy.

1.3. In making decisions on the employment of people with a criminal record, QAC will make objective assessments, adopt an open mind and focus on merit and ability to do the job. Objective assessments will:

- Focus on the applicant's abilities, skills, experience and qualifications.
- Identify the risks to QAC's business, learners, customers and employees and volunteers.
- Actively promote equality of opportunity for all with the right mix of talent, skills and potential, welcoming applications from a wide range of candidates, including those with criminal records.

1.4. QAC undertakes not to discriminate unfairly against any subject of a criminal record check on the basis of a conviction or other information revealed. Blanket exclusion of those with a criminal record will be avoided. Consideration will be given to extenuating circumstances, the nature and relevance of the offence, the potential risks involved in employing the offender and if and how these could be sensibly and effectively managed. The main consideration will be whether the offence is one that would make the potential employee unsuitable to work in a post that provides the opportunity for access to people with disabilities and/or vulnerable. QAC's prime concern will be the protection and safety of its learners and staff.

1.5. In particular, QAC will be mindful of its duties under the provisions of current and relevant legislation and Department of Education statutory guidance with regard to those working with children and vulnerable young people.

1.6. Disclosure checks by the Disclosure and Barring Service are repeated for existing QAC staff on a three yearly basis.

2. GENERAL

2.1. In order that persons who are, or who may be, the subject of Disclosure information are made aware of the use of such information and in order that such persons may be reassured, QAC will:

- Ensure that application forms or accompanying material contain a statement that a Disclosure will be requested in the event of a successful application;
- Ensure that application forms or accompanying material contain a statement that persons with a criminal record will be considered on their merits, and that a criminal record will not necessarily be a bar to obtaining employment. This policy works alongside the College's Equality, Diversity and Inclusion policy which demonstrates the College's commitment to treating people fairly and justly and on the merit of the skills, talents and experience they bring to the organisation.;
- Give applicants the opportunity to supply details of criminal convictions in confidence to the Director of HR ;
- Discuss any matters revealed in Disclosure information with the applicant before any decision is made to withdraw an offer of employment;
- Make every potential employee or employee, who is the subject of a Disclosure, aware of the existence of the *DBS Revised Code of Practice for Disclosure and Barring Service Registered Persons* , and make a copy available on request;
- Comply with its obligations under the General Data Protection Regulation (GDPR) 2018, Data Protection Act and other relevant legislation and the DBS guidance for the safe handling, use, storage, retention and disposal of certificate information (Appendix 1);
- Ensure that access to criminal record information is on a strictly need-to-know basis.
- Where a disclosure of a past conviction has not been made by an employee or a potential employee but DBS clearance states otherwise, the failure to reveal relevant information could lead to withdrawal of an offer of employment, the Disciplinary Policy may be invoked and/or employment terminated.

3. CONSIDERING THE RELEVANCE OF A CRIMINAL RECORD

3.1. The following factors will be taken into account using the risk assessment at Appendix 2:

- Whether the conviction or other matter revealed is relevant to the job in question;
- The seriousness of any offence or other matter revealed;
- The circumstances surrounding the offence and the explanation offered by the convicted person;
- The nature of the job, workplace environment, exposure to money, property and vulnerable people;
- 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.
- Whether the offence has since been decriminalised by Parliament.

3.2. Where a Disclosure application reveals details of a conviction or other relevant information, the Director of HR will immediately bring this to the attention of the College Principal. In all cases, the subject of the Disclosure will be given opportunity to explain the circumstances surrounding the offence or other related matter. The final decision on whether or not to confirm the appointment will rest with the Principal.

Where a current member of staff receives a conviction or caution they must declare it to the Director of HR immediately.

The Director of HR will then interview the member of staff as soon as reasonably practicable to ascertain the details and see proof of the conviction/caution awarded. Where the conviction may mean the employee is at risk of dismissal, it may be necessary to suspend the employee until an investigation has been completed.

A judgement will be made about the appropriateness of continued employment using the risk assessment, attached in Appendix 2, based on the same criteria as a new applicant (see 3.1 above).

If deemed appropriate a disciplinary hearing will be convened as per the disciplinary policy and a decision made.

In some circumstances the employee may be appealing against the conviction. It may not be necessary to wait for the outcome of the appeal to proceed with a disciplinary process.

4. PROCEDURE FOR THE PROCESSING OF DISCLOSURE APPLICATIONS

- 4.1** Disclosures are processed confidentially by HR upon receipt of all the required supporting documentation
- 4.2** Failure to provide all necessary documentation to enable a DBS check or re-check to take place may result in withdrawal of an offer for a potential employee or disciplinary action for an existing employee
- 4.3** The candidate/employee must provide the original copy of the disclosure document to HR for viewing and recording onto the Single Central Register.
- 4.4** Where possible employees are encouraged to sign up for the portability DBS to facilitate speed of future processing by enabling applicants to keep their DBS certificates up to date online and to allow QAC to check a certificate online. QAC will only check certificates online where it is legally entitled to do so and has the individual's permission.
- 4.5** In some circumstances it is appropriate to proceed on a POVA clearance without waiting for the full DBS check to come through, as long as other references have been received. This may apply particularly in QAC Enterprises where the level of risk may be lower and the impact of vacancies high. Approval must be given by the Director of HR.

Appendix 1

Guidance on the Handling of DBS certificate information

1.1 General principles

As an organisation using the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, QAC complies fully with the code of practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information.

QAC also complies fully with its obligations under the General Data Protection Regulation (GDPR) 2018, Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.

1.2 Storage and access

Certificate information is kept 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.

1.3 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. QAC maintains a record of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

As an organisation whose services are subject to inspection by the Care Quality Commission (CQC) and by Ofsted, QAC may retain certificates until the next inspection. Once the inspection has taken place certificates should be destroyed in accordance with the [code of practice](#).

1.4 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.

1.5 Retention

Once a recruitment (or other relevant) decision has been made, QAC does not keep certificate information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints, or be for the purpose of completing safeguarding audits.

Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

1.6 Disposal

Once the retention period has elapsed, QAC will ensure that any DBS certificate information is immediately destroyed by secure means, for example by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack).

QAC will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, we may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the recruitment decision taken.

1.7 Acting as an umbrella body

Before acting as an umbrella body (an umbrella body being a registered body which countersigns applications and receives certificate information on behalf of other employers or recruiting organisations), QAC will take all reasonable steps to satisfy ourselves that they will handle, use, store, retain and dispose of certificate information in full compliance with the [code of practice](#) and in full accordance with this policy.