

HR Policies & Procedures

Schools Recruitment and Selection Policy – January 2017

Title:	Schools Recruitment and Selection Policy – January 2017
Purpose:	To propose a model policy for recruiting employees in School
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Consultation:	This policy has been formulated in consultation with the NUT, NASUWT, ATL, ASCL, NAHT, UNISON and GMB and agreed by all Trade Unions.
Policy History:	

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01	January 2017	Revision	D Gramann
02			

Policy Adoption

Policy adopted by the Governing Body off ?	
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1.0 PURPOSE

Effective recruitment and selection is essential to the successful functioning of the School.

The School is responsible for creating a culture of safe recruitment and adopting safe recruitment procedures that help deter, reject or identify people who might abuse children. Children and young people should be provided with a quality education in a safe environment, therefore appropriate suitability checks must be undertaken.

It is also important that the School's recruitment and selection processes are both fair and consistent and comply where necessary with statutory recommended good practice. With these measures in place, it increases the likelihood of appointing the most appropriate person each time. It also reduces the risk of future problems occurring such as high turnover, absenteeism, disciplinary, safeguarding issues, and possible unfair dismissal complaints.

This Policy and supporting guidance notes, aim to achieve a consistent approach in order to comply with employment legislation and recognised good practice, whilst supporting the School's vision and values.

2.0 PRINCIPLES

The School aims to ensure that its recruitment and selection practices;

- Safeguard and promote the welfare of children and young people adults and expect all staff and volunteers to adopt and share in this commitment;
- Do not directly or indirectly unlawfully discriminate against any individual;
- Encourage applicants both from within the Dudley Borough and outside, with an aim of reflecting the diversity of the community it serves;
- Give opportunity to disadvantaged and under-represented groups to apply for School job vacancies, through the use of appropriate advertising and recruitment and selection processes;
- Allow for reasonable adjustments to be made for applicants with a disability;
- Comply with our commitment to giving job applicants a fair deal.

3.0 THE LEGAL FRAMEWORK

The legal framework for recruitment and selection is provided to safeguard an individual's rights to fairness and equality of opportunity. All recruitment and selection practices must comply with these legislative requirements. The key legislation, which impacts on the recruitment and selection process includes;

Equality Act 2010

Prohibits discrimination against people during the recruitment process, and throughout employment in relation to the following protected characteristics under the Act. The Act harmonised previous discrimination law into one piece of legislation. The public sector equality duty under the Act requires the School to pay due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations.

The Equality Act 2010 expressly outlaws discrimination in the process of recruitment and selection (see Section 4). Specifically, it is unlawful to discriminate in the arrangements made for deciding who should be offered employment in the terms on which employment is offered by not offering employment.

'Arrangements' as defined above in the context of recruitment incorporates all aspects of the recruitment process, including the design of job advertisements, the procedures used for short-listing, interview arrangements, the questions asked at interviews, any psychometric/assessment testing used as part of the selection process, and the final decision of whom to appoint.

All groups protected under the Equality Act 2010 are;

- Age;
- Disability;
- Gender reassignment;
- Pregnancy and maternity;
- Race;
- Religion or belief;
- Sex;
- Sexual orientation
- **Marriage and civil partnership.**

Discrimination

Direct discrimination occurs where, a person treats another less favourably than they treat or would treat others because of protected characteristics, for example, not short-listing or offering a position on the grounds of an applicant's sex or race. Direct discrimination also includes discrimination by association and discrimination by perception.

Indirect discrimination can occur when a provision, criterion or practice which puts workers sharing a protected characteristic at a particular disadvantage and it cannot be shown as a proportionate means of achieving a legitimate aim, such as the safe and effective performance of a post.

Discrimination arising from disability can occur when A treats B unfavourably because of something arising in consequence of B's disability and A cannot evidence that the treatment is a proportionate means of achieving a legitimate aim.

Civil Partnership Act 2004

Provides legal recognition and parity of treatment for same-sex couples and married couples, including employment benefits and pension rights.

Data Protection Act 1998

Provides an individual with the right to request access to any personal information held about them in a manual or computer based file. Thus a job applicant (whether successful or unsuccessful) may submit a request to an employer to access any information specifically relating to them, for example interview notes.

Fixed Term Employee (Prevention of Less Favourable Treatment) Regulations 2002

Provides that fixed term employees should not be treated less favourably than comparable permanent employees. Fixed term contracts that are not covered by the Regulations are agency worker contracts, apprentices and those employed on training or temporary work schemes which are funded by the Government or an EC institution.

Immigration, Asylum & Nationality Act 2006

Makes it a criminal offence for any employer (and the responsible manager) to employ an immigrant who does not have permission to live and work in the UK.

Local Government and Housing Act 1989 (Politically Restricted Posts)

Extends an obligation that every appointment of a person to paid office of employment within a local authority, 'shall be made on merit'.

Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000

Provides that a part time worker has the right not to be treated less favourably than the employer treats a comparable full time worker, as regards to the terms of their contract, or by being subjected to any other detriment by an act, or deliberate failure to act of their employer.

Rehabilitation of Offenders Act 1974

Provides for certain convicted persons, who have not been subsequently reconvicted, to consider their conviction as "spent" after a certain time period. This period of time varies with the severity of the offence.

In cases of more serious crimes, where the sentence is greater than 30 months, there is no limit to the rehabilitation period and the crime may always be taken into account.

There are a number of exemptions to this Act, designed to ensure the protection of various vulnerable groups of the public. For posts working with vulnerable groups offences do not become “spent” and may be taken into account regardless of when the offence occurred.

Safeguarding Vulnerable Groups Act 2006

This Act makes a provision in connection with the protection of children and vulnerable adults and relates to individuals formally barred from working with these client groups.

Safer Recruitment - Part 3 of the ‘Keeping Children Safe in Education’ 2016

The above document is statutory guidance from the Department for Education issued under Section 175 of the Education Act 2002, the Education (Independent School Standards) (England) Regulations 2011 and the Education (Non Maintained Special Schools) (England) Regulations 2011. Schools must have due regard to this document when carrying out their duties to safeguard and promote the welfare of children.

‘School’ means all schools, whether maintained, non maintained or independent schools. It includes academies, free schools and pupil referral units.

This document sets out the legal duties with which schools and colleges must comply. It should be read in conjunction with ‘Working Together to Safeguard Children 2013’. This policy incorporates the statutory guidance by links to the statutory provisions;

<https://www.gov.uk/government/publications/keeping-children-safe-in-education>

<https://www.gov.uk/government/publications/working-together-to-safeguard-children>

4.0 EXCEPTIONS WITHIN THE LEGAL FRAMEWORK

In certain circumstances it is lawful for an employer to require a job applicant or an employee to have a particular protected characteristic, provided that certain conditions are met.

4.1 Occupational Requirements

Occupational Requirements (OR’s) are statutory exceptions to the general prohibition of discrimination in employment. The effect of an OR is that an employer can apply a requirement in relation to work only, if having regard to the nature of the work, or the context of the work.

- It is an occupational requirement
- The application of the requirement is a proportionate means of achieving a legitimate aim, and

- The person to whom the employer applies the requirement does not meet it (or the employer has reasonable grounds for not being satisfied that the person meets it).

Examples of how the OR exception may be used include some jobs which require someone of a particular sex for reasons of privacy or decency. However, the use of OR's is limited and may be challenged, and the responsibility lies with the employer to prove the exception is necessary. It is therefore important that any potential OR must be identified at the beginning of the recruitment process. YourHR will advise as to whether a request for an OR is appropriate.

Following discussions with YourHR should an occupational requirement be appropriate, details must be stipulated on the job requisition form in TalentLink and person specification, prior to the post being approved and advertised.

4.2 Positive Action

The term 'positive action' in relation to recruitment and selection refers to a range of measures the School may lawfully take to train or encourage people from protected groups, who are disadvantaged or under-represented in particular areas of the workforce to take up opportunities for employment, training and promotion.

5.0 DISABLED APPLICANTS

5.1 Disability Confident

The School is proud to display the disability confident symbol, which demonstrates its commitment to the recruitment and retention of people with disabilities. This symbol is a recognition given by Jobcentre Plus to employers who have agreed to meet five commitments regarding the recruitment, employment, retention and career development of disabled people.

As part of its commitment to be disability confident,, the School guarantee disabled applicants an interview, providing they meet the minimum essential criteria of the job advertised.

5.2 Considering Employment Information for Disabled Applicants

No pre-employment health enquiries relating to sickness absence levels will be made of any applicants prior to a 'conditional' offer of employment being made. The only circumstances in which health enquiries will be made is to assess whether an individual needs reasonable adjustments to undergo an interview and/or assessment as part of the actual selection process.

Should the successful applicant have a disability and a history of sickness absence is identified as part of the employment checks, it is important to ensure sickness rates are differentiated into disability and non-disability related absences. It may be discriminatory to reject a disabled applicant

because they have had high levels of sickness absence related to their disability in a previous job role.

However, information on disability or sickness absence records will be considered in line with 'Fitness to Teach' requirements to ensure existing and prospective school staff have the necessary health and physical ability to teach and not to put children or young people at risk. This policy incorporates the statutory guidance by links to the statutory provisions;

http://tna.europarchive.org/20070205142548/http://www.dfes.gov.uk/publications/guidanceonthelaw/6_99/circ499.doc

which is referenced in the 'Keeping Children Safe in Education' statutory guidance;

<https://www.gov.uk/government/publications/keeping-children-safe-in-education>

5.3 Addressing Disability Issues

For many reasons applicants may not have declared a disability. Some are unwilling to disclose this information for fear of being discriminated against. Others may feel that their disability has no bearing on their capacity to carry out the job role they are applying for and therefore is irrelevant. The Recruiting Officer will need to ensure that every applicant is given a further opportunity to disclose a disability and to discuss any adjustments that may be required as a result of that.

If an applicant decides not to declare a disability, applicants should be made aware that Recruiting Officers will be unaware of any requirements for reasonable adjustments during the selection process and also when carrying out the role if they were the successful applicant.

The best person to advise initially on reasonable adjustments is usually the applicant; however it is important not to assume everyone knows every adjustment that may be helpful in assisting them perform in the job.

In exceptional circumstances it may be unreasonable, due to practicability or cost, to implement the adjustments and there may be no other option but to withdraw the application/conditional offer. For example, if there is a need to fill a short-term temporary post quickly and the costs of making adjustments are excessive for such a short period, it might not be deemed to be 'reasonable' under the Equality Act 2010 and so the withdrawal of the offer may be justified.

All cases of this nature must be discussed and explored with YourHR and the preferred and recommended option would be to explore all possible adjustments available, and establish interim arrangements to enable the job offer to go ahead.

YourHR can advise on further information on access to the provisions/support available for people with a disability can be found in the Guidelines for Managers Supporting Employees with Disabilities.

6.0 EMPLOYING CHILDREN AND YOUNG PEOPLE

For the purposes of relevant legislation, a young person (or minor) is someone aged 16 or 17, while a child is someone under school leaving age.

Under the Children and Young Persons Act 1933, as amended by the Children (Protection at Work) Regulations 1998, the hours of work of children are restricted. Children are able to work on a Saturday and Sunday, however, the following principles will be adhered to;

- No work is to be undertaken before 7 am or after 7 pm on any day
- Where a child is employed for more than four hours, a break of at least one hour must be granted
- The maximum hours a child may work during weekends are as follows: 8 hours if over 15 (5 hours if aged 13 or 14) on a Saturday and 2 hours on a Sunday
- A health and safety risk assessment will need to be carried out

7.0 JOB SHARE

Job sharing is where two or more people share the duties and responsibilities of one full-time job. All jobs are open to applicants on a job share basis; unless there are sound business reasons to justify that one full time employee must fill the post.

Where an existing full time employee requests to change their post to a job-share, approval will be considered and may be subject to a number of criteria, for example the schools improvement agenda, a review of the number of existing job share arrangements and ultimately a suitable sharer being found through the recruitment and selection process. Any decision made as a result of a job share application will be made by the Headteacher/Governing Body and assessed on a case by case basis. Reference should be made to; D12 – Model Job Share Policy.

8.0 SECONDMENTS

Secondment usually involves an employee moving, for a specific purpose, on a temporary basis to another workplace. Applicants wishing to apply for a secondment must have sought prior permission from the Headteacher, prior to applying. If the school wishes to advertise for a secondment opportunity, it will do so via the normal recruitment and selection process, clearly stating the opportunity is available on a secondment basis in the advert text.

A formal secondment agreement is required to be drawn up upon the successful recruitment of a secondee.

9.0 MONITORING THE RECRUITMENT PROCESS

The School is required to monitor its recruitment and selection processes to measure the success of all groups at each stage of the recruitment process. The School will make attempts, under its equality duty as a public sector body, to collect information based around UK equality legislation, as defined in the Equality Act 2010. This protects people from discrimination because of; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

It is important to distinguish between information that is needed for the purpose of monitoring, and information required for recruitment and selection. It will be equally important to communicate to job applicants that any personal information provided will not be used as part of the process of short-listing or selection.

All applicants for vacancies within the School are asked to complete a diversity questionnaire as part of their electronic application form. This information is stored separately and is not seen by any member of the selection panel.

10.0 COMPLAINTS OR CONCERNS REGARDING THE RECRUITMENT PROCESS

The School's 'Fair Deal for Job Applicants' protocol sets out the expectation of how an applicant will be treated when applying for a vacancy at the school. This document is available at the application stage of the process.

Should a job applicant have a concern or complaint regarding any aspect of the recruitment process, they must document their complaint verbally or in writing, clearly outlining which vacancy their complaint or concern relates to and provide their reason(s) for this.

The complaint must be directed to the Headteacher in the first instance. The complaint will be acknowledged within 5 working days of receipt, an investigation conducted, and a full response will be provided to the applicant within 20 working days.