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|  | **DBS: Checklist for Recruiters** |

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| **New rules on DBS filtering came into effect on 28th November 2020 resulting in youth cautions, warnings and reprimands no longer being disclosed automatically on a Standard or Enhanced DBS certificate.****Other offences such as those on the specified offences list from DBS will always be disclosed in addition to all convictions resulting in a custodial sentence, whether or not they were suspended.****Below is some guidance for recruiters on the steps that you need to take to ensure that you comply with the changes.**  |
| **ADVERT** |
| Your advert should contain a statement in relation to successful candidates having to undertake an enhance DBS check.Our advice is that you keep this as a very brief statement in line with the above and do not go into further detail about what is required in terms of conviction/caution/disclosure.  |
| **APPLICATION FORM** |
| We recommend that your application form does not include a requirement for candidates to disclose information about criminal records. The Data Protection Act 2018 and the UK GDPR expect you to only obtain (process) information that you need, when you need it. Conviction information should be obtained at or after interview.Your application form should include the statement about disclosing convictions: *The amendments to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (2013 and 2020) provides that when applying for certain jobs and activities, certain convictions and cautions are considered ‘protected’. This means that they do not need to be disclosed to employers, and if they are disclosed, employers cannot take them into account. Guidance about whether a conviction or caution should be disclosed can be found on the Ministry of Justice website.* <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>.  |
| **INTERVIEW** |
| It is correct for you to ask for criminal record information during the interview process. Transparency and honesty play a key role in a school setting and to establish this at the point where the candidate/employer first meet (at interview) is good practice and in line with expectations under the Data Protection Act 2018 and UK GDPR. Safeguarding in a school setting generally and safer recruitment checks should also be discussed. To ensure you only seek information to which you are entitled, we advise you limit your conviction questions to:• Do you have any adult cautions (simple or conditional)?• Do you have any unspent conditional cautions?• Do you have any unspent convictions in a Court of Law?• Do you have any spent convictions that are not protected as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2020?and remind the candidate of the Ministry of Justice guidance which will assist them in answering those questions.Where the candidate does have conviction information but is unclear whether they are required to disclose it to you, we advise telling the candidate not to share any conviction information at that point and to instead complete your Relevant Convictions Form (see below).If the candidate is not successful, their conviction information should be destroyed in accordance with your data retention and destruction policy. If the candidate is successful but the DBS information contradicts what the candidate disclosed to you, then you need to discuss the issue with the candidate. As part of that discussion you should consider whether this was a genuine mistake/misunderstanding of the Ministry of Justice guidance or whether the contradiction brings into question the honesty and integrity of the candidate.Where you offer a candidate the role before receipt of the DBS certificate, do ensure that the offer is conditional upon receipt of a satisfactory DBS certificate. |
| **RELEVANT CONVICTION FORM** |
| Following interview, any candidate proceeding to the next stage should be asked to complete a ‘Relevant Convictions Form’ which asks them to declare relevant criminal convictions/cautions. This form should be clear about the 2020 DBS filtering changes and signpost the candidate to the Ministry of Justice website (<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>). There is no further obligation to signpost elsewhere. We recommend you allow the candidate time to complete the form and review the Ministry of Justice Guidance. We have included the following statement in our Relevant Conviction Form: Before completing this form, it is important that you review the Ministry of Justice Guidance on the rehabilitation of offenders, which can be found here - <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>. |
| **DISCLOSURE OF INFORMATION** |
| If, during interview or on completion of the Relevant Conviction Form, a candidate discloses in error a conviction or caution which you are not entitled to know, you must disregard this information so that it does not influence any appointment decision. |
| **DECISION TO APPOINT** |
| Your standard practice would continue to apply here as there is no requirement to change this as a result of the new filtering rules. |
| **RECRUITMENT POLICY, OFFER LETTER AND CONTRACT** |
| We also advise that you review your recruitment and selection policy, your offer of employment letter and your contracts of employment to determine if there is any wording that requires updating in light of the above and as a result of these changes. This will only likely be required if these documents are very specific about what information should and should not be disclosed. |