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| **Policy and Procedure for Disclosure of Criminal Convictions** | A blue and yellow logo  Description automatically generated |

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| **1.** | **Purpose and Scope** | |
|  | The purpose of this policy is to give details of the disclosure and barring checks that Clennell Education Solutions need to make for job applicants and for all employees, as well as for volunteers. | |
| **2.** | **Legal Considerations** | |
|  | Provisions on the scope of ‘Regulated Activity’ as defined by the Safeguarding Vulnerable Groups (SVG) Act 2006, as amended by the Protection of Freedoms Act 2012.  All paid employment posts working in schools are exempt from the Rehabilitation of Offenders Act 1974 (as amended in 2013 and 2020). | |
| **3.** | **Policy** | |
| 3.1 | Person specifications for all CES posts refer to the requirement for disclosures at the Enhanced Level. Where the posts will involve working in ‘Regulated Activity’ as above, this will also include a Children’s Barred List check. | |
| 3.2 | CES will pay for certificates of disclosure directly. The process is administered on our behalf through a service level agreement with Mayflower Disclosure Services Ltd. | |
| 3.3 | Before an offer of appointment is confirmed a CES Director must confirm whether the applicant’s record is clear or shows a trace i.e. convictions are on record. This requirement applies in all cases, except if the applicant is registered with the online update service and gives permission for their certificate to be verified online. | |
| 3.4 | CES will receive notification from Mayflower Disclosure Services Ltd. The Certificate of Disclosure is sent directly to the applicant. In all cases, this original DBS Certificate of Disclosure must be presented to the Business Manager or Human Resources prior to commencement of employment. | |
| 3.5 | Where a trace is identified this must be considered by a CES Director before an offer of appointment is confirmed. | |
| 3.6 | A request for a disclosure including Children’s Barred List check may be made at any time if the organisation has grounds for concern about the person's suitability to work with children. | |
| 3.7 | If the applicant disputes the information provided on the certificate of  disclosure, it is their responsibility to contact the DBS direct and arrange  for further checks to be made. | |
| 3.8 | Our Business Support team will maintain a record of the date of the disclosure, the name of the subject, the type of disclosure, the position in question, the unique number issued by the DBS and the recruitment decision taken. | |
| **4.** | **Individuals who require an Enhanced DBS check including a Children’s Barred List check** | |
|  | An enhanced DBS disclosure check is essential for all posts within CES as the roles involve working in school settings and/or regular contact with children and young people.  In addition, an enhanced DBS disclosure which includes a check of those barred from working with children (children’s barred list check), are mandatory for all new appointments or where an employee changes roles within CES and the role is considered to be in ‘regulated activity’ - working in unsupervised activity with children or young people or regularly in a specified place i.e. within schools. | |
| **5.** | **Online Update Service** | |
|  | CES do not use portability (i.e. using a disclosure that has been obtained in another job role).  However, where a applicant is registered with the online update service and the following criteria is met, CES will an online update service check:   * The applicant is able to produce their original DBS certificate * The DBS certificate is an Enhanced Certificate (for children’s workforce). * Where the role will involve working in ‘regulated activity’ the DBS certificate is an Enhanced Certificate (for children’s workforce) and includes a check of the children’s barred list. * The applicant is able to produce identity documents to support the required identity checks to be completed inline with the DBS Code of Practice.   A record of the online update service check will be retained. | |
| **6.** | **Volunteers** | |
| 6.1 | Volunteers will be required to undertake an Enhanced Disclosure Check. Disclosures for volunteers are normally free. To qualify for a free disclosure a volunteer must be a person engaged in an activity which involves spending time, unpaid (except for travel and other approved out of pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative. | |
| 6.2 | It is assumed that in most cases, volunteers will be supervised and therefore criteria for a barred list check would not be met. | |
| 6.3 | However, if the volunteer will be working in ‘regulated activity’ a children’s barred list must be completed as part of the Enhanced DBS check. | |
| **7.** | **Procedure for obtaining a declaration of criminal convictions and DBS certificate of disclosure** | |
| 7.1 | All posts involving direct contact with children are exempt from the Rehabilitation of Offenders Act 1974. However, amendments to the Exceptions Order 1975 (2013 and 2020) provide that certain spent convictions and cautions are ‘protected.’ These are not subject to disclosure to employers and cannot be taken into account. Guidance and criteria on the filtering of these cautions and convictions can be found on the Ministry of Justice website <https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide>. | |
| 7.2 | All short-listed applicants will be asked to provide details of all unspent convictions and those that would not be filtered, prior to the date of the interview through completion of a Self-Disclosure Form. Applicants may be asked for further information about their criminal history during the recruitment process. If the application is successful, the information provided through the self-disclosure process must be checked against the information from the Disclosure and Barring Service before an appointment is confirmed.  Under no circumstances should an unconditional offer of employment be made. | |
| 7.3 | The existence of a criminal record or other relevant matters is not necessarily a bar to an individual obtaining a position. Obviously, some convictions are of such a nature as to render a person unfit to work with children. In deciding whether a declared conviction or other relevant matters affects an applicant's suitability, where information is declared through the self-disclosure process, this will be discussed with the applicant before or at interview. This will include seeking more information about the detail of the conviction where necessary. | |
| 7.4 | Only the applicant who has been offered the job conditionally is required to apply for a certificate of disclosure. Photocopies of documentation required to confirm identity will be taken and retained on the personnel file. | |
| 7.5 | Where a DBS check is clear, the individual can start work and the school can proceed with the appointment process. | |
| 7.6 | Where the check is not clear, CES will ask the applicant to provide them sight of the original certificate containing the conviction information within five working days to determine whether or not to proceed with the appointment.   A risk assessment process will be undertaken by a Director in order to reach a decision on whether to continue with the appointment. Rationale for the decision will be retained on the personnel file. | |
| 7.7 | CES will consider the following factors before making a decision on whether the applicant is suitable to appoint:   * whether the conviction or other matters 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; and, * whether the applicant's circumstances have changed since the offending behaviour or the other relevant matters. | |
| 7.8 | If an individual's criminal record makes them unsuitable for employment in the post they have applied for, they should be informed of this as soon as the relevant information is received and has been considered. | |
| 7.9 | Where the information provided by the DBS differs from that provided by the applicant, a Director or Senior Consultant will discuss the discrepancy with the applicant. A decision on whether they believe the disclosure information means the applicant does not meet the requirement on the person specification to have no adverse convictions must be made. In making this decision consideration will also be given to the fact that the applicant did not disclose the information when invited to do so on the self-disclosure Safe Recruitment Form. | |
| 7.10 | If, following the discovery of convictions and consideration of their implication, it is decided that the individual is unsuitable for employment, the conditional offer of employment will be withdrawn. A note will be made on the safe recruitment self-disclosure form and applicant assessment form that an unsatisfactory certificate of disclosure has been received. These documents should then be returned to the person co-ordinating the recruitment exercise for inclusion in the recruitment documents file. | |
| **8.** | **Casual Workers with employee status** | |
|  | Casual workers are required to apply for a new Enhanced Disclosure (with children’s barred list check if applicable) on appointment and when they are re-engaged if they have a break in service of more than three months. | |
| **9.** | **Workers who have lived/worked overseas in the last 10 years** | |
| 9.1 | DBS Disclosures will not generally show offences committed by individuals whilst living abroad. Therefore, in addition to an enhanced DBS Disclosure, additional checks such as obtaining certificates of good conduct from relevant embassies or police forces will be necessary where an applicant has lived or worked outside the UK for 6 months or more in the last 10 years. | |
| 9.2 | If it is not possible to get this information within a reasonable time scale, the delegated person(s) must take extra care in taking up references and carrying out other background checks. For example, additional references should be sought and references followed up by telephone as well as letter. | |
| **10.** | **Agency/Supply Staff** | |
| 10.1 | Where staff are engaged through an external agency, a satisfactory enhanced certificate of disclosure including children’s barred list check (where appropriate) must be a pre-requisite to the individual commencing work. Supply agencies will be asked to verify that the relevant checks including identity, right to work in the UK and check of relevant qualifications and status, have been made in writing before the assignment starts. | |
| 10.2 | On commencement in the assignment, an identity check and a check of the original DBS certificate must be completed by appropriate staff. | |
| **11.** | **Sub-Contractors/Third Party Providers** | |
| 11.1 | Requirements placed upon CES relating to existing staff and volunteers extend to incorporate those involved in the provision of extended services. | |
| 11.2 | Where services or activities are provided directly under the supervision or management of CES staff, CES arrangements for criminal record checks and record keeping will apply. | |
| 11.3 | Where services or activities are provided separately by another body, CES should be satisfied that the provider concerned has appropriate policies and procedures in place regarding safeguarding children and child protection including those for staff appointments. There should also be arrangements to liaise with schools to provide those confirmations as appropriate | |
| **12.** | **Policy on Retention and Security of Disclosure Documents** | |
| 12.1 | CES will comply with all requirements of the Disclosure and Barring Service Code of Practice in relation to the security of information provided on Certificates of Disclosure. This covers the security of Disclosure documentation whilst in the possession of the CES, and the confidential destruction of the documentation as appropriate. | |
| 12.2 | Where there is a requirement to take and retain a copy of a Disclosure Certificate, it will be held for no more than 6 months. Whilst awaiting destruction the documentation should be kept in a secure container. | |
| 12.3 | Associated correspondence, such as self-disclosure forms and risk assessments, will be retained where it is considered necessary in order to demonstrate compliance with statutory requirements. They will be stored securely and only accessed by those who are involved in recruitment. | |
| **13.** | **Monitoring and review** | |
|  | This policy and procedure will be reviewed on a regular basis to ensure it is appropriate in light of recommended best practice and complies with statutory regulations.  In the event of any conflict with statutory regulations, the legal provisions will have precedence over this procedure in all cases | |
| **14.** | **Implementation Date:** |  |
|  | **Review Date:** |  |