

POLICY:	REF: ESD012	VERSION: 1
Recruitment of Ex Offenders	Employment & Staff Development	
APPROVAL BODY:	DATE:	REVIEW DATE:
ALET Board	11 th July 2017	10 th July 2020
LEAD PERSON: Group HR		
VERSION	REVIEWER/APPROVAL	REVIEW NOTES
1.	Multi Academy Trust Board	New Policy

Recruitment of Ex Offenders Policy

1. Introduction

1.1. Activate Learning Educational Trust has an obligation to take all necessary and available steps to ensure that staff employed or retained by the organisation do not possess a criminal record or background which renders them unsuitable for employment within any of its divisions or subsidiaries. Activate Learning Educational Trust is a registered body with the Disclosure & Barring Service (DBS) and uses the Disclosure Service as part of its recruitment procedures to assess an applicant's suitability for employment in positions of trust.

1.2. It is a requirement of the DBS' Code of Practice that registered bodies must treat all disclosure applicants to have a criminal conviction fairly and do not discriminate because of a conviction or other information revealed. Activate Learning Educational Trust complies fully with Code of Practice and undertakes to treat all applicants fairly.

2. Purpose

2.1. The purpose of this policy is to ensure that, subject to the overriding consideration of protecting all people who access our premises, sites and services, Activate Learning Educational Trust will make every effort to prevent unfair discrimination against those within criminal records in line with its Equality Policy and other employment practices.

3. Background

- 3.1. The Rehabilitation of Offenders Act 1974 was introduced to ensure ex-offenders who have not re-offended for a period of time following the date of their conviction are not discriminated against when applying for employment. Under the provisions of this act, job applicants do not have to declare a previous conviction after a 'rehabilitation' period has passed. Most convictions become 'spent' after five years. However, where a prison sentence of more than 2.5 years is imposed, the conviction is never considered as 'spent'.
- 3.2. In order to protect certain vulnerable groups within society, there are a large number of posts and professions that are exempted from the act. These include, but are not limited to, posts involving access to children, young people, the elderly and disabled. In such cases, organisations are legally entitled to ask applicants for details of all convictions, irrespective of whether they are 'spent' or 'unspent'.

4. Policy Statement

- 4.1. Activate Learning Educational Trust will not discriminate unfairly against applicants who have a criminal record. Only relevant convictions will be taken into account when assessing an applicant's suitability for a post.
- 4.2. Possession of a criminal record or an unspent conviction will not necessarily bar an applicant from employment; the nature of the conviction and its relevance to the post will be considered.
- 4.3. However, unspent convictions of violence, assault or damage to property, or an offence against a minor, are likely to be incompatible with working within Activate Learning Educational Trust.
- 4.4. Those staff dealing with and handing 'Disclosure' information have been trained and abide by the DBS Code of Conduct and the requirements of the Data Protection Act.
- 4.5. Applicants for posts within Activate Learning Educational Trust will be made aware of the requirement for 'Disclosure' and provided with a copy of the policy on the recruitment of ex-offenders. Where appropriate, adverts and job descriptions will clearly state that a disclosure check is a requirement of the role. This will provide a basis for the applicant to decide whether or not to apply for the post.
- 4.6. Where disclosure indicates that a prospective employee has a criminal record the following will be taken into account when reaching a decision on the suitability for the post:
 - a) Whether the conviction or other matter revealed is relevant to the position to which they will be appointed.
 - b) The seriousness of any offence or any other matter revealed.
 - c) The length of time since the offence or other matter occurred.

- d) Whether the applicant has a pattern of offending behaviour or other relevant matters.
- e) Whether the applicant's circumstances have changed since the offending behaviour or other matters, and
- f) The circumstances surrounding the offence and the explanation(s) offered by the convicted person.

4.7. Disclosure of the information received from the DBS certificate will only be made available to staff who have a specific need to access it in the course of their duties.

4.8. Existing staff with a criminal record:

If a member of staff is convicted of a criminal offence whilst in employment they should report this to the Group Director of Human Resources & Organisational Development immediately.

The facts of the case will be considered to determine if there are sufficient grounds to warrant formal action being taken, in line with the Disciplinary Procedure.

For specific roles, disclosure renewals will be required and it is expected that individuals would have disclosed any new convictions.

5. Management Notes

5.1. People Banned from Working with Children

5.1.1. Under the Protection of Children Act 1999 and the Criminal Justice and Court Services Act 2000, a number of people are banned from working with children. These are:

- a) people on the DfES List 99**
- b) people on the DoH List**
- c) people on the National Assembly of Wales List
- d) people aged 18 or over convicted of certain specified offences against those aged under 18 (or 16 in some instances) and given a hospital or guardianship order or a custodial sentence of 12 months or more. Suspended sentences of 12 months or more are treated as qualifying sentences.

** Replaced by the Independent Safeguarding Authority, Vetting and Barring Scheme with effect from 12th October 2009 and the Disclosure and Barring Service in 2013.

5.1.2. The specified Schedule (Schedule Four) offences are:

- a) murder or manslaughter
- b) rape or burglary with intent to commit rape
- c) grievous bodily harm
- d) cruelty to children

- e) kidnapping, false imprisonment and abduction
- f) indecent assault on a man or woman
- g) sexual intercourse with a child under 13
- h) intercourse with a girl aged between 13 and 16
- i) buggary with a child under 16
- j) indecency between men
- k) abuse of trust
- l) incest and related offences
- m) assault with intent to commit buggery
- n) indecency with children under the age of 14
- o) offences relating to or encouraging child prostitution
- p) offences relating to child pornography

5.1.3. The term 'working with children' covers a number of areas. According to the Guide on Protection of Children, broadly these terms are:

- a) **Employment in certain establishments**, which provide functions of various sorts exclusively or mainly for children such as schools, children's homes and children's hospitals. All staff, whether primary or secondary carers or ancillary staff are deemed to be primary carers.
- b) **Employment in day care premises**, except where the work takes place in a different part of the premises to where the day care activities are situated, or if it occurs during times of the day when children are not being looked after. A cleaner, for instance, who entered the day care premises each day after the children had left would not be considered to be working with children.
- c) **Caring for, training, supervising or being in sole charge of children**
- d) **A position where normal duties include unsupervised contact with children**. This would cover, for example, a minicab firm whose drivers are routinely employed to transport unaccompanied children on a regular basis, but not those who do it on an irregular one-off basis.
- e) **Child employment**. Where the young person is under the age of 16, those responsible for caring for them in the course of their employment would be covered by definition.
- f) **Positive influence and control** over children, which could place them at risk. Juveniles, under 18 years old, should only be banned if a court believes that there is a likelihood of the offender in question committing a further offence against a young person.

The 1999 Act required childcare organisations to refer to the names of individuals considered unsuitable for work with children to DoH and DfES Lists (replaced by the Disclosure and Barring Service). It also required childcare organisations not knowingly to offer employment to anyone listed for any posts involving regular contact with children in a childcare capacity.

The act applies to people disqualified in England and Wales only. However, such people are committing an offence if they seek such work in Northern Ireland. Those who are subject to disqualification in Scotland and Northern Ireland will be recognised as being disqualified in England and Wales also.

5.2. Criminal Record – Interpretation

A 'criminal record' is a far wider term than 'criminal conviction' in that it includes cautions, reprimands, final warnings and other information (acquittals and some bind-overs).

5.3. Exceptional Circumstances

In exceptional circumstances, where information has been released in a separate letter to the 'Disclosure', the information must not be discussed with the applicant or any other person disconnected from the recruitment decision. It is a criminal offence to disclose information of this type without the written permission of the police and would be considered a serious breach of the Activate Learning Educational Trust disciplinary rules.

5.4. Other Related Legislation

- The Police Act 1997
- Protection of Children Act 1999 and the Criminal Justice and Court Services Act 2000
- Data Protection Act 1998
- Human Rights Act 1998
- Anti-discrimination Law
- Protection of Vulnerable Groups Act 2006
- Equality Act 2010

Monitoring and Evaluation

The Trust and Headteacher/Principal will monitor the operation and effectiveness of the Recruitment of Ex-Offenders Policy.

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