



CROSFIELDS SCHOOL

Recruitment, Selection and Disclosure Policy and Procedure

Person responsible: Headmaster; Bursar; HR Manager

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1 Introduction

Crosfields School is committed to providing the best possible care and education to its pupils and to safeguarding and promoting the welfare of children and young people. The School is also committed to providing a supportive and flexible working environment to all its members of staff. The School recognises that, in order to achieve these aims, it is of fundamental importance to attract, recruit and retain staff of the highest calibre who share this commitment.

The aims of the School's recruitment policy are as follows:

- to ensure that the best possible staff are recruited on the basis of their merits, abilities and suitability for the position
- to ensure that all job applicants are considered equally and consistently
- to ensure that no job applicant is treated unfairly on any grounds including race, colour, nationality, ethnic or national origin, religion or religious belief, sex or sexual orientation, marital or civil partner status, disability or age
- to ensure compliance with all relevant legislation, recommendations and guidance including the statutory guidance published by the Department for Education (**DfE**), *Keeping children safe in education* (September 2022) (**KCSIE**), *Disqualification under the Childcare Act 2006* (**DUCA**), the Prevent Duty Guidance for England and Wales 2015 (the **Prevent Duty Guidance**) and any guidance or code of practice published by the Disclosure and Barring Service (**DBS**); and
- to ensure that the School meets its commitment to safeguarding and promoting the welfare of children and young people by carrying out all necessary pre-employment checks.

Employees involved in the recruitment and selection of staff are responsible for familiarising themselves with and complying with the provisions of this policy and the content of Part three of Keeping Children Safe in Education (KCSIE) 2022. At least one member of the recruitment panel must have received appropriate safer recruitment training.

2 Data protection

The School is legally required to carry out the pre-appointment checks detailed in this procedure. Staff and prospective staff will be required to provide certain information to the School to enable the School to carry out the checks that are applicable to their role. The School will also be required to provide certain information to third parties, such as the Disclosure and Barring Service and the Teaching Regulation Agency (TRA). Failure to provide requested information may result in the School not being able to meet its employment, safeguarding or legal obligations. The School will process personal information in accordance with its Privacy.

3 Recruitment and selection procedure

All adverts for roles should include the School's commitment to safeguarding and promoting the welfare of children and make clear that safeguarding checks will be undertaken; the safeguarding responsibilities of the post as per the job description and personal specification; and whether the post is exempt from the Rehabilitation of Offenders Act 1974 and the amendments to the Exceptions Order 1975, 2013 and 2020. Adverts must be cleared by the HR Manager before being placed.

All applicants for employment will be required to complete an **application form** containing questions about their academic and employment history and their suitability for the role. Incomplete application forms will be returned to the applicant where the deadline for completed application forms has not passed. Should there be any gaps in academic or employment history, a satisfactory explanation must be provided. A curriculum vitae will not be accepted in place of the completed application form.

Applicants will receive a job description and person specification for the role applied for. Application forms, job descriptions, person specifications and the School's child protection policy are available to download from the School's website and can be printed and forwarded to applicants on request.

Where a role involves engaging in regulated activity relevant to children, the application form should include a statement that it is an offence to apply for the role if the applicant is barred from engaging in regulated activity relevant to children.

Shortlisted candidates will be asked to complete a self-declaration of their criminal record or information that would make them unsuitable to work with children. Applicants will be asked to sign a declaration confirming that the information they have provided is true. Where there is an electronic signature, the shortlisted candidate should physically sign a hard copy at the point of interview.

The school will ensure that at least two people carry out the shortlisting exercise.

The applicant may then be invited to attend a **formal interview** at which his / her relevant skills and experience will be discussed in more detail. All shortlisted applicants will be tested at interview about their suitability to work with children.

If it is decided to make an offer of employment following the **formal interview**, any such offer will be conditional on the following:

- the agreement of a mutually acceptable start date and the signing of a contract incorporating the School's standard terms and conditions of employment
- verification of the applicant's identity (where that has not previously been verified) including checking of the name on the birth certificate, marriage certificate or any other official document indicating a change in the applicant's name (see section 4.1 below).

- verification of qualifications, whether professional or otherwise, which the School takes into account in making the appointment decision, or which are referred to in the application form, whether a requirement for the role or not
- verification of the applicant's employment history
- the receipt of two references (one of which must be from the applicant's most recent employer) which the School considers to be satisfactory
- for positions which involve "teaching work", information about whether the applicant has ever been referred to, or is the subject of a sanction, restriction or prohibition issued by the Teaching Regulation Agency which renders them unable or unsuitable to work at the School
- for applicants who have carried out teaching work outside the UK, information about whether the applicant has ever been referred to, or is the subject of a sanction issued by a regulator of the teaching profession in any other country which renders them unable or unsuitable to work at the School
- where the position amounts to "regulated activity (see section 4.3.2 below) the receipt of an enhanced disclosure from the DBS which the School considers to be satisfactory
- where the position amounts to "regulated activity" (see section 4.3.2 below) confirmation that the applicant is not named on the Children's Barred List*
- information about whether the applicant has ever been subject to a direction under section 142 of the Education Act 2002 which renders them unable or unsuitable to work at the School
- for management positions, information about whether the applicant has ever been referred to the Department for Education, or is the subject of a direction under section 128 of the Education and Skills Act 2008 which renders them unable or unsuitable to work at the School
- confirmation that the applicant is not disqualified from acting as a trustee / governor or senior manager of a charity under the Charities Act 2011 (if applicable, see section 4.6 below)
- confirmation that the applicant is not disqualified from working in connection with early or later years provision (if applicable, see section 4.7 below)
- verification of the applicant's medical fitness for the role (see section 4.8 below)
- verification of the applicant's right to work in the UK; and
- any further checks which the School decides are necessary as a result of the applicant having lived or worked outside of the UK which may include an overseas criminal records check, certificate of good conduct or professional references.

*Separate barred list checks must only be carried out in the following circumstances:

- for newly appointed staff who are engaged in a regulated activity, pending the receipt of an Enhanced Certificate with Barred List information from the Disclosure and Barring Service (DBS) (and where all other relevant checks as per the recruitment and selection procedure have been carried out); or
- where an individual has worked in a post in a school or college that has brought them into regular contact with children or young persons which ended not more than three months prior to that person's appointment to the organisation (and

where all other relevant checks as per the recruitment and selection procedure have been carried out).

Whether a position amounts to "regulated activity" must therefore be considered by the School in order to decide which checks are appropriate. It is however likely that in nearly all cases the School will be able to carry out an enhanced DBS check and a Children's Barred List check.

4 Pre-employment checks

In accordance with the recommendations set out in KCSIE and the requirements of the Education (Independent School Standards) Regulations 2014 the School carries out a number of pre-employment checks in respect of all prospective employees.

In addition to the checks set out below, the School reserves the right to obtain such formal or informal background information about an applicant as is reasonable in the circumstances to determine whether they are suitable to work at the School. This may include internet and social media searches.

In fulfilling its obligations, the School does not discriminate on the grounds of race, colour, nationality, ethnic or national origin, religion or religious belief, sex or sexual orientation, marital or civil partner status, disability or age.

As part of the shortlisting process, the School will carry out an online search on the shortlisted candidates as part of its due diligence. This may help identify any incidents or issues that have happened and are publicly available online, which the School may want to explore with an applicant at interview. This forms part of the School's wider safeguarding due diligence which aims to prevent and/or deter individuals who maybe unsuitable to work with children from working in a school environment.

This check applies to shortlisting made on or after 5 September 2022.

4.1 Verification of identity, address and qualifications

All applicants who are invited to an interview will be required to bring with them evidence of identity, right to work in the UK, address and qualifications as set out below and in the list of valid identity documents at Appendix 1 (these requirements comply with DBS identity checking guidelines):

- one document from Group 1; and
- two further documents from either of Group 1, Group 2a or Group 2b, one of which must verify the applicant's current address; and
- original documents confirming any educational and professional qualifications referred to in their application form.

Where an applicant claims to have changed their name by deed poll or any other means (e.g. marriage, adoption, statutory declaration) they will be required to provide documentary evidence of the change.

The School asks for the date of birth of all applicants to assist with the vetting of the applicants. Proof of date of birth is necessary so that the School may verify the identity of, and check for any unexplained discrepancies in the employment and education history of all applicants. The School does not discriminate on the grounds of age.

4.2 References

References will be taken up on short listed applicants for teaching roles prior to interview and as soon as an offer is made for other candidates. Please note that no questions will be asked about health or medical fitness prior to any offer of employment being made.

All offers of employment will be subject to the receipt of a minimum of two references which are considered satisfactory by the School. One of the references must be from the applicant's current or most recent employer. If the current / most recent employment does / did not involve work with children, then the second reference should be from the employer with whom the applicant most recently worked with children if available. Neither referee should be a relative or someone known to the applicant solely as a friend.

All referees will be asked whether they believe the applicant is suitable for the job for which they have applied and whether they have any reason to believe that the applicant is unsuitable to work with children and only provide facts of any substantiated safeguarding concerns or allegations including a group of low-level concerns about the same individual that meet the harm threshold as set out in Part 4 of the statutory guidance 'Keeping Children Safe in Education'.

Referees will also be asked to confirm that the applicant has not been radicalised so that they do not support terrorism or any form of "extremism" (see the definition of "extremism" at section 7 below). All referees will be sent a copy of the job description and person specification for the role for which the applicant has applied. If the referee is a current or previous employer, they will also be asked to confirm the following:

- the applicant's dates of employment, salary, job title / duties, reason for leaving, performance and disciplinary record
- whether the applicant has ever been the subject of substantiated disciplinary procedures, allegations and concerns involving issues related to the safety and welfare of children (including any in which the disciplinary sanction has expired). Any repeated concerns or allegation which do not meet the harm threshold which have all been found to be false, unfounded, unsubstantiated or malicious will not be included in any reference.
- whether the applicant could be considered to be involved in "extremism" (see the definition of "extremism" at section 7 below).

The School will only accept references obtained directly from the referee and it will not rely on references or testimonials provided by the applicant or on open references or testimonials.

The School will compare all references with any information given on the application form. Any discrepancies or inconsistencies in the information will be taken up with the applicant and the relevant referee before any appointment is confirmed. Where a reference is not received prior to interview it will be reviewed upon receipt. Any discrepancies identified between the reference and the application form and/or the interview assessment form will be considered by the School. The applicant may be asked to provide further information or clarification before an appointment can be confirmed.

If factual references are received i.e. those which contain limited information such as job title and dates of employment, this will not necessarily disadvantage an applicant although additional references may be sought before an appointment can be confirmed.

The School will verify any information with the person who provided the reference.

All internal candidates who apply for a new role at the School will have their application assessed in accordance with this procedure. References may be taken up on all internal candidates as part of the application process and can be provided by members of the SLT as the School will be the most recent employer.

Use of data and confidentiality

Personal data relating to references will be handled in line with the Data Protection Policy. All references will be properly addressed and marked private and confidential.

In accordance with the Data Protection Act (2018) and the UK GDPR any personal information will be processed fairly and lawfully, and will be kept safe and secure e.g. in locked, non-portable containers or, for electronic information, password protected. Access will be strictly controlled and limited to those who are entitled to see it as part of their duties.

Information relating to an individual's health and sensitive personal data, e.g. information relating to the individual's ethnicity, religion or trade union membership, will not be disclosed as part of a reference unless 'express consent' has been received from the individual for this purpose.

The person requesting a reference will be offered the opportunity to see it before it is sent, unless the headteacher decides this is not appropriate; however, the school is aware that ultimately, they cannot prevent the person receiving a copy in line with the Data Protection Act. If the person raises comments about the reference before it is sent, the member of staff responsible for the reference will consider the comments and, if they decide to leave it unchanged, record the reason(s) behind their non-agreement.

4.3 Online Searches on shortlisted Candidates

The school is committed to ensuring that safeguarding is a top priority; therefore, in line with KCSIE, the school will consider carrying out online searches on shortlisted candidates as part of their due diligence. Online searches solely aim to help identify any incidents or issues that have happened, and are publicly available online, which the school may want to explore with the applicant at interview.

Online searches will be conducted on shortlisted candidates only, and only where the school considers this appropriate. The school will consider any potential risks of online searches, e.g. unlawful discrimination or invasion of privacy, and will be clear on the reasons that online searches are being conducted. Online searches will only examine data that is publicly available.

Online searches will be carried out by an individual who is independent of the recruitment process to minimise the risk of bias or discrimination and to ensure that only relevant information is considered. The person responsible for carrying out online searches will have due regard to Part three of KCSIE.

The online search process may include searching for the candidate by name via search engines and social media, such as:

When carrying out searches of shortlisted candidates' online presence, the school will look out for indicators of concern, such as:

- Inappropriate behaviour, jokes or language.
- Discriminatory comments.
- Inappropriate images.
- Drug or alcohol misuse.
- Anything that suggests the candidate may not be suitable to work with children.
- Signs of extremist behaviour (The Prevent Duty).

Any concerns will be addressed during the interview process. The school will ensure that candidates are given an opportunity to discuss any concerns raised by the online search.

4.4 Disclosure and Barring Checks

Prior to 29 May 2013 an enhanced disclosure contained details of all convictions on record (including those which are defined as "spent" under the Rehabilitation of Offenders Act 1974) together with details of any cautions, reprimands or warnings held on the Police National Computer. It could also contain non-conviction information from local police records which a chief police officer considered relevant to the role applied for at the School.

4.3.1 DBS filtering rules

Since 29 May 2013 the DBS commenced the filtering and removal of certain specified information relating to old and minor criminal offences from all criminal records disclosures. The DBS and the Home Office have developed a set of filtering rules relating to spent convictions which work as follows:

For those aged 18 or over at the time of an offence

An adult conviction for an offence committed in the United Kingdom will be removed from a DBS disclosure if:

1. (a) eleven years have elapsed since the date of conviction;
2. (b) it is the person's only offence; and
3. (c) it did not result in a custodial sentence.

It will not be removed under any circumstances if it appears on a list of "**specified offences**" which must always be disclosed. If a person has more than one offence on their criminal record, then details of all their convictions will always be included.

A caution received when a person was aged 18 or over for an offence committed in the United Kingdom will not be disclosed if six years have elapsed since the date it was issued, and if it does not appear on the list of "specified offences".

For those aged under 18 at the time of an offence

A conviction for an offence committed in the United Kingdom will be removed from a DBS disclosure if:

1. (a) five and a half years have elapsed since the date of conviction;
2. (b) it is the person's only offence; and
3. (c) it did not result in a custodial sentence.

Again, the conviction will not be removed under any circumstances if it appears on the list of "specified offences", or if a person has more than one offence on their criminal record.

A caution received when a person was aged under 18 for an offence committed in the United Kingdom will not be disclosed if two years have elapsed since the date it was issued and if it does not appear on the list of "specified offences".

The list of "specified offences" which must always be disclosed

This contains a large number of offences, which includes certain sexual, violent and other offences that are considered so serious they will always be disclosed, regardless of when they took place or of the person's previous or subsequent criminal record. The list of "specified offences" can be found at:

<https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>

4.3.2 Regulated activity

The School applies for an enhanced disclosure from the DBS and a check of the Children's Barred List (now known as an Enhanced Check for Regulated Activity) in respect of all positions at the School which amount to "regulated activity" as defined in the Safeguarding Vulnerable Groups Act 2006 (as amended). The purpose of carrying out an Enhanced Check for Regulated Activity is to identify whether an applicant is barred from working with children by inclusion on the Children's Barred List and to obtain other relevant suitability information. Any position undertaken at, or on behalf of the School will amount to "regulated activity" if it is carried out:

The full legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012. HM Government has produced [Factual note on regulated activity in relation to children: scope.](#)

Regulated activity includes:

- a. Teaching, training, instructing, caring for (see c. below) or supervising if the person is unsupervised, or providing advice or guidance on physical, emotional or educational well-being, or driving a vehicle only for children;
- b. Work for a limited range of establishments (known as 'specified places' which include schools and colleges), with the opportunity for contact with children, but not including work done by supervised volunteers.

Work under a. or b. is a regulated activity only if done regularly (The Safeguarding Vulnerable Groups Act 2006 provides that the work referred to at a. or b. will be a regulated activity "if it is carried out frequently by the same person" or "if the period condition is satisfied". Paragraph 10 of Schedule 4 to this Act says the period condition is satisfied if the person carrying out the activity does so at any time on more than 3 days in any period of 30 days and, for the purpose of the work referred to at a., apart from driving vehicle only for children, it is also satisfied if it is done anytime between 2am and 6am and it gives the person the opportunity to have face to face contact with children). It is expected that all permanent roles at Crosfields will fall under the definition of regulated activity.

Some activities are always regulated activities, regardless of frequency or whether they are supervised or not. This includes:

- Relevant personal care, or health care provided by or provided under the supervision of a health care professional:

- Personal care includes helping a child with eating and drinking for reasons of illness or disability in connection with toileting, washing, bathing and dressing for reasons of age, illness or disability;
- Health care means care for children provided by, or under the direction or supervision of, a regulated health care professional.

Regulated activity will not be:

- Paid work in specified places which is occasional and temporary and does not involve teaching, training; and
- Supervised activity which is paid in non-specified settings such as youth clubs, sports clubs etc.

Roles which are carried out on an unpaid / voluntary basis will only amount to regulated activity if, in addition to the above, they are carried out on an unsupervised basis.

It is for the School to decide whether a role amounts to "regulated activity" taking into account all the relevant circumstances. However, nearly all posts at the School amount to regulated activity. Limited exceptions could include an administrative post undertaken on a temporary basis in the School office outside of term time or voluntary posts which are supervised.

4.3.3 The DBS disclosure certificate

The DBS issues the DBS disclosure certificate to the subject of the check only, rather than to the School. It is a condition of employment with the School that the **original** disclosure certificate is provided to the School within two weeks of it being received by the applicant. Original certificates should not be sent by post. A convenient time and date for bringing the certificate into the School should be arranged with HR as soon as it has been received. Applicants who are unable to attend at the School to provide the certificate are required to send in a certified copy by post or email within two weeks of the original disclosure certificate being received. Certified copies must be sent to the HR Manager. Where a certified copy is sent, the original disclosure certificate must still be provided on the first working day.

Employment will remain conditional upon the original certificate being provided and it being considered satisfactory by the School.

4.3.4 Starting work pending receipt of the DBS disclosure

If there is a delay in receiving a DBS disclosure the Head has discretion to allow an individual to begin work pending receipt of the disclosure certificate. This will only be allowed if all other checks, including a clear check of the Children's Barred List (where the position amounts to regulated activity), have been completed. A risk assessment must be completed to detail that appropriate supervision has been put in place.

4.3.5 Applicants with periods of overseas residence

Individuals who have lived or worked outside the UK must undergo the same checks as all other staff. This includes obtaining an enhanced DBS certificate (including barred list information, for those who will be engaging in regulated activity) even if the individual has never been to the UK. Following the UK's exit from the EU the TRA Teacher Services system no longer maintains a list of those teachers who have been sanctioned EEA member states. Crosfields will, therefore apply the same approach for any individuals who have lived or worked outside the UK regardless of whether or not it was in an EEA country or the rest of the world.

The School takes into account the guidance issued by the NSPCC when deciding whether to request overseas information from applicants, which recommends that such information should be sought on those who have lived overseas for periods of three months or more in the last five years. However, the School recognises that Education (Independent School Standards) Regulations 2014 do not specify that a minimum period of overseas residence is required. The School therefore assesses each applicant's situation on its individual facts.

These checks could include, where available:

- Criminal records checks for overseas applicants – Home Office guidance can be found on GOV.UK; and for teaching positions
- Obtaining a letter (via the applicant) from the professional regulating authority in the country (or countries) in which the applicant has worked confirming that they have not imposed any sanctions or restrictions or that they are aware of any reason why they may be unsuitable to teach. Applicants can find contact details of regulatory bodies in the EU/EEA and Switzerland on the Regulated Professions database. Applicants can also contact the UK Centre for Professional Qualifications who will signpost them to the appropriate EEA regulatory body.

Where available, such evidence can be considered together with information obtained through other pre-appointment checks to help assess their suitability.

Where this information is not available, the School will seek alternative methods of checking suitability and or undertake a risk assessment that supports the decision making on whether to proceed with the appointment.

Although sanctions and restrictions imposed by another regulating authority do not prevent a person from taking up teaching positions in England, Crosfields will consider the circumstances that led to the restriction or sanction being imposed when considering a candidate's suitability for employment.

Not all countries provide criminal record information, and where they do, the nature and detail of the information provided varies from country to country. Crosfields will be mindful that the criteria for disclosing offences in other countries often have a different threshold than those in the UK. Crosfields will follow the Home Office guidance on criminal records checks for overseas applicants, which can be found on GOV.UK.

Some overseas qualified teachers can apply to the TRA for the award of qualified teacher status (QTS) in England. However, holding a teaching qualification (wherever it was obtained) does not provide suitable assurances for safeguarding purposes that an individual has not been found guilty of any wrongdoing or misconduct, and or is suitable to work with children. Therefore, work can only commence once sufficient overseas information has been received and only if the School has considered that information and confirmed that the applicant is suitable to commence work at the School.

4.5 Prohibition from teaching check

The School is required to check whether staff who carry out "teaching work" are prohibited from doing so. The School uses the Teaching Regulation Agency Teacher Services system to check whether successful applicants are the subject of a prohibition, or interim prohibition order issued by a professional conduct panel on behalf of the Teaching Regulation Agency.

In addition the School asks all applicants for roles which involve "teaching work" (and their referees) to declare in the application form whether they have ever been referred to, or are the subject of a sanction, restriction or prohibition issued by, the Teaching Regulation Agency or other equivalent body in the UK.

It is the School's position that this information must be provided in order to fully assess the suitability of an applicant for a role which involves "teaching work". Where an applicant is not currently prohibited from teaching but has been the subject of a referral to, or hearing before, the Teaching Regulation Agency (or other equivalent body) whether or not that resulted in the imposition of a sanction, or where a sanction has lapsed or been lifted, the School will consider whether the facts of the case render the applicant unsuitable to work at the School.

The School carries out this check, and requires associated information, for roles which involve "teaching work". In doing so the School applies the definition of "teaching work" set out in the Teachers' Disciplinary (England) Regulations 2012 which states that the following activities amount to "teaching work":

- planning and preparing lessons and courses for pupils
- delivering lessons to pupils
- assessing the development, progress and attainment of pupils; and
- reporting on the development, progress and attainment of pupils.

The above activities do not amount to "teaching work" if they are supervised by a qualified teacher or other person nominated by the Head. If in any doubt or if the applicant has taught previously, or may teach in future, the check will be undertaken, including for sports coaches.

In addition, for all appointments made on or after 18 January 2016, where an applicant has carried out teaching work outside of the UK the School will ask the applicant (and

their referees) whether they have ever been referred to, or are the subject of a sanction issued by, a regulator of the teaching profession in the countries in which they have carried out teaching work. This will include checking for the existence of any sanctions issued by regulators of the teaching profession in other EEA countries using the Teaching Regulation Agency Teacher Services system.

4.6 Prohibition from management check

The School is required to check whether any applicant for a management position is subject to a direction under section 128 of the Education and Skills Act 2008 which prohibits, disqualifies or restricts them from being involved in the management of an independent school (a **section 128 direction**).

The School will carry out checks for such directions when appointing applicants into management positions from both outside the School and by internal promotion.

This check applies to appointments to the following positions made on or after 12 August 2015:

- Head
- teaching posts on the senior leadership team
- teaching posts which carry a departmental head or Head of House pastoral role;
- support staff posts on the senior leadership team or with a financial delegation; and
- the School will assess on a case by case basis whether the check should be carried out when appointments are made to teaching and support roles which carry additional responsibilities.

It also applies to appointments to the governing body. The relevant information is contained in the enhanced DBS disclosure certificate (which the School obtains for all posts at the School that amount to regulated activity). It can also be obtained through the Teaching Regulation Agency Teacher Services system. The School will use either, or both, methods to obtain this information.

In addition the School asks all applicants for management roles to declare in the application form whether they have ever been the subject of a referral to the Department for Education, or are subject to a section 128 direction or any other sanction which prohibits, disqualifies or restricts them from being involved in the management of an independent school.

It is the School's position that in order to fully assess the suitability of an applicant for a management role it must be provided with the above information. Where an applicant is not currently prohibited from management but has been the subject of a referral to, or hearing before, the Department for Education or other appropriate body whether that resulted in the imposition of a section 128 direction or other sanction, or where a section 128 direction or other sanction has lapsed or been lifted, the School will

consider whether the facts of the case render the applicant unsuitable to work at the School.

4.7 Disqualification from acting as a charity trustee or senior manager

4.7.1 Background

Under the Charities Act 2011 it is a criminal offence for a person to act as a trustee or senior manager of a charity when disqualified from doing so. The Charities Act 2011 sets out the grounds on which a person can be disqualified from acting as a trustee or senior manager. These include various spent and unspent criminal offences and other sanctions.

4.7.2 Who is covered

A person is considered to be a charity trustee if they are one of the people who have general control and management of the administration of the charity. At Crosfields, members of the governing body are also trustees and directors of the charitable company Crosfields School Trust Ltd.

Senior managers include those employees who report directly to the charity trustees or have responsibility for the overall management and control of the charity's finances. At the School the disqualification rules will be applicable to all governors, the Head, Bursar, Head of Finance and potentially other senior staff who report directly to the governors.

4.7.3 Self-declaration

All those who are covered by the disqualification rules are required to complete a self-declaration form to confirm whether, to the best of their knowledge, they are subject to any of the disqualification criteria (Declaration of Fit and Proper Status).

A failure to disclose relevant information, or the provision of false information, which subsequently comes to the School's attention may result in the termination of an appointment as a governor or senior manager or the withdrawal of an offer of employment and may also amount to a criminal offence.

All those who are required to complete a self-declaration form are also under an ongoing duty to inform the School if there is a change in their circumstances that results or may result in them becoming disqualified from acting as a governor or senior manager. An annual declaration is typically required as part of the statutory annual audit.

4.7.4 Waiver

A person who discloses that one or more of the disqualification criteria is applicable to them may apply to the Charity Commission for a waiver of the disqualification.

The School may at its absolute discretion withdraw an offer of employment for a senior manager or cease or terminate an appointment to the governing body if a waiver application becomes necessary or is rejected by the Charity Commission. The School is under no obligation to await the outcome of a Charity Commission waiver application before taking such action.

4.8 Childcare Disqualification

The Childcare Act 2006 (**Act**) and the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 (**Regulations**) state that it is an offence for the School to employ anyone in connection with our early years provision (**EYP**) or later years provision (**LYP**) who is disqualified, or for a disqualified person to be directly involved in the management of EYP or LYP.

4.8.1 Definitions

1. (a) EYP includes usual school activities and any other supervised activity for a child up to 1 September after the child's 5th birthday, which takes place on the school premises during or outside of the normal school day;
2. (b) LYP includes provision for children not in EYP and under the age of 8 which takes place on school premises outside of the normal school day, including, for example breakfast clubs, after school clubs and holiday clubs. It does not include extended school hours for co-curricular activities such as sports activities.

DUCA states that only those individuals who are employed directly to provide childcare are covered by the Regulations. "Childcare" means any form of care for a child, which includes education and any other supervised activity for a child who is aged 5 or under. "Childcare" in LYP does not include education during school hours but does cover before and after school clubs.

4.8.2 Relevant roles

Roles which will be covered by the Regulations are teaching and teaching assistant positions in EYP, and those which involve the supervision of under 8s in LYP ie Breakfast Club, Short Stay, Long Stay. Those who are directly involved in the management of EYP and LYP include the Head and may also include other members of the leadership team as well as those involved in the day to day management of EYP or LYP at the School.

DUCA contains an express statement that cleaners, drivers, transport escorts, catering and office staff are not covered by the Regulations.

Some roles at the School may involve the provision of childcare in EYP or LYP on an occasional basis. They will not automatically be within the scope of the Regulations and the School will therefore consider whether they do on a case by case basis. The Regulations only apply to a limited number of roles within the School but do extend beyond employees to governors and volunteers who carry out relevant work in EYP or LYP.

4.8.3 Grounds for disqualification

The grounds on which a person will be disqualified from working in connection with EYP or LYP are set out in the Regulations. They are not only that a person is barred from working with children (by inclusion on the Children's Barred List) but also include:

- (a) having been cautioned (after 6 April 2007) for, or convicted of, certain criminal offences including violent and sexual criminal offences against children and adults whether committed in the United Kingdom or overseas;
- (b) various grounds relating to the care of children, including where an order is made in respect of a child under the person's care;
- (c) having been refused registration for the provision of childcare (including nurseries, day care and child minding or other childcare), having been disqualified from any such registration or having had that registration cancelled;
- (d) having been refused an application for registration of a children's home or having had any such registration cancelled; or
- (e) having been prohibited, restricted or disqualified from private fostering.

4.8.4 Self-declaration form

All applicants to whom an offer of employment is made will be required to complete a self-declaration form confirming whether they meet any of the criteria for disqualification under the Regulations.

The School will decide whether a role is relevant and within the scope of EYP or LYP by having regard to the guidance in DUCA. Employment with the School in any relevant role will be conditional upon completion of the self-declaration form and upon the applicant not being disqualified.

The School cannot permit any person who is currently disqualified to start work in a relevant role. The School also reserves the right at its absolute discretion to withdraw an offer of employment if, in the opinion of the School, any information disclosed in the self-declaration form renders that person unsuitable to work at the School.

Applicants who have any criminal records information to disclose about themselves must also provide the following information:

(a) details of the order, restriction, conviction or caution and the date that this was made;

(b) the relevant court or body and the sentence, if any, which was imposed; and

(c) a copy of the relevant order or conviction.

Applicants are not required to disclose a caution or conviction for an offence committed in the United Kingdom if it has been filtered in accordance with the DBS filtering rules (see section 4.3.1 above).

For the avoidance of doubt the School does not require applicants to request any criminal records information directly from the DBS. The School only requires applicants to provide relevant information about themselves "to the best of their knowledge".

4.8.5 Waiver of a disqualification

A person who discloses information which appears to disqualify them from working in a relevant role may apply to Ofsted for a waiver of the disqualification. The School may withdraw an offer of employment at its absolute discretion and is under no obligation to await the outcome of an Ofsted waiver application. If a waiver application is rejected the School will withdraw the conditional offer of employment.

4.8.6 Retention of disqualification information

Where a person appointed to a role at the School is found to be disqualified the School will retain any relevant information only for the period it takes for a waiver application to be heard and the decision communicated to the School, after which it will be securely destroyed.

4.8.7 Continuing duty to disclose change in circumstances

After making this declaration staff in a relevant role are under an on-going duty to inform the School if their circumstances change in a way which would mean they subsequently meet any of the criteria for disqualification. Any failure to disclose relevant information now, or of a future change in circumstances, will be treated as a serious disciplinary matter and may lead to the withdrawal of a job offer or dismissal for gross misconduct. An annual declaration will be sought from all relevant members of staff.

5. Medical fitness

The School is legally required to verify the medical fitness of anyone to be appointed to a post at the School, after an offer of employment has been made but before the appointment can be confirmed.

Successful applicants will be required to sign a declaration of medical fitness confirming that there are no reasons, on grounds of mental or physical health, why they should not

be able to discharge the responsibilities required by the role. If an applicant prefers to discuss this with the School instead, or to attend an occupational health assessment to consider their fitness for the role, they should contact the HR Manager so that appropriate arrangements can be made.

The School will arrange for the information contained in the Health

Questionnaire to be reviewed by the School Nurse and members of the SLT if necessary. This information will be reviewed against the Job Description and the Person Specification for the particular role, together with details of any other physical or mental requirements of the role i.e. proposed timetable, extra-curricular activities, layout of the School etc. If there are any doubts about an applicant's fitness the School will consider reasonable adjustments in consultation with the applicant. The School may also seek a further medical opinion from a specialist or request that the applicant undertakes a full medical assessment.

The School is aware of its duties under the Equality Act 2010. No job offer will be withdrawn without first consulting with the applicant, obtaining medical evidence, considering reasonable adjustments and suitable alternative employment.

6. Peripatetic Staff, Contractors and agency staff

Where Crosfields uses third parties to provide services or activities, the safeguarding requirements will be set out in the contract between the organisation (or individual in some cases) and the School.

The School must complete the same checks for peripatetic staff and contractors (including their employees) undertaking regulated activity at the School as it does for its own employees. The School requires written confirmation from the contractor that it has completed these checks on all of those individuals whom it intends will work at the School before any such individual can commence work at the School. If they are unable to do so, a risk assessment must be undertaken and the individual supervised whilst at the School.

Agencies who supply staff to the School must also complete the pre-employment checks which the School would otherwise complete for its staff. Again, the School requires confirmation that these checks have been completed before an individual can commence work at the School.

The School will independently verify the identity of individuals supplied by contractors or an agency in accordance with section 4.1 above and requires the provision of the DBS disclosure certificate before those individuals can commence work at the School.

7. Volunteers

The School will request an enhanced DBS disclosure and Children's Barred List information on all volunteers undertaking regulated activity unsupervised with pupils at or on behalf of the School.

The School will request an enhanced DBS disclosure without Children's Barred List information on all volunteers who do not undertake regulated activity. This is likely to be because their volunteering duties are subject to regular, day to day supervision by a fully checked member of staff or by a volunteer who the School has deemed appropriate to supervise and ensure the safety of those pupils in their care.

Under no circumstances will the School permit an unchecked volunteer to have unsupervised contact with pupils.

It is the School's policy that a new DBS certificate is required for volunteers who will engage in regulated activity but who have not been involved in any activities with the School for three consecutive months or more. Those volunteers who are likely to be involved in activities with the School on an irregular basis may be required to sign up to the DBS update service as this permits the

School to obtain up to date criminal records information without delay prior to each new activity in which a volunteer participates.

In addition, the School will seek to obtain such further suitability information about a volunteer as it considers appropriate in the circumstances. This may include (but is not limited to the following):

- formal or informal information provided by staff, parents and other volunteers
- character references from the volunteer's place of work or any other relevant source; and
- a safer recruitment interview.

6. Visiting speakers and the Prevent Duty

The Prevent Duty Guidance requires the School to have clear protocols for ensuring that any visiting speakers, whether invited by staff or by pupils, are suitable and appropriately supervised.

The School is not permitted to obtain a DBS disclosure or Children's Barred List information on any visiting speaker who does not engage in regulated activity at the School or perform any other regular duties for or on behalf of the School.

All visiting speakers will be subject to the School's usual visitors' protocol. This will include signing in and out at Reception, the wearing of a visitor's badge at all times and being escorted by a fully vetted member of staff between appointments.

The School will also obtain the completion of a Prevent Form providing such formal or informal background information about a visiting speaker as is reasonable in the circumstances, this will be reviewed by the DSL to decide whether to invite and / or permit a speaker to attend the School. In doing so the School will always have regard to the Prevent Duty Guidance and the definition of "extremism" set out in KCSIE which states:

"Extremism" is vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. We also include in our definition of extremism calls for the death of members of our armed forces, whether in this country or overseas. Terrorist groups very often draw on extremist ideas developed by extremist organisations."

In fulfilling its Prevent Duty obligations the School does not discriminate on the grounds of race, colour, nationality, ethnic or national origin, religion or religious belief, sex or sexual orientation, marital or civil partner status, disability or age.

7. Single Central Register

The HR Manager is responsible for the maintenance a single central record of pre-appointment checks, referred to as the single central record (SCR). The single central record must cover the following people: all staff, including teacher trainees on salaried routes, agency and third party supply staff, even if they work for one day; and all members of the governing body.

The single central record must indicate whether the following checks have been carried out or certificates obtained, and the date on which each check was completed or certificate obtained:

- an identity check, (identification checking guidelines can be found on the GOV.UK website);
- a barred list check;
- an enhanced DBS check requested/certificate provided;
- a prohibition from teaching check;
- further checks on people who have lived or worked outside the UK;
- a check of professional qualifications, where required; and
- a check to establish the person's right to work in the United Kingdom.

In addition: the School must record details of the section 128 checks undertaken for those in management positions.

The details of an individual should be removed from the single central record once they no longer work at the school or college.

The SCR should be checked termly by the Bursar, Head or a Governor.

10. Background

The School will not unfairly discriminate against any applicant for employment on the basis of conviction or other details disclosed. The School makes appointment decisions on the basis of merit and ability. If an applicant has a criminal record this will not automatically bar them from employment with the School. Each case will be decided on its merits in accordance with the objective assessment criteria set out in paragraph 8.2 below.

All positions within the School are exempt from the provisions of the Rehabilitation of Offenders Act 1974. All applicants must therefore declare all previous convictions and cautions, including those which would normally be considered "spent" except those received for an offence committed in the United Kingdom if it has been filtered in accordance with the DBS filtering rules (see section 4.3.1 above).

A failure to disclose a previous conviction (which should be declared) may lead to an application being rejected or, if the failure to disclose is discovered after employment has started, may lead to summary dismissal on the grounds of gross misconduct. A failure to disclose a previous conviction may also amount to a criminal offence.

It is unlawful for the School to employ anyone who is barred from working with children. It is a criminal offence for any person who is barred from working with children to apply for a position at the School. The School will make a report to the police and / or the DBS if:

- it receives an application from a barred person
- it is provided with false information in, or in support of an applicant's application; or
- it has serious concerns about an applicant's suitability to work with children.

10.1 Assessment criteria

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, the School will consider the following factors before reaching a recruitment decision:

- whether the conviction or other matter revealed is relevant to the position in question
- the seriousness of any offence or other matter 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
- whether the applicant's circumstances have changed since the offending behaviour or other relevant matters; and

- the circumstances surrounding the offence and the explanation(s) offered by the applicant. If the post involves regular contact with children, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of any the following offences:
- murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence; or
- serious class A drug related offences, robbery, burglary, theft, deception or fraud.

If the post involves access to money or budget responsibility, it is the School's normal policy to consider it an unacceptable risk to employ anyone who has been convicted at any time of robbery, burglary, theft, deception or fraud.

If the post involves some driving responsibilities, it is the School's normal policy to consider it an unacceptable risk to employ anyone who has been convicted of drink driving within the last ten years.

10.2 Assessment procedure

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, the School will carry out a risk assessment by reference to the criteria set out above. The assessment form must be signed by the Head or Bursar before a position is offered or confirmed.

If an applicant wishes to dispute any information contained in a disclosure, they may do so by contacting the DBS. In cases where the applicant would otherwise be offered a position were it not for the disputed information, the School may, where practicable and at its discretion, defer a final decision about the appointment until the applicant has had a reasonable opportunity to challenge the disclosure information.

10.3 Retention and security of disclosure information

The School's policy is to observe the guidance issued or supported by the DBS on the use of disclosure information.

10.4 Referrals to the DBS and Teaching Regulation Agency

This policy is primarily concerned with the promotion of safer recruitment and details the pre-employment checks that will be undertaken prior to employment being confirmed. Whilst these are pre-employment checks the School also has a legal duty to make a referral to the DBS in circumstances where an individual:

- has applied for a position at the School despite being barred from working with children; or
- has been removed by the School from working in regulated activity (whether paid or unpaid), or has resigned prior to being removed, because they have harmed, or pose a risk of harm to, a child.

If the individual referred to the DBS is a teacher, the School may also decide to make a referral to the Teaching Regulation Agency.

11 Safer recruitment training

At least one member of the recruitment panel will have completed formal safer recruitment training. As a measure of good practice, the school will ensure that this training is renewed every 5 years or at least in-line with updated guidance.

Staff and governors involved in the recruitment process will have an awareness of information regarding the following:

- The recruitment and selection process
- Pre-appointment and vetting checks, regulated activity and recording of information
- Other checks that may be necessary for, staff, volunteers and others
- How to ensure the ongoing safeguarding of children and legal reporting duties on employers

12 Safeguarding

For references provided to the school, the candidate's suitability will always be assessed with particular regard paid to their suitability to work with children. The DSL will be consulted where appropriate.

The DSL will recognise the school's duty to disclose safeguarding concerns overrides any other duties to an employee, and ensure the school complies with its safeguarding obligations. The DSL will ensure records are kept of all allegations against staff in line with the most up-to-date version of KCSIE.

For all safeguarding allegations, excluding those proven to be malicious, a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken, and decisions reached, will be kept on the confidential personnel file of the accused member of staff. Accurate information based on these records will be given in response to future requests for a reference, where appropriate. Safeguarding information will not be given in circumstances where the allegation was found to be false, unsubstantiated or malicious – this includes if it is a history of repeated concerns or allegations which have been found to be false, unsubstantiated or malicious. The member of staff providing the reference will make no comments about their own personal views on the veracity of allegations.

13 Queries

If an applicant has any queries on how to complete the application form or any other matter, he / she should contact the HR Manager or the Bursar.

14 Requesting of References for current or former employees

Professional references:

This policy only relates to professional references which bear the School's name and represent an official statement of the School's assessment of an existing or requesting former employee. These are written on the School's headed notepaper. The only employees authorised to give a professional reference will be the Head and the HR Manager.

All professional references will be provided on a reference pro forma. It is the School's policy that the reference will be limited to this format and content. The School will respond to any reference request in accordance with safer recruitment guidance in force from time to time. References will not be given over the telephone and references given in writing will not be discussed further over the telephone.

Personal/Character references:

Employees will not be required to follow this procedure when writing personal references. Personal references will not be written on the School's notepaper nor refer to a person's professional performance or their relationship with the School. Personal references simply record one person's experience of another. Any individual giving such a personal reference is personally responsible for anything said in that reference. Such references must state that they are personal references and do not represent the views of the School.

Annex A - Flowchart of Disclosure and Barring Service Criminal Record Checks and Barred List checks

