



**MELLERS PRIMARY SCHOOL  
RECRUITMENT AND SELECTION POLICY  
JANUARY 2017**

# RECRUITMENT AND SELECTION

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## **1. INTRODUCTION**

- 1.1 This guidance contains the basic information required in order to appoint school-based staff, both teaching and non-teaching. School Management and Governors who are undertaking recruitment and selection procedures should have received appropriate training in order to ensure compliance with all appropriate employment legislation and the school's policy on child protection. The guidance is designed to reflect the needs of the school, good human resources practice and legal requirements.

## **2. POWER OF APPOINTMENT**

- 2.1 The appointment of school staff, in Community, Voluntary Controlled, Voluntary Aided, County and Foundation schools, is governed by the provisions of the Education Act 2002.
- 2.2 The governing body has overall responsibility for all staff appointments in its school. With the exception of the appointment of head teachers and deputy head teachers (and assistant head teachers), it may delegate this responsibility to the head teacher, an individual governor, or a group of governors with or without the head teacher.
- 2.3 The governing body (or head teacher where the responsibility for appointments outside the leadership group has been delegated by the governing body) should determine who will be involved in the selection process and what delegation arrangements shall apply in respect of the various categories of post.
- 2.4 The Local Authority should be notified in writing whenever a vacancy or prospective vacancy occurs in the post of head teacher, or whenever the governing body decides to recruit a new or replacement deputy head teacher. For all categories of maintained school, the Local Authority is entitled to make written representations to a governing body if it considers the governing body is short-listing an unsuitable person for appointment.

## **3. PRINCIPLES OF EFFECTIVE RECRUITMENT AND SELECTION**

- 3.1 The principal aim of the recruitment and selection process is to obtain the highest quality and appropriate number of employees required to satisfy the needs of the school.
- 3.2 The recruitment and selection procedure fits into the overall managerial task of managing resources in order to achieve school and individual objectives. To achieve this head teachers should consider the following points:
- a) Recruitment and selection must not be considered in isolation, but in the context of the school's overall staffing structure.
  - b) The need to consider not only applicants' professional or technical competence but also, and equally important, how new members of staff will contribute positively to the safeguarding of children and to the work of the team they will be joining.
  - c) The need to comply fully at all times with all legal requirements relating to employment.

#### **4. LEGAL REQUIREMENTS AND EQUALITY OF OPPORTUNITY**

- 4.1 The Asylum and Immigration Act 1996 makes it a criminal offence for an employer to employ those who do not have permission to live or to work in the United Kingdom.
- 4.2 By law employers must not discriminate on the grounds of race, sex, marriage, disability, sexual orientation, age or religion or belief. All stages of the recruitment process must treat applicants equally.
- 4.3 It is unlawful under the provisions of the Disability Discrimination Act 1995 for an employer to treat a disabled person less favourably because of a reason relating to their disability, when applying for or during employment, without a justifiable reason. Employers are required to make a reasonable adjustment to working conditions or the workplace where that would help to accommodate a particular disabled person. Disability is defined under the Act as a physical or mental impairment, which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

#### **4.4 Definitions**

Direct discrimination: Treating someone less favourably than others would be treated in the same or similar circumstances.

Indirect discrimination: Applying unnecessary requirements to a post which certain groups may have more difficulty complying with. For example criteria relating to work patterns may be more difficult for women to fulfil as women are more likely to have caring responsibilities.

Discrimination, whether direct or indirect, on the grounds of race, gender, disability or religious belief is illegal unless there is a "genuine occupational requirement" (GOR).

In order to demonstrate a GOR the employer must be able to show that there is a genuine need for a person of a particular sex, race or religion etc, taking into account the type of work or the context in which the work is carried out. An example of such a requirement could be a case where a Voluntary Aided Church School advertise a Head Teacher vacancy with the requirement that candidates are of a particular religion.

Employers have a legal obligation to eliminate unlawful discrimination and to promote equality of opportunity regardless of race, gender, disability, etc.

Relevant legislation includes:

- Equal Pay Act, 1970
- Rehabilitation of Offenders Act, 1974
- Sex Discrimination Acts, 1975 and (As Amended) 1986
- Race Relations Act (RRA), 1976
- Disability Discrimination Acts (DDA), 1995
- Protection of Children Act, 1999
- Criminal Justices and Court Services Act, 2000
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003

*Further details on these are included in Section 1(b) Relevant Legislation.*

## 5. SAFEGUARDING CHILDREN AND YOUNG PEOPLE – SAFER RECRUITMENT

- 5.1 Making the right recruitment decisions ensures that those who are not suitable to work with children, which may be because they do not have the right skills or the right attitude, or because their motives for working with children are a concern, do not get the opportunity to access children.
- 5.2 The material contained in these guidelines supports the DfES guidance 'Safeguarding Children and Safer Recruitment in Education'.
- 5.3 In following DCSF guidance and using the information provided in this document schools and other educational establishment can be confident that they are working towards the standards outlined below:
- a) The school's management team is vigilant in ensuring that all recruitment and selection systems, processes and procedures are examined from a staff/child protection focus.
  - b) The school makes explicit its commitment to the provision and maintenance of a safe and supportive environment for all pupils, staff and others within the school community.
  - c) All applicants, short-listed candidates, contractors and service providers are advised about and understand the necessity of robust recruitment and selection practices that safeguards and supports pupils and adults within the school.
  - d) The school is clear about personal and professional boundaries, provides clarity about what is proper behaviour, and has managers who are vigilant in pursuing inappropriate, unprofessional or abusive behaviour. In this regard, attention is drawn to the document 'Guidance for safe working practice for the protection of children and staff in education settings'.
  - e) The school's child protection strategies include disciplinary procedures which deal effectively with those adults who fail to comply with school policies.
  - f) Schools paying for or using services satisfy themselves that those services have in place appropriate end effective arrangements for safeguarding and protecting children.
- 5.4 Schools should publicise their commitment to building and maintaining a safe environment which safeguards and promotes the welfare of children and staff by the use of a general statement similar to the following:

*"This school is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment."*

This statement could be included in:

- All publicity and information sites
- Advertisements
- Information packs for applicants
- Job Description and Person Specification
- Letter of appointment
- Induction Training
- Competency Frameworks

**Governing bodies that do not adopt the model procedures are required to consult with trade union representatives and provide Children's Services Human Resources with a copy of their own procedure having considered the statutory requirements detailed above and the principles outlined in the DfES 'Safeguarding Children: Safer Recruitment and Selection in Education Settings' document. The application and effectiveness of such a policy is reviewed by the governing body in line with the School Pay Policy.**

## **6. THE JOB VACANCY**

When a vacancy occurs it is important to invest time in gathering information about the nature of the job. This means considering not only the content/tasks but also the job's overall purpose, the outputs required from the post holder and how it fits into the overall structure of the school and how links to the pay policy. Where an existing job has always been done in a certain way, encompassed certain duties or has even been paid at a certain level does not necessarily mean it should continue to do so.

The head teacher should review the job and consider the following:

- Is the post still required?
- Has the situation changed?
- Is there a need to re-focus support or finance?
- If it is still required, is it still required at the same level? (Are you getting what you need from this post, is it pitched at the right level, grade) \*
- Should there be any changes to the hours or contract, bearing in mind current and future needs?

This should include a review of:

- a) The current situation:
  - Probable/intended future developments;
  - The strengths of current staff;
  - Gaps in curriculum/age range expertise;
  - The aspirations and needs of the remaining staff for a personal change of role.
  - Requests for changes of hours or job sharing arrangements.
- b) The needs of the school will be best identified by wide discussion and consultation involving:
  - Chair of Governors/Governing Body;
  - the whole staff;
  - the Deputy Head/Senior Management;
  - The school's General Adviser.

\* Please note that there is now additional guidance available on the grading of posts in line with equal pay legislation.

### **6.1 Timing of the Appointment**

It is important to plan a realistic outline timescale which allows time for advertising and planning the main processes for filling the post.

Teachers resigning their appointments

Timing is particularly important when recruiting teachers who are under a minimum of two months notice, and in the summer term three months terminating at the end of school term. All head teachers are under a minimum of three months notice and in the summer term four months, terminating at the end of a school term as defined below:-

The Summer term from May 1 to August 31;

The Autumn term from September 1 to December 31;

The Spring term from January 1 to April 30

## **6.2 Cases of Potential Overstaffing**

Vacant posts should be examined in the context of planned management of staffing over a period of time. For example, in cases of potential overstaffing elsewhere in the school, consideration should be given to the possibility of internal transfers, with appropriate training if necessary. The Authority's guidance on the planned management of staffing establishments and measures to avoid compulsory redundancy contains advice on the strategies which should be considered as part of an ongoing process of review and adjustment.

## **6.3 Job Analysis/Exit Interviews**

As an aid to compiling the job description and person specification an exit interview can be a useful first stage. An exit interview is an interview with the previous postholder prior to him/her leaving the employment of the school or transferring to another post. The purpose of this is to give the experienced job holder the opportunity to comment on the role and suggest ways it could be amended to ensure it is structured effectively. It will also help to provide a realistic assessment of the weighting of the various tasks involved in the job. Exit interviews may also be useful for other purposes in relation to staff support and welfare.

## **6.4 Internal Appointments/Promotions Procedure**

All staff should be given the opportunity to apply for the vacancy. These procedures should be followed whether the internal appointment promotion is made on a temporary or permanent basis.

## **6.5 Temporary Appointments**

Where a temporary vacancy arises, schools must ensure that a fair and open recruitment and selection process is undertaken. The vacancy should be advertised on the City's Extranet/Internet sites and, where applicable, the local press. The advertisement should clearly stipulate the reason why the post is temporary and the proposed duration of the post if the post is fixed-term, this should also be linked to the schools pay policy. This information should be reiterated at all stages of the selection process, i.e. at interview, in the appointment letter and statement of particulars. Please refer to Section 18 'The Use of Fixed Term Contracts' for further guidance.



## **6.6 Temporary posts that carry TLRs**

Schools are not able to award TLRs on a temporary basis. However, they may wish to establish a temporary post that carries a TLR. In these cases, there should be an internal fair and open selection process, with information relating to the duration of the temporary post clearly stated at the outset of the advertisement for the post and upon appointment to it. Once the temporary post reaches its end date, the successful candidate must revert back to their original substantive post in school, assuming they are an internal appointment.

## **7. JOB DESCRIPTION**

The job description should outline the main duties of the post, identify lines of accountability and reporting and provide security for applicants of knowing what is expected.

The wording used in job descriptions must be carefully chosen to ensure that it accurately reflects the post and also that there is no possibility of direct or indirect discrimination in the wording used. Appendix 1 is a suggested template for a job description.

The job description must also clearly set out the grade and level of the post, the individual's responsibility and promoting and safeguarding the welfare of the children and young people s/he is responsible for, or comes into contact with.

For teaching posts standard job descriptions can be found on Teachernet ([www.teachernet.gov.uk](http://www.teachernet.gov.uk)). However, schools may wish to use the recently published professional standards documents for teaching staff to assist in the production of job descriptions.

The job description must be sent to all applicants for the vacancy.

## **8. PERSON SPECIFICATION**

The information in the job description must be used to produce a person specification. The person specification is used as the basis for shortlisting and at all subsequent stages of the selection process.

The person specification gives a clear identification of the skills, knowledge, experience and qualifications required of a satisfactory candidate. Without this, recruitment decisions cannot be based on objective evidence and it is under these circumstances that direct or indirect discrimination is most likely to occur, even if it is done subconsciously. The qualifications, skills and experience necessary to perform the duties of the post should be stated specifically.

Once completed, the person specification will define clearly and succinctly the **minimum** level of skills, knowledge, experience and qualifications needed by a post holder to carry out the job satisfactorily.

Schools may also want to include information on the person specification that gives candidates an indication of where the individual criteria may be assessed (e.g. application form, interview, reference, DBS disclosure etc). This 'Method of Assessment' column may lead to less time-consuming shortlisting and/or interview processes as it will mean that the panel does not have to assess each criterion at every stage of the process.

A clear person specification will include:

- A description of the relevant qualifications, experience, skills, attributes and qualities that are required in order to perform the role.
- A basis of objective, specific and factual information that is necessary to avoid discrimination in either shortlisting or interviewing.
- The criteria against which candidates can be assessed individually and compared in relation to each other, so that the final appointment decision can be arrived at in a fair and open way.
- The criteria that will be assessed that relate to safeguarding children. For example, motivation to work with children and young people, ability to form and maintain appropriate relationships and personal boundaries with children and young people, emotional resilience in working with challenging behaviours and ability to appropriately use authority and maintain discipline.

Appendix 2 is a suggested template for a Person Specification.

Any criteria used in drawing up person specifications should be realistic. Consideration should be given to in-service training and other support available for candidates who show potential. Including unnecessary criteria may be discriminatory and may reduce the possibility of otherwise good candidates progressing through to the next stage of the recruitment process.

The person specification must NOT state that a candidate will be of a particular age, ethnic origin, and religion. Except where agreement has been reached with a Diocesan or other religious body, that being of a particular faith is a requirement of the job. Or gender unless there is a Genuine Occupational Qualification (GOQ). **See Section 1 (b) 10,11,13,14 for legal exemptions.**

All requirements must be justifiable and the selection panel must not make assumptions about an applicant's ability to meet these criteria (for example, if they have a young family or a caring responsibility). Specific requirements such as a need to be on call during the evening or weekend should be made clear to enable applicants to decide for themselves whether they can meet the requirements.

Certain job requirements may inadvertently disadvantage certain groups, for example, people with disabilities. It is important, therefore, to check that all stated job requirements are directly related to the needs of the job and that assumptions are not made about the capability of a candidate with a disability. Instead, the panel will need to consider whether a reasonable adjustment to the role/working environment can be made, that will enable a candidate with a disability to meet each job requirement.

A copy of the person specification must be sent to all applicants.

**The revised model administrative/clerical job descriptions and person specifications, which will replace those contained at appendices 13 – 20, Section 2 "The Grading of Posts" in the Manual of Personnel Guidance can be found on the Nottingham Schools Extranet.**

## **9. ISSUES REGARDING AT RISK CANDIDATES**

In accordance with Redundancy and Redeployment procedures it is important that Human Resources are consulted before an advert is placed externally to ensure any 'at risk' staff e.g. staff that are facing redundancy, that may be suitable for the vacancy are identified.

## **10. ADVERTISING**

To help decide on the most effective recruitment method the following will be considered:

- The type of post.
- Where the school labour market is located.
- The type of person required (person specification).
- The resources available at the time i.e. budget.

### **10.1 Preparing Adverts**

Adverts should be taken from the job description and person specification and should not contain information other than that used for marketing purposes. They should clearly state the grade and level of the post. It is helpful to include any essential requirements, particular experience and qualifications, in advertisements to help applicants select appropriate vacancies.

In advertising posts you should avoid wording which may confuse, and avoid any terminology which may be discriminatory. For example, if the supervision of showering/changing facilities is an essential requirement of the post, then it is permissible to include gender as an essential requirement as this would be a Genuine Occupational Qualification (GOQ – see 4.4).

The advertisement should include a statement about the employer's commitment to safeguarding and promoting the welfare of children, and reference to the need for the successful applicant to undertake an Enhanced Disclosure via the DBS, as well as the usual details of the post, salary, qualifications etc.

Where adverts are placed via the Recruitment Shared Service, they ensure that the standard reference to Vetting and Barring and Equal Opportunities are included, and also that there is no language within the advert that could be potentially discriminatory.

Adverts should state clearly if the job is temporary or funded from sources which could have an impact on its long-term future, and should specify the end date if it is a fixed-term post.

## 10.2 Advertisements for Teaching Posts

Posts should not be advertised specifying a maximum spine point below U3 (the maximum obtainable on the basis of qualifications, teaching and other experience).

When funding for a post is determined there must be sufficient to support the full-time appointment of a teacher with maximum points for experience. The post should be advertised with the appointment being made on the basis of the qualities of each applicant. Appointments must not be based on cost.

Advertisements should indicate whether there are any Teaching and Learning Responsibility payments attached to the post and provide information in relation to the responsibilities that relate to the TLR.

## 10.3 Where to Advertise

It is important to know where suitable applicants can be found and how best to make contact with them to secure their application.

The following should be considered when deciding how to attract suitable applicants:

- a) Advertisements
  - Local, regional and national newspapers
  - Internal bulletins
  - Minority/ Religious newspapers and journals
  - E teach
  - Internet /Extranet sites
  - Professional Journals
  - Shops / public places
  - Notice Boards
- b) Contacting schools/colleges and universities and other providers of educational services
- c) LA for information about staff at risk
- d) Job Centres/Careers Services

School posts (both teaching and support staff) are usually advertised on the City Schools Website and in eteach. Vacancies for head teacher and deputy head teacher posts must be advertised nationally, in print, throughout England and Wales. They are usually advertised in the Times Educational Supplement.

In the placing of external advertisements, care should be taken to avoid confining them to those areas or publications which would exclude or disproportionately reduce the number of applicants from a particular gender or ethnic origin. Adverts can encourage applications from groups that are under-represented on the staff, or individuals who might meet the needs of specific pupils. For example, schools may wish to consider using the ethnic minority press to advertise posts requiring experience of working with ethnic minority pupils or bilingualism.

#### 10.4 Word of Mouth Recruitment

It is important to ensure that a formal and approved recruitment and selection process occurs for each vacancy. Therefore word of mouth recruitment should not be used as a sole method of filling a vacancy.

#### 10.5 Placing Adverts

School posts (both teaching and support staff) are usually advertised in the City Schools website and Electronic Bulletin. The timelines for placing are detailed below.

	Monday	Tuesday	Wednesday	Thursday	Friday
<b>Week 1</b>		<b>Advert Request Deadline at 4pm</b>			Advert appears on <b>City Schools website, Electronic Bulletin &amp; TES online</b>
	Monday	Tuesday	Wednesday	Thursday	Friday
<b>Week 2</b>			Advert appears on the <b>Evening Post</b>		Advert appears in <b>TES Publication &amp; County Councils Teaching Bulletin</b>
	Monday	Tuesday	Wednesday	Thursday	Friday
<b>Week 3</b>	Advert appears in <b>County Council Non- Teaching bulletin</b>				

Adverts should be placed via the Recruitment Shared Service on the relevant proforma.  
(See Appendix 3)

For further information please contact [jobs@nottinghamcity.gov.uk](mailto:jobs@nottinghamcity.gov.uk),

Phone: 0115 91 56555, Fax: 0115 91 56595.

#### 10.6 Date for Interview

Whenever possible a date for interviews will be set and incorporated into the advertisement, or information package sent to applicants, to ensure that all applicants have advance notice to make themselves available. All people on the selection panel will agree dates for short listing and interviews before placing the advertisement.

## 11. RECRUITMENT PACKS

Applicants, both internal and external, should be provided with as much information as necessary when they apply for a post. Providing the right sort of information at an early stage means that potential applicants will be able to assess themselves against the information provided and judge for themselves whether they should apply for the position. This could be done by including a letter and guidance to all applicants with an information pack and application form. A sample letter to applicants can be seen in Appendix 4.

The content of the information pack will vary from post to post, but as a minimum, applicants should be sent:

- Application form
- Job description
- Person specification
- The appropriate application form (available from Recruitment Shared Service) and guidance notes for completing the form where considered helpful (Appendix 5 Guidance for Applicants)
- Information about the post including hours of work, salary (including TLR if appropriate) grade and level . Clarification regarding term time only/full year appointments and the salary consequences of this, whether the post is temporary and if so, the reason for this and the proposed end date
- The school's Equal Opportunities Policy
- A reference to the school's Child Protection Policy. The pack should also advise that the post is exempt from the provisions of the Rehabilitation of Offenders Act 1974, and that any offer of employment will be subject to satisfactory references and DBS check. An advisory note in relation to the Rehabilitation of Offenders Act 1974 should also be sent with the information pack (Appendix 5 Guidance for Applicants)
- Information pertaining to the requirements of the Asylum & Immigration Act (1996) (Appendix 5 Guidance for Applicants)
- For more senior posts, schools may wish to include information on the staffing and management structures of the school
- Any other relevant material to attract candidates (e.g. school prospectus, local information etc).
- Guidance on applying for a post on a job share basis

**Governing bodies that do not use the standard application forms are required to consult with trade union representatives and provide Children's Services Human Resources with a copy of their own procedure having considered the statutory requirements detailed above.**

## 12. ASSESSMENT AND SHORTLISTING OF APPLICANTS

### 12.1 Selection Panel

Membership of the selection panel may consist of designated governors or a Staffing Committee, so that all those involved can participate actively in all the stages of the process including the interview.

Many schools now have designated governors or a Staffing Committee for the whole process of appointing staff. If neither exists, then a selection panel should be convened by the governors noting the balance, expertise, representation, interests and number for the panel, as well as their willingness to be a member. Governors will need to confirm their members' willingness to serve on the selection panel.

The composition of the selection panel should reflect that of the governing body. There are no grounds for excluding teacher governors other than pecuniary or personal interests under the School Government Regulations.

Interviews must not be carried out on a one to one basis as this increases the scope for bias however consideration should also be given to the size of the panel. Too many members can be intimidating and this may also create logistical problems in terms of seating plans, asking questions etc. It is best practice to have an odd number of panel members.

Consideration should also be given to making the panel diverse.

Once a panel has been agreed members (other than in exceptional circumstances) should remain unchanged throughout the process, and particularly during the interview process.

Representatives from external agencies may be invited to attend selection interviews where appropriate, e.g. when a post has a significant working relationship with that agency. External representatives do not have decision-making rights.

## 12.2 **Shortlisting**

All applications will be treated confidentially and only circulated to those individuals involved in the recruitment process.

Shortlisting should commence as soon as possible after the closing date. Late applications are not normally considered, however where a school has known recruitment difficulties late applications may be considered. Once one late application is accepted all other late applications for the same post must also be accepted.

Shortlisting is a process whereby the selection panel assesses whether or not each candidate has demonstrated in their application that they meet the requirements of the post as set out in the job description and person specification and not based on assumptions or previous knowledge of the applicant held by a panel member.

When matching applications to the criteria of the person specification, panel members should record their decisions as to whether or not each requirement has been fully met, in an agreed format, or on a shortlisting grid (a sample is shown in Appendix 6).

Panel members should initially shortlist individually. The panel should then convene to discuss and agree their findings, and draw up the final shortlist. All members of the shortlisting panel must have equal status and contribute to the process accordingly.

Panel members should resist the temptation to shortlist internal candidates, or those already performing the role on a temporary basis, simply because they feel they ought to give them a chance.

There is no agreement as to the number of applicants who are shortlisted as this will be dependent on the number of applicants who meet the requirements. Where the number is low, a judgement will need to be taken on whether it is viable to continue with the selection process. Conversely it is not acceptable to apply additional criteria that do not appear on the person specification, when there are a large number of candidates. Advice is available from Human Resources.

Areas of concern could include:

- Declaration of a criminal conviction
- frequent changes of address/employment
- gaps in employment history
- vague terminology

In relation to criminal convictions and cautions advice should be sought from Human Resources as to the relevance of the conviction for the post applied for and the applicant's suitability. Other areas of concern should be raised with the candidate during the interview. It is essential that a complete picture of the candidate's history is gained.

#### 12.2.1 Curriculum Vitae

Curriculum Vitae must not be used as an alternative to an application form as these may only contain the information that the applicant wishes to present, and may omit relevant details.

#### 12.2.2 Requirements for Qualifications

Where qualifications are required for the post itself or in relation to a course of study for career development purposes, such qualifications must be indicated on the person specification or in the documentation sent to the applicant. Candidates should formally be asked to show proof of relevant qualifications prior to appointment. It is recommended that relevant documents are brought to the interview and verified, with copies taken.

#### 12.2.3 Overseas Qualifications

Not all overseas qualifications are equivalent to those awarded in the UK. Where there is any doubt, the standard of those qualifications should be checked, if necessary through the National Academic Registration and Information Centre (Tel: 0161 957 7063 or [www.naric.org.uk](http://www.naric.org.uk)) or The Examination Recognition Office within the British Council (Tel: 0171 389 4302). Advice can also be obtained from Human Resources.

#### 12.2.4 Level of Qualifications

Applicants should not be turned down because they are deemed to be over qualified or experienced for the post on offer. If the job description and person specification are well set out an individual should have a clear understanding of the post.



### 12.2.5 Shortlisting disabled applicants

It is recommended that schools adopt a policy whereby all suitably qualified disabled candidates, i.e. those possessing the minimum essential requirements specified in the advertisement/person specification, be invited for interview.

12.2.6 Shortlisting documents should be retained for a minimum of 6 months after the appointment has been made.

12.2.7 Candidates who are not shortlisted should receive notification of this as soon as possible, or alternatively a date should be specified in the advert and/or earlier correspondence by which applicants should assume they have not been successful.

## 13. REFERENCES

### 13.1 Requesting References

Appointments should not be made without satisfactory references being received for both internal and external candidates. Where references have not been received or taken up prior to interview, it is preferable to delay making an appointment until satisfactory references are received.

- Caution should be taken when scrutinising references from employers so that wherever possible references are given by the most relevant person.

Ideally references should be sought on all shortlisted candidates, including internal ones, and be obtained before interview, so that any issues of concern they raise can be explored further with the referee, and taken up with the candidate at interview.

References must always be sought for both internal and external candidates and offers of employment always made subject to receipt of satisfactory references (where these have not been obtained prior to interview), DBS and medical clearance.

In some cases, references may not have been received prior to interview. This should occur only in exceptional circumstances for example, because of delay on the part of the referee, or because a candidate has requested that their current employer is not contacted prior to interview. It is up to the chair of the interview panel, advised by Human Resources, as to whether to respect this request. It should be acknowledged that there may sometimes be personal difficulties between individuals and their employers which may explain why an applicant may not want a past employer to be contacted. There should be an opportunity for candidates to explain these circumstances at interview and an expectation by the interview panel that they will do so.

Where a reference has not been obtained on the preferred candidate before interview, a reference must be sought, received and scrutinised, and any concerns are resolved satisfactorily, before the person's appointment is confirmed.

Please note it would not be possible to justify making an appointment purely because two satisfactory references had been received on one candidate but not the other.

At least two references should be requested for each shortlisted applicant, one of which should be the current or most recent employer. If the applicant is not currently working with children, but has done so in the past either on a paid or voluntary basis, a third reference should be sought from the employer for whom the candidate was most recently employed to work with children.

Where the applicant has previously worked with children, the reference should be directed to the head teacher/head of establishment rather than any named referee provided by the applicant. If the applicant does not offer their current employer as his/her referee on the application form, then the school must approach the applicant to enquire the reason for this. If this is refused without an acceptable reason, which should be recorded and kept with the application form, then the school may wish to consider the possibility of employing such an applicant. An acceptable reason may be that the business has ceased trading and therefore staff are no longer contactable. Advice can be sought from Human Resources if this matter arises.

Request for reference letters (example provided at Appendix 7) should be sent out at the same time as the invitation to interview letters and should include a copy of the relevant job description, person specification. The use of reference request proforma can help to ensure that the reference provides valuable, useful and specific information. Applicants should also be made aware at the application stage that references will be sought prior to interview and that if they have previously worked with children then an additional reference will be required. (Please see guidance for applicants Appendix 5)

### **13.2 Evaluation of References**

References should be scrutinised to ensure that all specific questions have been answered satisfactorily. If all questions have not been answered or the reference is vague or unspecific, the referee should be contacted and asked to provide verbal or written answers or amplification as appropriate. A record of the comments should be made, as these in effect form part of the reference and may at some point be the subject of challenge. The reference should also be checked against the information contained within the application form to ensure consistency (e.g. dates of employment, unanswered questions with regard to sickness/disciplinary matters). Any discrepancy or area of concern should be raised with the applicant either within the interview, or if the reference is not received before interview, at a later stage.

Comments in references which raise gender, race or religious belief, age, disability issues or family circumstances must not be taken into account by the selection panel.

Any information about disciplinary action or allegations should be considered in the circumstances of the individual case. Cases that were satisfactorily resolved some time ago, or where the allegation was unfounded or did not require formal disciplinary sanction, and in which no further issues have been raised, are not likely to cause concern. More serious or recent concerns or issues that were not resolved satisfactorily are more likely to cause concern. A history of repeated concerns or allegations over time is also likely to be a

cause for concern. Human Resources will be able to provide additional advice and guidance where such concerns are raised.

Referees should be reminded that they have a responsibility to ensure that the reference is accurate and does not contain any material misstatement or omission and that the factual content of the reference may be discussed with the applicant.

The Local Authority operates an 'open reference' policy; if the employee already works for the LA they will be aware of the content of the reference before it is sent. References received from other Authorities and employers are requested on this basis. Where a referee will only provide a confidential reference employees can ask their new employer for a copy of the reference which may be disclosed if it is proper to do so, having balanced the rights of the author, any other person mentioned in the reference, and the employee.

In the event that a referee does refuse to provide a reference, find out why and seek an alternative referee.

### **13.3 Where an Adverse Reference is Received**

Where the reference is unclear or hints at problems, it is advisable for the Chair of the selection panel (or head teacher) to telephone the referee in order to clarify the information. Notes of the conversation should be documented, dated, signed and placed on file.

Seek clarification on the area of concern with the candidate during the interview. If this proves satisfactory, the panel may appoint.

Refuse the appointment on the grounds of an unsatisfactory reference. Where this is the case the panel must ensure that the decision is fair, reasonable and based on justifiable grounds, and that the reasons for the decision are documented in the event of a complaint from the employee.

Appointees should not be allowed to begin work without satisfactory references being received. If references have not been taken up by the interview stage at the request of the successful candidate a holding letter should be issued explaining that an offer conditional or otherwise cannot be made until satisfactory references have been made.

### **13.4 Providing References**

An employer has a duty of care to exercise reasonable skill and care in the preparation of a reference. If this is not done adequately, the employee could bring a claim under one of the following:-

Negligence – where reasonable care is not taken. An employer may be found to be liable if loss results from the employer's failure to exercise reasonable care in the preparation of a reference

Defamation – where a reference contains a false or unsubstantiated statement that damages the reputation of a former employee. The employee may be able to claim damages

Deceit – where a false statement is knowingly made

Care should be taken to ensure that references are:

- Provided only by those members of staff in school who are authorised to do so – often this will be the head teacher or deputy head teacher
- Honest and the facts are correct. Even if the discrete components are factually correct, care should be taken to ensure that the reference does not give a misleading overall impression of the employee
- Carefully considered. Be cautious about giving subjective opinion about an individual's performance, conduct or suitability which cannot be substantiated with factual evidence
- Written for a specific job vacancy. They should not be written as an "open reference", to be used on an ad-hoc basis.
- Provided on headed notepaper on behalf of the school in response to specific requests from the prospective employer

Open references are often sought at times of dismissal, redundancy, conduct or capability. References of this nature should not be issued without consulting with Human Resources in the first instance.

### **13.5 Withdrawing a Conditional Offer**

As long as it is made clear to a prospective employee that an employment offer is conditional, the offer can be withdrawn if a condition is not satisfied. A contract of employment is only made where there has been an unconditional offer and an unconditional acceptance, supported by the intention to create a legal relationship.

## **14. VISITS TO THE SCHOOL**

Where arrangements are made for informal visits to the establishment prior to interview, the same opportunity for visiting must be available to all applicants at that stage of the recruitment process.

Pre-interview visits should take place on a different day from that of the interview wherever possible. Ideally such visits should be arranged individually and carefully structured and key staff should be available.

The visit gives candidates the opportunity to see the school in session and to form initial impressions which may be explored at interview. It is not part of the selection process. It is an entirely voluntary process and it should not be assumed by the panel that the candidate has a lack of motivation or interest if they did not undertake a pre-interview visit.

The position of applicants with disabilities must be recognised and special arrangements may have to be considered for a pre-interview visit.

## **15. THE INTERVIEW STAGE**

### **15.1 Pre Interview Stage**

A realistic timetable for the interviews will be scheduled to; allow sufficient time for each interview, and

- Ensure the panel has sufficient time in between each interview for assessing the candidate.
- include comfort breaks (and a lunch break where necessary).

Selection panels may wish to consider the timing of interviews if they have candidates who are travelling some distance.

### **15.2 The Interview Panel**

All members of the selection panel will meet well in advance of the interview to:

- Re-examine the relevant documents: job description, person specification and the application forms of the candidates
- Agree the interview structure; what key areas to explore at interview, what points need probing and expanding
- Keep equal opportunities in mind when formulating questions
- Decide the roles of the interviewers and the questions each will ask
- Agree any tasks

The interview panel should agree key responses or agreed behavioural responses to the questions being posed to candidates prior to the assessment/interview process, to prevent any bias towards a particular candidate's responses.

The questions should be relevant to the post and should enable the panel to determine which candidate fully meets the criteria set out in the Person Specification.

### **15.3 Invitation to Interview**

Having determined which applicants have been shortlisted for interview a letter confirming the details of the interview should be sent to candidates as soon as possible, where the interview date is close to the short listing date it is recommended that candidates are telephoned to give them basic details of times, date, venue and any tasks which may require pre planning

An example invite to interview letter is attached in Appendix 8. The letter may also include the following:

- location/map
- a description of the location specifying any potential difficulties in accessibility for a person with a disability, with a request that they inform the writer should any special arrangements be required
- approximate duration of interview/structure of the day's programme

- details of any additional tasks the candidate will be required to undertake (e.g. presentation, typing test etc)
- how to claim travel/subsistence expenses and details of allowable expenses
- local overnight accommodation where appropriate

#### 15.4 Selection Tests

Where applicable the selection panel should consider a range of activities which will enable the candidate to demonstrate how they meet the requirements for the post. Tests should be fair, unbiased and measurable; the Selection Panel should agree in advance what standards they require for tests. Testing forms part of a whole recruitment and selection process.

#### 15.5 Interviews

The aim of the interview is to enable the experience, abilities and qualities of all shortlisted candidates to be assessed against the person specification. The interview is also used to give prospective employees a picture of the school and the job, and maintain and improve the image of the organisation as an employer of choice.

All persons making appointments should endeavour to conduct interviews on an objective basis and interviews must only be concerned with the applicant's suitability for the job.

Effective questioning skills need considerable thought and care. The panel will use a range of questioning techniques to obtain all of the information necessary to assess effectively each candidate.

The function of the interviewer is to encourage candidates to show their strengths and skills during the interview, bearing in mind that interviewing is a process of selection not rejection.

It is important to ensure that the interviews are carried out in a systematic and structured way in order to minimise the extent to which personal bias affects recruitment decisions.

In order to ensure consistency and fairness throughout the process, the format of the interview should be the same for each candidate. All candidates should be asked the same core questions, which candidates should be scored on. For advice on questions that are appropriate please contact HR.

It is advised that, wherever possible, all interviews for a vacancy should be held on the same day. Where this is impossible no more than two or three days should be allowed to elapse before finalising the interviews. In these circumstances, the panel membership must remain the same.

The interview should also explore the candidate's suitability to work with children, his/her ability to support the school's agenda for safeguarding and promoting the welfare of children.

The panel should also check any gaps in the candidate's employment history and any concerns or discrepancies arising from the information provided by the candidate and/or a referee.

## 15.6 Role of the Chair

The Chair has an important role on the panel, which includes:

- Making necessary introductions to the candidates at interview and explaining the structure and format of the interview process. If candidates are to make a presentation it should be made clear when this will take place and for how long.
- Ensuring that the candidate feels sufficiently at ease to be able to communicate effectively during the course of the interview.
- Occasionally the candidate may not understand the question and the chair may be able to rephrase the question so that it can be more easily understood.
- Concluding the interview and informing the candidate what the subsequent stages of the process are. Give candidates the opportunity to ask any questions that they might have, or say anything further about themselves in relation to their application.
- Ask the candidates if they will accept the job if it is offered to them.

## 15.7 Verification of Identity

In order to fulfil the requirements of the Bichard Report, all prospective employees (including people already employed by the Authority) should now have their identity confirmed via a photographic check. Therefore candidates must be asked to take a recent passport sized photograph, from which they can be clearly identified, to interview. At the interview the reverse of this photograph must be signed by the chair of the panel to confirm that it is a true likeness. The photograph of the successful candidate will be retained on their personal file. The cost of producing the photograph is to be borne by the applicant. Unsuccessful candidates are entitled to request that the photograph be returned to them. If they do not request that their photograph is returned, it should be destroyed. If candidates do not provide a photograph at the interview, then the panel may take the decision that they should no longer be considered for the post.

This must be made clear to candidates in the invite to interview letter (Appendix 8).

## 15.8 Keeping Records During Interviews

It is important that all interviewers keep notes to ensure that a properly reasoned assessment can be made as to whether a candidate meets the requirements of the person specification and whether they are suitable to work with children. It also enables a fair comparison to be made between candidates at the end of the interview process.

Remember, any paperwork used to record assessment and selection decisions may be used in candidate feedback, in the event of a recruitment complaint, or in the event of any legal action taken by an unsuccessful applicant and will, therefore, need to be retained for a minimum period of 12 months. Any notes should be collected by the chair and retained pending any subsequent queries to the panel.

Interviewers, like everyone else, may instinctively prefer one person to another but it is important to look for separate and distinct evidence. A systematic approach encourages fair selection.

The Chair should ensure that there is no discussion of candidates between interviews. This should only happen after all the candidates have been seen, to help give all candidates a fair chance.

### 15.9 **Red Flags and Warning Signs in Interviews**

The DCSF accept that it is difficult, if not impossible, to identify an abuser during selection processes or to prevent unsuitable people from working with children. The purpose of Safer Recruitment guidance is to make it as difficult as possible for such people to gain access to children.

Individuals unsuited to working with children may show one or more characteristics that can be viewed as possible danger signs. These are included in the NCSL on line training and the Authority version of this. It is recommended that this list of characteristics be viewed by a member of the panel, and shared with other panel members prior to the interview taking place.

### 15.10 **The Decision**

Immediately following the final interview of the shortlisted candidates, the selection panel should individually complete the panel members assessment form, then proceed to discuss each candidate and match them against the person specification. This process should involve working through the person specification recording where the criteria has been met during the course of the interview.

The selection panel should be asked to share their records of each candidate and attempt to reach a consensus about which candidate best fits the person specification. The panel should avoid decisions based on qualities not relating to the person specification.

Selection decisions must not be influenced by the traditional racial or sexual profile of previous postholders, or by any colleague's unwillingness to work with someone from an underrepresented group i.e. a woman, a black person, or a disabled person.

When making a selective decision the panel must consider whether there are any reasonable adjustments that could be made for a disabled candidate to assist them in meeting a job requirement. If in doubt seek advice.

In some cases the final choice of the most appropriate person for the job may not be unanimous. In these cases the panel should check again that all candidates equally meet the same criteria in the order previously agreed. Once a decision has been made, which may be a majority or unanimous, all members of the interviewing panel should accept this as a collective decision. When a decision has been made the panel should clarify exactly why the unsuccessful candidates have been rejected and note the reasons on the panel member's assessment form in case the decision is challenged at a later date.

If no candidate shows sufficient evidence of meeting the selection criteria of the post then an appointment should not be made and the post should be re-advertised. The panel should check whether the advertisement contained a misleading or off-putting phrase, or was overshadowed by a competitive advertisement.



All records of shortlisting, interviews and the application forms of all candidates should be retained for a period of at least twelve months in case there is a query or complaint.

## **16. NOTIFYING CANDIDATES OF THE DECISION**

### **16.1 Conditional Offer – Checks and Verification**

Once a decision has been made the next step would be to offer the post to the successful candidate. A verbal offer of the job may be made initially. However, this must be followed by written confirmation (see appendices 9 and 10 for sample offer letters). Governing bodies need to be aware that a verbal offer of employment forms a legally binding contract. Where appropriate the offer of appointment should be subject to:

- The receipt of at least two satisfactory references
- Verification of the candidate's identity (to comply with the Asylum & Immigration Act)
- A check of the ISA Children's barred list
- A satisfactory DBS enhanced disclosure (this will include a check of the ISA Children's barred list)
- Verification of the candidate's medical fitness (medical questionnaires are available from the Recruitment Shared Service)
- Verification of relevant qualifications
- Verification of professional status where required, e.g. GTC Registration, Qualified Teacher Status, NPQH
- (for teaching posts) verification of successful completion of statutory induction period (applies to those who obtained QTS after 7 May 1999)
- (for non-teaching posts) satisfactory completion of the probationary period.

Completed medical questionnaires, DBS forms and HRA1 form (see Appendix 8 for sample) along with copies of the offer letter and all other relevant documentation should be sent to the **Recruitment HR Shared Service, Lawrence House Talbot Street Nottingham NG1 5NT**.

## **17. DBS APPLICATIONS AND DISCLOSURE**

All posts in schools will be subject to an enhanced disclosure from the Criminal Records Bureau (DBS).

For all posts, the successful candidate must apply to DBS for a disclosure to confirm any records held prior to any final appointment decision being made by the Authority – the necessary application form will be issued to the successful candidate(s) to enable them to apply.

The DBS check will include:

- Details of convictions, including those 'spent' under the Rehabilitation of Offenders Act (1975)
- Cautions, bind over's etc, where included on the ISA Children's barred list.
- Where appropriate, information from local police records, including any relevant non-conviction information ('soft' information).

A conviction is not necessarily a bar to recruitment, unless the Authority considers that the conviction renders you unsuitable for appointment. In making this decision, consideration will be given to the nature of the offence, how long ago and what age you were when it was committed and any factors which may be relevant. Guidance can be found in Section 1 (b) Relevant Legislation and Appendix 5 Guidance notes for Applicants.

It is an offence for an individual who has been disqualified from working with children to knowingly apply for, offer to do, or accept or do any work in a regulated position. An individual is disqualified from working with children if s/he is included on the ISA Children's barred list.

### **17.1 DBS School Record Keeping**

In June 2006, Ofsted published a report entitled 'Safeguarding children: an evaluation of procedures for checking staff appointed by schools'. As a result of this, the Schools Minister informed schools that, as a matter of urgency, they should ensure that record keeping is quickly improved and that schools must make the improvements as swiftly as possible. The purpose of the exercise was to ensure that every school compiled and held a single, central record for all people working in or with the school, where existing guidance required a number of checks to be undertaken. The DCSF advice at the time stated that the following information should be held on the central record:

- Identity – name, address and date of birth
- Qualifications – where the qualification is a requirement of the job, i.e. those posts where a person must have QTS
- Evidence of permission to work for those who are not nationals of a European Economic Area (EEA) country
- List 99 check (now incorporated in ISA Children's barred list)
- DBS – for all those who require a check under the guidance and regulation applying at the time they were recruited
- Date that the check was evidenced

In September 2006, the School's Personnel Manager wrote out to all schools providing details of the DBS information held by the Authority, and provided an example template to use for the central record. Schools must ensure that they maintain this central record by inputting the details of all new appointees to the school on it.

### **17.2 DBS & Agency Staff**

Schools may wish to utilise the services of an Employment Agency to fill casual vacancies on a short-term basis. Schools should make every effort to obtain employees from an Agency that conducts the appropriate checks and DBS disclosures on their clients. If the identified employee is not DBS cleared, then head teachers must ensure that the person has no unsupervised access to children until the relevant DBS clearance is received.

## **18. DEBRIEF AFTER INTERVIEW**

A debrief should be offered to all candidates, both successful and unsuccessful as an opportunity to discuss with a member of the selection panel their performance during the selection process. For the successful candidate, the debrief would normally form part of the induction process.

For unsuccessful candidates, the debrief should be based on the criteria outlined in the person specification and the performance at interview. Comments should be positive, constructive, sensitive and generally helpful for any future applications. The candidate should be given the opportunity to express their feelings about the selection process and again thanked for their interest in the post. Written confirmation should be sent to all those candidates you have not been able to inform verbally.

## **19. COMPLAINTS**

Any unsuccessful applicant may wish to make a formal complaint about a recruitment and selection process. External candidates may use the School's Complaints Procedure for this purpose, while internal candidates must use the School's Grievance Procedure. Such complaints are the responsibility of the Governing Body to investigate. Advice can be sought from Senior Schools Human Resources Staff

## **20. CHECKLISTS**

You may find it useful to prepare a checklist to ensure the relevant processes and procedures has been followed. A sample Recruitment and Selection Checklist can be found in Appendix 11.

**Job title:**

Department:

Service:

Grade:

Post reference number:

**1 Job purpose**

**2 Principal duties and responsibilities**

- 1
- 2
- 3

**3 All staff are expected to maintain high standards of customer care in the context of the City council's Core Values, to uphold the Equality and Diversity Policy and health and safety standards and to participate in training activities necessary to their post.**

**4 This is not a complete statement of all duties and responsibilities of this post. The post holder may be required to carry out any other duties as directed by a supervising officer, the responsibility level of any other duties should not exceed those outlined above.**

**5 Numbers and grades of any staff supervised by the post holder:**

Click once and type details of staff supervised here

**6 Post holder's immediate supervisor:** Click once and type job title here

**Prepared by/author:** Click once and type name here

**Date:** Click once & type date

**Job title:** Click once and type job title here

**Note:** This section should only be included in job descriptions issued to employees and should not be sent to all job applicants. I understand and accept the job duties and responsibilities contained in this job description.

**Signature:** .....

**Date** .....

**APPENDIX 2**  
**Person specification**

**Job title:**

**Department:**

**Service:**

**Section:**

**Grade:**

**Post reference number:**

Areas of responsibility	Requirements	Measurement				
		P	A	T	I	D
<b>E.g. Admin and IT Skills</b>	Click once and type requirements here	✓	✓	✓	✓	✓
	Click once and type requirements here					
	Click once and type requirements here					
	Click once and type requirements here					
<b>Work to promote mutual respect and good relations</b>	Click once and type requirements here					
<b>Work Related Circumstances</b>	Willingness to comply with the City Council's non-smoking policy.					

**P:** Pre-application    **A:** Application    **T:** Test    **I:** Interview    **D:** Documentary evidence

**APPENDIX 3**  
**Advertising Request Form**

**CITY SCHOOLS ADVERTISING REQUEST FORM**

**Please email vacancies to: [adverts@nottinghamcity.gov.uk](mailto:adverts@nottinghamcity.gov.uk)**

Deadline for advert requests is **4 p.m. Tuesday**

School Name,	
Post Title	
Start Date for Post	/ / TBC / ASAP (delete as appropriate)
Contract Type	Permanent / Temporary / Fixed Term
Term of Contract (if not permanent) and reason why it is temporary/fixed term	
Hours	Full Time / Part Time / Job Share
Salary	
Other Allowances e.g. TLR/SEN	
Subject/Key Stage	
Vacancy Details	
Application details (Address, Telephone number and Email address)	
Date advert to appear	City Schools website: / / Other publications: Yes / No (delete as appropriate)
Closing date	/ / Time:
Newly Qualified Teachers considered	Yes / No (delete as appropriate)

All adverts will appear on the City Schools website and the E-Teach Website. The cost for this service is £62

If you require your advert to be published in any other publications, please complete the following page.

### Other Publications required

Please note, advert requests submitted prior to the **4pm Tuesday deadline** for other publications will be published the following week. With the exception of the County Councils Non-Teaching Bulletin which will be published 2 weeks after the deadline. For example: advert request received on Tuesday 8<sup>th</sup> May, publication in the Non-Teaching Bulletin will be Monday 21<sup>st</sup> May.

<b>PUBLICATION</b>	<b>COST</b>	<b>PUBLICATION DAY</b>	<b>REQUIRED YES/NO</b>	<b>SPECIAL REQUIREMENTS (Subject Heading, School Logo, Colour or Mono)</b>
Nottingham Evening Post	See Below	Wednesday / Friday (delete as appropriate)		
Times Educational Supplement - <b>Publication</b>	See Below	Friday		
Times Educational Supplement – <b>On Line</b>	Bronze Package £250 Silver Package £500 Gold Package £750	Friday		
County Council Teaching Opportunities	£55	Friday		
County Council Non-Teaching Opportunities	£55	Monday		

Advert costs for the Nottingham Evening Post and the Times Educational Supplement will depend upon the size and layout of the advert. You will be notified of these costs upon receipt of the advert proof which will be sent to you for approval prior to publication.

**For any enquiries please contact:** Vacancy Requisition Team  
**Tel:** 0115 9156555

**APPENDIX 4**  
**Letter to Applicants**

**[Name]**  
**[Address]**

**[Date]**

Dear Applicant,

**POST:**  
**SCHOOL:**  
**ADDRESS:**  
**SALARY:**

Thank you for your interest in the above post, the governors and head teacher of **[name of school]** are seeking to appoint a **[post title]** to work in partnership with them and the school.

Applicants should complete the application form for this post as fully as possible and write or type a separate letter of application addressing the factors identified in the person specification, in relation to this school.

Applicants who are applying on a job share basis will need to demonstrate how, individually, they meet the job requirements stated in the person specification.

Please find enclosed:

- Job description
- Person specification
- An application form
- Guidance notes on completing your application form (Appendix 5)
- Information regarding the requirements of the Assylum & Immigration Act.

I hope that you will find these documents useful in making your application.

**Important Information for applicants**

Applicants should be aware that to comply with Department of Schools Children and Families (DSCF) guidance on the safeguarding of children we will be seeking references for all shortlisted candidates prior to interview. We will require at least two references, one of which must be the current or most recent employer. If you do not currently work with children but have done in the past either on a paid or voluntary basis then a reference will also be sought from this employer.



This post is exempt under the Rehabilitation of Offenders Act. This means that all convictions both spent and unspent will need to be disclosed when making your application. Guidance on the Rehabilitation of Offenders Act 1974 is attached to the Guidance notes for applicants.

Please return your completed application form and letter to **[name and address]** to arrive no later than **noon on [date]**. If you wish to return your application form electronically please email to **[school e-mail]**.

Short listing will take place on **[date]** and the interviews will be held week commencing **[date]**. Candidates invited to the selection process will be contacted as soon as possible after the short-listing process. The successful candidate, if not already in the employment of the Authority, will be required to satisfy the Authority of his/her fitness for employment and Criminal Records Bureau clearances.

In order to keep costs down, applications will not normally be acknowledged unless a stamped addressed envelope/postcard is enclosed with the completed application form.

On behalf of the governors, may I thank you for your interest in this post.

Yours sincerely

**[Name]**

Head Teacher

**“This school is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment”**

## APPENDIX 5 Guidance Notes for Applicants

### Introduction

Thank you for requesting an Application Pack for a post with **[name of school]**. Before you start to complete your application form, please check you have all of the documents listed below:-

Application form (if you require an application form in an alternative format please call 0115 915 6509).

Job Description

Person Specification

Additional Information (If applicable)

If any of the above is missing please contact the school.

### Completing your Application Form

On your application form you need to show us how your skills and experience meet the requirements marked in the “A” column of the person specification. If you do not do this you will not be short-listed and therefore will not be offered an interview. You do **not** need to address the requirements marked in the other columns as these will be tested in other ways e.g. at the interview.

The main points to remember when filling in your application form are:

- Use dark or black ink.
- Fill in **all** the sections of the form – CVs will only be considered alongside fully completed forms.
- Read the job description and person specification carefully and think how your skills, knowledge and experience match the requirements.
- Show how you meet those requirements marked in the “A” column.
- Fill in your form as fully as possible as we will not be able to make assumptions about your abilities and will not take into account previous applications or previous knowledge about you.
- If possible make a copy of your completed form for future reference.
- Make sure you return the form to us before the closing date, as we don’t normally accept late applications.
- By submitting a completed and signed application form, you will have accepted the statement on Confidentiality and Disclosure (please see application form).

### What Next?

Unfortunately it is not always possible to acknowledge receipt of your application form. If you haven’t been contacted within 10 working days of the closing date you can assume that you haven’t been short-listed on this occasion. If you have been

shortlisted you will receive confirmation (by letter/email/telephone) of the details of the interview

### **Equality and Diversity**

The City Council has a leading role to play in promoting equal opportunity and valuing diversity – in the community, as an employer and as a provider of services to the people of Nottingham

If you feel you have been discriminated against at any stage of the recruitment process you have the right to complain under the Recruitment Complaints Procedure and you should contact the Human Resources Team in the first instance, after the interview you initially contact the chair of the panel.

If you need us to send you the application form and job details in a different format e.g. Braille please contact the school in the first instance.

### **The Disability Discrimination Act (1995)**

The DDA defines “long term” as 12 months or over. On your application form we ask whether you consider yourself to be a disabled person and to give details of any aids you may need to enable you to attend an interview e.g. loop system, wheelchair access, sign language interpreter, support dog etc. We need this information to make sure that you have every opportunity to demonstrate your true abilities at the interview.

All disabled people who meet the requirements for the post at the application form stage are guaranteed an interview.

### **Asylum and Nationality**

The Asylum and Nationality Act 2006 repeals the Asylum and Immigration Act 1996. The Council and the person acting for the Council will be liable under both criminal and civil law if it employs someone who does not have permission to work. Before offering employment to any person, the Chair must be satisfied that the person's immigration status allows them to do the job and the HR team, as part of the appointment process, must check this.

There are certain categories of people who are free to take employment in the UK:

- EEA Nationals
- Gibraltarians
- Those with a right of abode in the UK
- Those with exceptional leave to remain
- Asylum seekers with permission to work i.e. those who applied for asylum prior to July 2002.

Legislation requires some groups of people to have other types of entry clearance, these are:

- Work permit holders
- Commonwealth working holidaymakers
- Students
- Au pairs
- Sole representatives of overseas firms
- Business persons
- Spouses of the above and of work permit holders

The Work Permit Scheme is administered by Work Permits UK, a part of the Home Office.

To defend the Council's position it is, therefore, necessary for HR to obtain and retain a copy of one of the documents from List One or two documents from List Two:

#### **LIST 1**

Any **one** of the following original documents from List 1 will provide sufficient proof for someone to work and will provide us as the employer with the statutory defence as set out in the amendments to the Asylum and Immigration Act.

- A passport showing that the holder is a British citizen, or has a right of abode in the UK.
- A document showing that the holder is a national of a European Economic Area country or Switzerland. This must be a national passport or national identity card.
- A residence permit issued by the Home Office to a national from a European Economic Area country or Switzerland.
- A passport or other document issued by the Home Office which has an endorsement stating that the holder has a current right of residence in the UK as the family member of a national from a European Economic Area country or Switzerland who is resident in the UK.
- A passport or other travel document endorsed to show that the holder can stay indefinitely in the UK, or has no time limit on their stay.
- A passport or other travel document endorsed to show that the holder can stay in the UK and that this endorsement allows the holder to do the type of work you are offering if they do not have a work permit.
- An Application Registration Card issued by the Home Office to an asylum seeker stating that the holder is permitted to take employment.

## LIST 2

Documents which if produced in combination will provide evidence of permission to work and will provide us, as the employer, with the statutory defence as set out in the amendments to the Asylum and Immigration Act.

You must see two documents from the “First Combination” OR two documents from the “Second Combination” – you cannot use one document from the “First Combination” and one from the “Second Combination”.

### First Combination

- A. A document giving the person’s permanent National Insurance Number and name e.g. P45, P60, NI card or a letter from a Government Agency. (This must be a permanent NI Number i.e. not one beginning ‘TN’ or any number ending in a letter from E to Z inclusive.)

**Along with checking and copying a document giving the person’s NI Number, you must also check and copy one of the following documents listed in section B-H:**

- B. A full birth certificate issued in the UK, which includes the names of the of the holder’s parents; OR
- C. A birth certificate issued in the Channel Islands, the Isle of Man or Ireland: OR
- D. A certificate of Registration or naturalisation stating that the holder is a British Citizen; OR
- E. A letter issued by the Home Office to the holder which indicates that the person named in it can stay indefinitely in the UK, or has no time limit on their stay; OR
- F. An Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the person named in it can stay indefinitely in the UK or has no time limit on their stay; OR
- G. A letter issued by the Home Office to the holder which indicates that the person named in it can stay in the UK, **and** this allows them to do the kind of work you are offering; OR
- H. An Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the person named in it can stay in the UK, **and** this allows them to the type of work you are offering.

## **Second combination**

This combination relates to documents when the person has a Work Permit – please seek advice from HR.

To avoid any discrimination HR will ask **every prospective employee** to produce at least one of the above documents as a minimum. HR will specify requirements and place copies on personal files.

## **Guidance Notes for Applicants**

### **Rehabilitation of Offenders Act 1974**

Under the Act an individual who has had a conviction(s) may be regarded rehabilitated and the conviction treated as 'spent' after specified periods.

A conviction is only 'spent' after a specified rehabilitation period, which is determined by the type and length of conviction.

Length of Conviction	Rehabilitation Period
6 months but not more than 30 months	*10 years
Up to 6 months	*7 years
Fine or community order or Probation	*5 years
Order for detention in detention centre	3 years
Conditional discharge	1 year
Absolute discharge	6 months

\*These periods are halved for offenders under the age of 18.

Exceptions within the Act are where an individual has a conviction(s) incurring a sentence of more than 2 and half years or a life sentence, preventative detention or equivalent for young offenders. In these cases these convictions are never classed as spent and would always have to be declared regardless of the post applied for.

A number of occupations are also exempt from the Act. This means that all convictions both spent and unspent will need to be disclosed in the following areas of local government employment.

- Solicitors
- Accountants
- Adult Services, Housing and Health staff and Children's Services staff who may have considerable, unsupervised contact with children and young people and vulnerable adults
- Staff involved in the provision of leisure, recreational and community services to children and young people and vulnerable adults
- Staff engaged in the provision of educational services including those staff members who are working on those premises.

The City Council's is required to make a policy statement on the Rehabilitation of Offenders. Nottingham City Council's policy is:-

### **Policy Statement on the Recruitment of Ex-Offenders**

Nottingham City Council is committed to the protection of all those people who use its services and of its employees. The City Council is also committed to equal opportunities and welcomes applications from people who have a criminal record as long as that does not affect its duty of care to others.

The employment and management of people with criminal records has to be approached in a balanced and responsible way, whilst not unfairly discriminating against people with a criminal record.

The Criminal Records Bureau (DBS) will provide a Disclosure giving details of a person's criminal record and information held by the Department of Health and the Department for Education and Skills. The City Council will use the DBS to assess an applicant's suitability for employment in certain occupations and will comply with the DBS Code of Practice whilst undertaking to treat all applicants fairly.

The City Council will: -

- Undertake not to discriminate unfairly against any subject of a Disclosure check on the basis of conviction or other information revealed.
- Actively promote equality of opportunity for all and welcome applications from a wide range of candidates, including those with criminal records.
- Only request a disclosure check where it is necessary to protect children and vulnerable adults.

Having a criminal record will not necessarily bar anyone from working with the City Council. This will depend on the nature of the position and the circumstances and the background of the offence.

**APPENDIX 6  
Shortlisting Grid**

**SHORTLISTING MATRIX**

<b>PANEL MEMBERS NAME COMPLETING THIS FORM</b>	<b>ABBREVIATIONS FOR MARKING</b>
	<b>F – FULLY MEETS</b> <b>P – PARTLY MEETS</b> <b>B – BRIEF REFERENCE</b> <b>N – NO REFERENCE</b>

**VACANCY BEING RECRUITED TO:**

<b>AREA OF RESPONSIBILITY</b>	<b>REQUIREMENT</b>	<b>CANDIDATES NAMES</b>										





**APPENDIX 7**  
**Sample Reference Request**

**Private & Confidential**

**[Name]**

**[Address]**

**[Date]**

Dear

**Full Name of Candidate – [name]**

**Post – [post title]**

The above named has given your name as a referee. Please complete the attached pro-forma as comprehensively as possible and return it within **[number of days]** working days of the date of this letter.

If you are unable to provide us with a reference by the date detailed then it could be that **[name of candidate]** may not be interviewed as the post involves substantial access to children. If this is the case I would request that you contact me on the above number, so that you can supply us with a verbal reference. A job description and specification for the post is provided to assist you in this process.

Because of the nature of this post it is exempt from the Rehabilitation of Offenders Act 1974 relating to spent convictions and you should mention any conviction(s) for offences committed by the candidate that you are aware of in order that their suitability may be assessed.

I must also ask that if you are aware of any arrests, cautions or charges, in relation to a child or children or vulnerable adults, the candidate may have been the subject of, to provide details to me. This information will be treated in the strictest confidence.

As this post involves substantial access to children you are requested to fully complete all parts of the attached questionnaire in line with Safer Recruitment guidance. Please be aware that aspects of the reference may be discussed with the candidate by the selection panel at interview.

**In order to confirm the authenticity of this reference it must be accompanied by a covering letter on your organisation's headed notepaper or other proof of identity e.g. Company Stamp.**

Please note that under the Data Protection Act 1998 the above individual is entitled to read information we hold on them. If appointed, this reference will be held on their personal file, which they may access at some time in the future.

Thank you for your co-operation in this matter.

Yours sincerely

**[Name]**

**[Title]**

**REFERENCE QUESTIONNAIRE (CHILDREN)**

Please complete as fully as possible

Name of Candidate: **[name]**

Post applied for: **[post title]**

**SECTION 1**

1 How long have you been acquainted with the candidate?

(a) Personally Since: ..... To: .....

(b) Professionally Since: ..... To: .....

2 Which posts did the candidate hold whilst under your line management? (if applicable)

.....  
.....

3(a) Date(s) employed in each post

From: ..... To: .....

From: ..... To: .....

From: ..... To: .....

From: ..... To: .....

Current Annual Salary .....

(b) FOR LOCAL AUTHORITY EMPLOYEES ONLY - Please indicate current Spinal Column Point

.....

Please indicate the length and reason for any breaks in Service

.....  
.....

4 Please provide a brief description of the candidate's duties and responsibilities

.....  
.....  
.....  
.....  
.....  
.....

SECTION 2

1 How many days sickness has the candidate taken over the last 2 years (or last years employed)?  
Please give dates and reasons.

.....  
.....  
.....

2 Please comment on any identified pattern of sickness

.....  
.....  
.....

3 How many days Parental Leave has the candidate taken for each of their children? Please include  
any records from previous employers

.....  
.....  
.....

4 Did the candidate have any unauthorised absence(s)? If so please specify

.....  
.....  
.....

SECTION 3

1 Please give details of any current concerns raised with the candidate which relate to work  
performance, conduct or behaviour.

.....  
.....  
.....  
.....  
.....

2 Is the candidate in receipt of a 'live' formal warning or some other formal disciplinary outcome in relation to work performance, conduct or behaviour? If so please specify the nature and outcome of the case(s).

.....  
.....  
.....  
.....

3 Does your organisation have a policy of expunging disciplinary records from personal files?

.....

4 Have you ever referred the candidate to:-

(a) The Protection of Children Act List (POCA List)?  
(formally The Department of Health Consultancy List)

.....

(b) The Department for Education and Skills "List 99"?

.....

SECTION 4

1 Please comment on the candidates' suitability to form and sustain positive relationships with colleagues.

.....  
.....  
.....  
.....  
.....  
.....

2 Please comment on the candidates' knowledge of child care law, procedures and planning.

.....  
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.....  
.....  
.....

3 Please comment on the individuals' competence and aptitude for professional childcare and their ability to work with children, parents and carers.

.....  
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.....  
.....  
.....

4 Please comment on the applicant's ability to relate to and communicate with children.

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.....

5 Please comment on the applicant's ability to adhere to an adult/child relationship in respect of children.

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6 Please comment on the candidate's ability to work under pressure in what can be a stressful and challenging environment.

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7 Please comment on the candidate’s oral and written communications skills.

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.....

8 Please comment on the individual strengths and weaknesses of the candidate in relation to the job description and person specification provided (where not already covered by the above).

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.....

9 If known, would you kindly state the reason why the candidate left or is leaving your Organisation.

.....  
.....  
.....  
.....  
.....  
.....

10 Would you re-employ the candidate? If not why not?

.....  
.....  
.....  
.....  
.....  
.....

SECTION 5

1 Please provide any other information / comments which you think are relevant (If not mentioned elsewhere this should include, convictions for criminal offences and any arrests, cautions or charges in relation to any offence against a child or children or vulnerable adults).

.....  
.....  
.....  
.....  
.....  
.....

Signed: ..... Date.....

Please print your name: .....

Position: .....

Organisation: .....



**Private & Confidential**

**[Name]**

**[Address]**

**[Date]**

Dear

**RE: [Post Title]**

Further to your recent application for the above position, I am pleased to invite you to attend the selection process which will be held on **[date]** at **[venue, name and address]**.

I have enclosed a map of the area for your information/ a description of the location specifying any potential difficulties in accessibility for a person with a disability, with a request that they inform the writer should any special arrangements be require. **[delete as appropriate]**

Please arrive at **[time]** and report to **[insert details]**.

**Include details of the selection process e.g.**

*The interview will last approximately one hour and will involve a 15 minute exercise and a panel interview which should last no longer than 45 minutes.*

*The panel members will include the head teacher and two governors*

*You will be asked to give a 15 minute presentation on the following subject:*

*If you require the school to provide any equipment for the delivery of your presentation, please contact me so I can make the necessary arrangements with school.*

If you have any special needs or requirements (relating to a disability, or otherwise) to enable you to participate in the recruitment process, please contact **[name & telephone number]** so that we can make the necessary arrangements. (Please contact the school if you have any special dietary requirements). **[delete as appropriate]**

In order to fulfil the requirements of the Bichard Report, all prospective employees (including people already employed by the Authority) should now have their identity confirmed via a photographic check. Therefore can I ask you to bring a recent passport sized photograph from which you can be clearly identified to this interview? At the interview the reverse of the photograph will be signed by the chair of the panel to confirm its true likeness. If you are successful at interview this photograph will be kept on your personal file. If you are unsuccessful you are entitled to request that the photograph be returned to you, if not the

photograph will be destroyed. If you do not provide a photograph the panel may take a decision that you should no longer be considered for the post.

In addition would you please bring in the original certificates or documentation relating to the qualifications required for this post, as outlined in the person specification. These will be verified and copied on the day.

*The letter may also include the following:*

- *how to claim travel/subsistence expenses and details of allowable expenses;*
- *Local overnight accommodation where appropriate.*

If you require any further information or have any queries concerning the interview process, please contact me on the above number. I would be grateful if you would telephone me as soon as possible to confirm that you will be attending the recruitment process.

We look forward to meeting you on **[date]**.

Yours sincerely

**[Name]**

**[Title]**

**Private & Confidential**

**[Name]**

**[Address]**

**[Date]**

Dear **[name]**

**[Post Title]**

Further to your recent interview, I am pleased to conditionally offer you the above post with the City Council's Children's Services Department with effect from **[date]**.

The appointment is subject to the following conditions:

1. A starting salary of **[£]** per annum representing point **[point]** on the Pay Scale for Classroom Teachers and includes a TLR payment of **[£]**. **[delete as appropriate]**
2. Your salary being paid monthly by bank credit.
3. During your employment with the Authority your terms and conditions of employment will be in accordance with:
  - a) The current Education (Teachers) Regulations and amendments;
  - b) The School Teachers' Pay and Conditions Document;
  - c) The Conditions of Service for School Teachers in England and Wales (the Burgundy Book) as negotiated by CLEA/ST;
  - d) Any local collective agreements relevant to your employment reached between the Authority and the recognised Trade Unions;
  - e) The financial regulations for schools;
  - f) The Articles and Instruments of Government of the school;
  - g) The Education (Teachers' Qualifications and Health Standards) (England) Regulations 1999.

The documents above may be referred to in your place of employment.

4. The appointment is subject to three months' notice on either side expiring on either the 31st day of December or the 30th day of April or three months if expiring on the 31st day of August in any year. The effective resignation dates are, therefore, 30<sup>th</sup> September, 31<sup>st</sup> January, and 30<sup>th</sup> April respectively. Notice should be given to the Authority via the Head Teacher.

All teachers resigning their appointment will be paid salary:

- a) at the end of the Summer Term to August 31st; or in the case of a teacher resigning to take up an appointment with another Authority or a school maintained by another Authority, to the day preceding the day on which the school under the new Authority opens for the Autumn Term if this be earlier than September 1st;
- b) at the end of the Autumn Term to December 31st;
- c) at the end of the Spring Term to April 30th; or in the case of a teacher resigning to take an appointment with another Authority or a school maintained by another Authority, to the day preceding the day on which the school under the new Authority opens for the Summer Term if this be earlier than May 1st.

If you have been continuously employed for more than eight years you will be entitled to receive notice as specified in the Employment Rights Act 1996 i.e. one week's notice for each year of continuous employment up to a maximum of twelve weeks.

5. Your appointment is subject to satisfactory references.
6. Your appointment is subject to satisfactory Criminal Records Bureau.
7. Your appointment is subject to satisfactory medical clearance.
8. Superannuation contributions will automatically be deducted from salary unless you have elected to opt out of the Teachers' Pension Scheme. Should you wish to opt out then you will need to complete form PEN TR263 which is available from HR administration, The Guildhall, Nottingham. Alternatively, you may wish to contribute into a personal pension plan.

If you choose not to contribute under the Teachers' Pension Scheme or to a Personal Pension Plan you will automatically be included in the State Earnings Related Pension Scheme (SERPS).

A contracting out certificate is in force for the Teachers' Pension Scheme.

I would be grateful if you would complete the attached acceptance form as soon as possible.

Finally, I would like to wish you my congratulations in obtaining this appointment within the Children's Services Department.

Yours sincerely

**[Name]**  
**[Post Title]**

**NOTTINGHAM CITY COUNCIL – CHILDREN’S SERVICES DEPARTMENT  
CONDITIONAL OFFER OF EMPLOYMENT – ACCEPTANCE FORM**

**Post Title:**

**Grade:**

**Department/Name of School:**

I confirm that I accept the conditional offer of employment, to the above post with Nottingham City Council on the terms and conditions stated in your letter dated **[date]**

**Signed:** .....

**Name:**

**Address:**

**Date:** .....

Please return this acceptance to

Head Teacher

**[Address]**

**Private & Confidential**

**[Name]**

**[Address]**

**[Date]**

Dear **[name]**

**Re: [Post, Grade, Division]**

I write with reference to the above to formally confirm the offer regarding this position, subject to:

- Satisfactory medical clearance as to your suitability for employment. Please complete and return the enclosed medical clearance form by return of post **[delete as appropriate]**
- Satisfactory Police clearance **[delete as appropriate]**
- Receipt of satisfactory references **[delete as appropriate]**
  - Production of a document from those listed in Appendix 1 which is attached to this offer letter in accordance with the requirements of the Asylum and Immigration Act 1996. Once you have selected the appropriate document, telephone me on the above number to arrange a visit to **[name of school]** for me to view the item **[delete as appropriate]**

Also attached, for return, are:

Pension Option/Membership Form (SU1)  
Payment of Wages/Salary Form (SALS III) **[delete as appropriate]**  
Pre Employment Medical Questionnaire **[delete as appropriate]**  
Police Clearance Form **[delete as appropriate]**  
P46 - PAYE Employer's notice to Tax Office **[delete as appropriate]**  
Copy of Appendix 1 **[delete as appropriate]**

The above forms should also be returned in the envelope provided and I should be grateful if you could forward your P45 document as soon as possible in order that the correct deductions of personal taxation can be made. Please provide written confirmation if you wish to remain in the Teachers' Superannuation Scheme. **[delete as appropriate]**

May I take this opportunity of congratulating you on your appointment and wish you every success in your future role in shaping the work of the City Children's Services Department. I enclose a copy of the Departmental Education Handbook for your information. If you have any queries in respect of the above please do not hesitate to contact me.

Yours sincerely

**[Name]**

**[Title]**

Enc

**NOTTINGHAM CITY COUNCIL – CHILDREN’S SERVICES DEPARTMENT  
CONDITIONAL OFFER OF EMPLOYMENT – ACCEPTANCE FORM**

**Post Title:**

**Grade:**

**Department/Name of School:**

I confirm that I accept the conditional offer of employment, to the above post with Nottingham City Council on the terms and conditions stated in your letter dated **[date]**.

**Signed:** .....

**Name:**

**Address:**

**Date:** .....

Please return this acceptance to

Head Teacher

**[Address]**

**APPENDIX 11**

**Recruitment and Selection Checklist**

<b>Pre-Interview</b>	<b>Initials</b>	<b>Date</b>
Planning		
Advertising (where appropriate)		
Application Pack		
Receipt of Applications		
Short listing		
References – obtaining		
Reference – receipt/checking		
Invite to interview		
Interview Arrangements		
<b>Post Interview</b>		
Interview  Note: Identity and qualifications of successful applicant verified on day of interview by scrutiny of appropriate original documents: where appropriate applicant completed application for DBS disclosure.		
Conditional Offer of Employment: pre employment checks completed  Offer of appointment is made conditional on satisfactory completion of the following pre appointment checks and for non teaching posts a probationary period.		
References if not obtained and scrutinised first.		
Identity		
Qualifications		
Permission to work in the UK if required		
DBS		
List 99		
Medical Clearance - Questionnaire is sent with letter form HR		
GTC England – (For posts in maintained schools and non-maintained special schools) the teacher is registered with the GTC or exempt form registration		
QTS		
Statutory Induction.		



## Section 1 (b) Recruitment and Selection

### RELEVANT LEGISLATION

#### The Law and Employment

##### Introduction

The provisions of employment law address issues of rights and redress for people who feel they have not been treated equally in applying for and being selected for work. Legislation also governs the way the City Council obtains, holds and discloses applicant information.

Relevant legislation that refers to employment rights on the grounds of race, gender, age, religion or belief, sexual orientation and disability, and employment restrictions that affect ex-offenders, asylum seekers, the employment of children and young people is included in this Appendix.

Advice from good practice guides on employment equality from the various equality commissions has been incorporated where appropriate.

Contents	Page
Local Government and Housing Act 1989	
Education Act 1996	
Protection of Children Act 1999	
The Working Time Regulations 1998	
The Management of Health & Safety at Work Regulations 1999: Provisions Relating to Young Persons	
Asylum and Nationality Act 2006	
Rehabilitation of Offenders Act 1974	
Data Protection Act 1998	
Vicarious Liability	
Race Relations Act 1976 and Race Relations (Amendment Act) 2000	
The Sex Discrimination Act 1975 Gender Reassignment Regulations 1999	
The Disability Discrimination Act 1995	
The Employment Equality (Sexual Orientation) Regulations 2003	
The Employment Equality (Religion or Belief Regulations) 2003	
The Employment Equality (Age) Regulations 2006	

## **1. Local Government and Housing Act 1989**

The Local Government and Housing Act 1989 and the regulations made under it require Local Authorities to recruit “on merit”.

It also disqualifies anyone holding a ‘politically restricted’ post with a local authority from undertaking the following activities:

- Announcing an intention to stand for election to the House of Commons, the European Parliament or a local authority.
- Continuing to hold office if they give notice of their resignation in order to stand for election to the House of Commons;
- Acting as an election agent
- Holding office in a political party if the office is involved with general management of or acting on behalf of the party;
- Canvassing on behalf of a political party; Speaking to the public with the apparent intention of affecting support for a political party;
- Publishing or causing to be published written work or other material if intended to affect public support for a political party as opposed to, for example, displaying a poster on private property.

Please note: Teachers are excluded from the definition of politically restricted posts

A list of politically restricted posts can be obtained from Human Resources.

## **2. Education Act 1996**

There are restrictions under this legislation on employing children. It regulates hours of work, rest periods, training and Health and Safety. A child is defined as a person who is not over 'compulsory school age', generally under the age of 17 and who has not lawfully left school. Nottingham City Council's minimum working age policy is age 16 years. The Act includes provisions for school children undertaking work experience programmes that are not affected by this policy.

## **3. Protection of Children Act 1999**

This Act creates, along with the Warner and Utting reports, some additional considerations when appointing to the Children's Residential Sector and other posts. These can include additional information being sought on the application form, greater caution when shortlisting, more detailed seeking of references, wider inclusion on interview panels and additional testing. Departments will have their own procedures for these appointments and HR will advise.

## **4. The Working Time Regulations 1998**

These regulations place restrictions on the hours worked. Working Time Regulations are relevant to recruitment of both adults and young persons. In particular the hours that young people may work and compulsory rest days and periods are specified by these

regulations and detailed in the above policy. A young worker is defined as someone between the age of 15 and 18 years of age and is over compulsory school age.

## **5. The Management of Health & Safety at Work Regulations 1999: Provisions Relating to Young Persons**

Before a 'young person' starts work the risks to their health and safety must be assessed, taking into consideration young workers lack of experience, lack of awareness of risk and lack of maturity.

## **6. Asylum and Nationality Act 2006**

The Asylum and Nationality Act 2006 repeals the Asylum and Immigration Act 1996. The Council and the person acting for the Council will be liable under both criminal and civil law if it employs someone who does not have permission to work. Before offering employment to any person, the Chair must be satisfied that the person's immigration status allows them to do the job and the HR team, as part of the appointment process, must check this.

There are certain categories of people who are free to take employment in the UK:

- EEA Nationals
- Gibraltarians
- Those with a right of abode in the UK
- Those with exceptional leave to remain
- Asylum seekers with permission to work i.e. those who applied for asylum prior to July 2002.

Legislation requires some groups of people to have other types of entry clearance, these are:

- Work permit holders
- Commonwealth working holidaymakers
- Students
- Au pairs
- Sole representatives of overseas firms
- Business persons
- Spouses of the above and of work permit holders

Section 15 of the Act permits Immigration Officers to issue penalty notices to employers of up to £2,000 per employee alleged to be working illegally. The Act also introduces a criminal offence of knowingly employing an illegal worker and extends corporate liability so that if a person who has responsibility for "an aspect of employment" (including recruitment) knows that the employee does not have the right to work in the UK then the organisation is considered to have known. If found guilty both managers and the organisation can face a fine and individual managers and employees can also face a term of imprisonment

The Work Permit Scheme is administered by Work Permits UK a part of the Home Office.

To defend the Council's position it is, therefore necessary, to obtain and retain a copy of one of the documents from List One or two documents from List Two:

#### **LIST 1**

Any **one** of the following original documents from List 1 will provide sufficient proof for someone to work and will provide us as the employer with the statutory defence as set out in the amendments to the Asylum and Immigration Act.

- A passport showing that the holder is a British citizen, or has a right of abode in the UK.
- A document showing that the holder is a national of a European Economic Area country or Switzerland. This must be a national passport or national identity card.
- A residence permit issued by the Home Office to a national from a European Economic Area country or Switzerland.
- A passport or other document issued by the Home Office which has an endorsement stating that the holder has a current right of residence in the UK as the family member of a national from a European Economic Area country or Switzerland who is resident in the UK.
- A passport or other travel document endorsed to show that the holder can stay indefinitely in the UK, or has no time limit on their stay.
- A passport or other travel document endorsed to show that the holder can stay in the UK and that this endorsement allows the holder to do the type of work you are offering if they do not have a work permit.
- An Application Registration Card issued by the Home Office to an asylum seeker stating that the holder is permitted to take employment.

#### **LIST 2**

Documents which if produced in combination will provide evidence of permission to work and will provide us, as the employer, with the statutory defence as set out in the amendments to the Asylum and Immigration Act.

You must see two documents from the "First Combination" OR two documents from the "Second Combination" – you cannot use one document from the "First Combination" and one from the "Second Combination".

#### **First Combination**

- A.** A document giving the person's permanent National Insurance Number and name e.g. P45, P60, NI card or a letter from a Government Agency. (This must be a permanent NI Number i.e. not one beginning 'TN' or any number ending in a letter from E to Z inclusive.)

**Along with checking and copying a document giving the person's NI Number, you must also check and copy one of the following documents listed in section B-H:**

- B. A full birth certificate issued in the UK, which includes the names of the of the holder's parents; OR
- C. A birth certificate issued in the Channel Islands, the Isle of Man or Ireland: OR
- D. A certificate of Registration or naturalisation stating that the holder is a British Citizen; OR
- E. A letter issued by the Home Office to the holder which indicates that the person named in it can stay indefinitely in the UK, or has no time limit on their stay; OR
- F. An Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the person named in it can stay indefinitely in the UK or has no time limit on their stay; OR
- G. A letter issued by the Home Office to the holder which indicates that the person named in it can stay in the UK, **and** this allows them to do the kind of work you are offering; OR
- H. An Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the person named in it can stay in the UK, **and** this allows them to the type of work you are offering.

**Second combination**

This combination relates to documents when the person has a Work Permit – please seek advice from HR.

To avoid any discrimination you should ask every prospective employee to produce at least one of the above documents as a minimum. Copies should be sent to HR to be placed on the personal file.

**7. Rehabilitation of Offenders Act 1974**

Under the Act an individual who has had a conviction(s) may be regarded rehabilitated and the conviction treated as 'spent' after specified periods.

A conviction is only 'spent' after a specified rehabilitation period, which is determined by the type and length of conviction.

Length of Conviction	Rehabilitation Period
6 months but not more than 30 months	*10 years
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Absolute discharge	6 months

\*These periods are halved for offenders under the age of 18.

Exceptions within the Act are where an individual has a conviction(s) incurring a sentence of more than 2 and half years or a life sentence, preventative detention or equivalent for young offenders. In these cases these convictions are never classed as spent and would always have to be declared regardless of the post applied for.

A number of occupations are also exempt from the Act. This means that all convictions both spent and unspent will need to be disclosed in the following areas of local government employment.

- Solicitors
- Accountants
- Adult Services, Housing and Health staff and Children's Services staff who may have considerable, unsupervised contact with children and young people and vulnerable adults
- Staff involved in the provision of leisure, recreational and community services to children and young people and vulnerable adults
- Staff engaged in the provision of educational services including those staff members who are working on those premises.

The City Council is required to make a policy statement on the Rehabilitation of Offenders. Nottingham City Council's policy is:

#### **Policy Statement on the Recruitment of Ex-Offenders**

Nottingham City Council is committed to the protection of all those people who use its services and of its employees. The City Council is also committed to equal opportunities and welcomes applications from people who have a criminal record as long as that does not affect its duty of care to others.

The employment and management of people with criminal records has to be approached in a balanced and responsible way, whilst not unfairly discriminating against people with a criminal record.

The Criminal Records Bureau (DBS) will provide a Disclosure giving details of a person's criminal record and information held by the Department of Health and the Department for Education and Skills. The City Council will use the DBS to assess an applicant's suitability for employment in certain occupations and will comply with the DBS Code of Practice whilst undertaking to treat all applicants fairly.

The City Council will:

- Undertake not to discriminate unfairly against any subject of a Disclosure check on the basis of conviction or other information revealed.
- Actively promote equality of opportunity for all and welcome applications from a wide range of candidates, including those with criminal records.
- Only request a disclosure check where it is necessary to protect children and vulnerable adults.

Having a criminal record will not necessarily bar anyone from working with the City Council. This will depend on the nature of the position and the circumstances and the background of the offence.

## **8. Data Protection Act 1998**

This legislation governs recording, security and confidentiality of recruitment information. There are implications throughout the recruitment process and essential information is provided here to guide recruiters through the legislation.

### **DBS Disclosures**

This legislation governs the checking of criminal records using the Criminal Records Bureau:

- Where a post involves regular contact with children or vulnerable adults a criminal record check, known as a Disclosure, is required. This also applies for appointments for Solicitors and Accountants.
- Chairs of Panels should ensure that they know whether the post they are recruiting for requires a Disclosure. Arrangements for obtaining information from applicants for the Disclosure should be checked with HR.

The City Council has to state how it will store handle and dispose of Disclosures. This is our policy statement -

### **Policy Statement on the Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information**

Nottingham City Council complies with the Criminal Records Bureau Code of Practice regarding the correct handling use, storage, retention and disposal of Disclosures and disclosure information. It also complies fully with its obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure Information.

### **Storage and Access**

Disclosure information is not kept on an employee's personal file and is always kept securely in lockable containers with access strictly limited to those who are entitled to see it as part of their duties.

### **Handling**

In accordance with Section 124 of the Police Act 1997 Disclosure Information is only passed to those who are authorised to receive it in the course of their duties. A record of all those to whom Disclosures or Disclosure information has been revealed will be maintained. The Council recognises that it is a criminal offence to pass this information to anyone who is not entitled to receive it.

## **Usage**

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

## **Retention**

Once a recruitment (or other relevant) decision has been made the Council will not keep Disclosure information for longer than is necessary. This is generally for a period of up to six months to allow for the consideration and resolution of any disputes or complaints.

## **Disposal**

The Disclosure will be shredded. A record will be kept of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, a reference number and the outcome of the recruitment decision.

The Employment Practices Data Protection Code Part 1: Recruitment and Selection, [www.dataprotection.gov.uk](http://www.dataprotection.gov.uk) provides benchmarks designed to bring about compliance with the Act.

Relevant extracts from the Code and practice guidance throughout the recruitment process follows:

## **Advertising**

- Information should not be passed to any other agency without the individual's knowledge and permission.
- Individuals providing information in response to job advertisements should be aware of who they are giving their details to and how this will be used.
- Information should not be passed from a recruitment agency to an employer without the individual's knowledge. If the information supplied is to be used in connection with future vacancies the advertisement should make this clear.

## **Applications**

- Information should not be sought from applicants unless it can be justified as being necessary to enable a recruitment decision to be made or for related purposes, for example, equal opportunities monitoring.
- Information on criminal convictions should only be sought if it is relevant to the job being filled.

## **Short listing**

- Panels must be consistent in the way personal data are used in the process of short listing candidates. The short listing matrix will assist compliance with this requirement.



## **References**

- The City Council has an open policy on references (except in some posts in Children's Services / DASHH) and, therefore, most employees will have access to view personal references.

## **Interviews**

- Information collected in the interview should be relevant and related to the person specification to assist decision-making. Information that is needed from the successful candidate only should not be sought from all applicants, for example, the National Insurance number.
- Only record information that is relevant to the recruitment decision or necessary to demonstrate that the decision was taken properly.
- Candidates will normally be entitled to have access to interview notes about them, which are retained as part of the record of the interview. Under the Data Protection Act candidates are entitled to see the interviewer's notes but not the actual questions or the key responses, as they are not classed as personal data. Under the Freedom of Information Act interviewer notes, questions and key responses have to be released if requested. It is good practice however to release all of the notes in order to provide full and constructive feedback.

## **Appointment Decision**

- Checks should be proportionate to the risks faced by an employer and should be capable of revealing information that will have a bearing on the decision to appoint, justifiable for the post being filled. Risks cover, for example, the employment of paedophiles to work with children and young persons.
- The process for verifying information about a candidate should be open and with their consent. The nature, extent and range of information sources should be explained to the candidate and their agreement to the release of their details to a third party and for the third party to provide personal information should they be selected for the post should be obtained. For example, when undertaking a DBS check.
- HR will complete the vetting once a decision on all other grounds has been made to appoint. Service requirements will determine the extent to which Chairs should ensure necessary verification of documents and authorities are obtained at interview, to enable strictly relevant information to be sought from third parties.
- Any requests for personal information about the applicant's family and close associates must be justified and will only normally be following approval from HR or the Data Protection Officer and will normally only be requested after a preferred candidate has been selected.

## **Verification reveals Discrepancies in Candidate Information**

Where there is a discrepancy in the information obtained from a third party and information given by an applicant e.g. in a reference, Governors/Head teachers should ensure that they are satisfied with the candidates explanation for the discrepancy.

The Chair will ensure that an opportunity, where appropriate, is given to the candidate to provide an explanation of the discrepancy before a decision whether to appoint or not is reached.

### **Storage and Disposal of Recruitment Records**

Accurate record keeping and storage of records of decisions at all stages of the recruitment and selection process are an essential part of effective recruitment and selection activity.

Recruitment records should not be retained any longer than is necessary for making an appointment and responding to any challenges to that appointment. A maximum period of six months is recommended in the Data Protection Code. If applicant's details are to be held for future vacancies, this should be with the prior consent of the applicant.

### **Security and Confidentiality**

Monitoring of racial origin, gender, disability, age and religious beliefs is accepted employment practice when used to promote equality of opportunity and is permitted in the Data Protection Act. The use of personal information to identify individual applicants should be kept to a minimum by retaining records in an anonymised form wherever possible.

The use of data without authority may be treated as a serious disciplinary offence.

Information relating to applicants should be held in a secure place and care should be taken to ensure it is not divulged to an unauthorised party.

For further information and advice please contact HR.

## **9. Vicarious Liability**

Under equal opportunities legislation employers are responsible for discriminatory acts of their employees (carried out in the course of their employment).

However, individual employees can also be found by an Employment Tribunal to be liable for discriminatory acts that they have done in the course of their employment. This could include acts done during a recruitment process.

An individual employee could be found to be solely liable for his or her actions if the employer is found to have taken such steps as are reasonably practicable to have prevented the employee's action.

Therefore, it is essential that anyone involved in recruitment should attend appropriate recruitment and selection training where possible and are familiar with the schools recruitment process.

## 10. Race Relations Act 1976 and Race Relations (Amendment) Act 2000

The Race Relations Act 1976 makes it unlawful to discriminate against and /or victimise someone, directly or indirectly, in the field of employment, access to services and housing.

This Act was amended by The Race Relations (Amendment) Act 2000 which strengthened its application to local authorities. It placed a general duty on all public service providers to have due regard to the need:

- To eliminate unlawful racial discrimination.
- To promote equality of opportunity and good relations between people of different racial groups.

'Due regard' to these three areas of action will be particularly relevant where recruitment practice is concerned and separate measures may be needed to fulfil each area for example:

- Providing positive action training for a group that is under represented in an authority may promote equality of opportunity, but it would not tackle possible discrimination in recruitment procedures or practices.
- Training in recruitment policy and procedures will attempt to eliminate unlawful racial discrimination, but it would not promote good race relations. Only the line manager's consideration of race equality issues when completing the job analysis could contribute to this, along with the Chair's intervention at other stages of the recruitment process.

Nottingham City Council has set out how it will meet its general duty across all its functions under this legislation within its Equality Policy and Race Equality Scheme. Nottingham City Council's Race Equality Scheme specifies the employment of staff as a priority, an area where key objectives must be achieved, these are:

*'Address under-representation in the Council's workforce of Black & Minority Ethnic (BME) employees including managers, and across all Departments'*

*'Review the way jobs are advertised and seek to make applying for a job more accessible to BME people seeking employment.'*

*'Market the Council's youth training and employment schemes to attract more young BME people'.*

Those responsible for recruitment within schools should ensure at each stage of the recruitment process race equality objectives and targets are considered and appropriate action is taken to facilitate progression to recruit a diverse workforce, which reflects the communities of Nottingham.

Where the evidence from monitoring shows unequal outcomes between different ethnic groups, consideration should be given to what changes are needed and what action should be taken to prevent direct or indirect discrimination and to promote greater equality.

**The definition of discrimination under the Race Relations Act 1976 is:**

- Direct discrimination occurs when a person, on racial grounds, treats someone less favourably than others in similar circumstances. Racial grounds are grounds of colour, race, nationality or ethnic or national origin.

Example: Requiring only black or minority ethnic candidates to produce passports as evidence of identity and being able to work in the UK.

- Indirect discrimination occurs when a condition or requirement, which is applied equally to everyone, can be met by a smaller proportion of people from a particular racial group, and it is to their disadvantage because they cannot comply with it. The condition or requirement will be unlawful unless it can be justified on non-racial grounds.

Example: Inflexible rules about clothing or uniforms.

- Victimisation occurs when a person is treated less favourably than others for having made a complaint of discrimination, or has given evidence in connection with proceedings brought under the Act.

In addition behaviour that on account of their race embarrasses, humiliates or threatens a member of another racial group is regarded as harassment and is likely to be viewed legally as a breach of the implied terms of trust and confidence in an employment contract. Under the City Council's Equal Opportunities policy it would be considered as serious and may amount to gross misconduct. (See Disciplinary Procedure and Harassment and Discrimination Procedure in the Manual of Personnel Guidance.)

Discrimination may occur against applicants and employees in any of the following circumstances:

- Recruitment and selection arrangements e.g. advertisement, requirements for selection, interview questions,
- Terms and conditions offered for employment, access given to opportunities for promotion, development, training and transfers.

Job applicants and existing employees can claim compensation for loss and injury to feelings from employment tribunals who can award unlimited compensation for discrimination claims.

Employers are responsible for discrimination by employees unless they can show that they have taken reasonable steps to prevent discrimination. (See information on vicarious liability above).

### **Permitted Discrimination on Race grounds**

Under the Race Relations Act 1976 there are only four occasions when Race Discrimination under Genuine Occupation Qualification (GOQ) is permitted and can apply to a part of the job or the whole job:

- Race may be a GOQ if a job involves participation in a dramatic performance or other entertainment and a person of a particular racial group is required for reasons of authenticity - S5 (2)(a).
- The job involves being a model (artist's or photographic) in producing a work of art; visual image or sequence of visual images and person of a particular racial group is required for reasons of authenticity - S5 (2) (b).
- The job involves working in a place where food or drink is provided and consumed by members of the public or a section of the public in a particular setting for which a person of a particular racial group is required for reasons of authenticity - S5 (2)(c).
- When the holder of a job provides personal services to a person/s of a particular racial group and a person of that racial group most effectively provides those services. S5 (2) (d).

The questions to consider before a decision is made to use the GOQ, which should be checked out with HR, are:

- 'Would the personal service be less effective if provided by others?'
- 'Is the postholder going to be engaged in the direct provision of that service?'
- 'Are there existing employees of that racial group who are capable of carrying out the duties; could reasonably be allocated those duties, and whose numbers are sufficient to meet the employer's likely requirements without undue inconvenience'.

### **Positive Action on Race grounds**

The 1976 Act permits positive action and to comply with the general duty under the Race Relations (Amendment) Act Chairs should consider how this could be used to redress imbalance that may have resulted from past discrimination.

Action that is permitted may include:

The provision of access to facilities for training to **existing** employees of a specific racial group that is under-represented at particular levels or in particular jobs within the workforce. Examples of what is permitted to reduce disadvantage for black and ethnic minority groups might include:

- Providing special training for promotion for existing employees from under-represented racial groups and training for skills for those employees who show potential but lack particular expertise.
- Approaching training agencies with positive action schemes to offer work experience placements to trainees to facilitate training.

The encouragement of specific racial groups to apply for specific jobs in areas of work in which they are under-represented, through:

- Encouraging employees from under-represented racial groups to apply for development opportunities and promotion or transfer
- Outreach and promotion of employment opportunities to local schools and community groups. Training and recruitment schemes for school leavers targeted to reach black and ethnic minority groups

- Recruitment Fairs in locations which will attract attendance by ethnic minority groups
- Reviewing recruitment materials and general publicity to ensure inclusivity e.g. Job advertisements can be designed/placed to reach members from under-represented groups and to encourage their applications by using racial minority press and positive images
- Using employment agencies and careers offices in areas where under-represented racial groups are concentrated.

However, positive action **cannot** be used to restrict recruitment to members of specific racial groups (other than where a GOQ applies). It should be noted that this applies where any element of recruitment and selection is involved even if a post is wholly or mainly for the purposes of training (e.g. apprenticeships).

Further practical advice is available from HR. The Race Relations Employment Advisory Service is appointed by the Department for Education and Skills, and provides assistance with the implementation of equal opportunities policies and practices. Further guidance is also available from The Commission for Racial Equality (CRE) and the Equal Opportunities Commission.

## **11. The Sex Discrimination Act 1975**

### **Discrimination Against Women**

The Sex Discrimination Act 1975 outlaws direct and indirect sex discrimination, discrimination on grounds of marital status and victimisation in respect of employment and access to services.

Direct discrimination occurs against a woman if she is treated less favourably than a man.

If an unjustifiable requirement or condition is applied to both men and women but it has a detrimental affect on a woman, then, this is known as indirect discrimination, e.g. requirement for recent/continuous experience may exclude women disproportionately.

Discrimination against applicants and employees may occur in any of the following circumstances:

- Recruitment and selection arrangements e.g. advertisement, selection criteria, interview questions,
- Terms and conditions offered for employment,
- Access to promotion, development, training and transfer opportunities.

### **Discrimination Against Men**

The Act applies equally to men and women except for the special treatment afforded to women in connection with pregnancy or childbirth.

## **Discrimination and Gender Reassignment**

Legislation in respect of this area will be interpreted more clearly in the light of emerging case law. Please seek advice from HR, when dealing with any issues relating to this area.

In 1999 the Sex Discrimination Act (SDA) was extended to cover discrimination on grounds of gender reassignment in employment and vocational training. In particular it is unlawful for a person who is absent as a result of undergoing gender reassignment to be treated less favourably than she/he would be if absent due to sickness or injury.

Section 7a of the SDA provides special genuine occupational qualification (GOQ) defences for discrimination against transsexuals.

These are that the job:

- Entails intimate physical searches pursuant to statutory powers;
- Entails physical proximity in a private home;
- Requires the worker to share accommodation provided by the employer while the worker is in the process of gender reassignment;
- Requires the worker who is undergoing gender reassignment to provide personal services to 'vulnerable adults'.

## **Discrimination on the basis of Marital Status**

Discrimination against a married person is the same as that defined previously for direct and indirect discrimination but the comparison is made with an unmarried person.

## **Victimisation and Discrimination**

If someone treats an individual less favourably than they do others because this individual has either brought a complaint or has provided evidence in connection with a complaint brought by another person then this is referred to as victimisation.

## **Sexual Harassment**

The European Commission's Code of Practice on the protection of the dignity of women and men at work states:

‘Sexual harassment means unwanted conduct of a sexual nature, or other unwanted conduct based on sex affecting the dignity of women and men at work. This can include unwelcome, physical, verbal or non-verbal conduct’.

Behaviour that on account of gender embarrasses, humiliates or threatens a member of the opposite sex is regarded as sexual harassment and is likely to be viewed as a breach of the implied terms of trust and confidence in an employment contract. Under the City Council's Equal Opportunities policies it would be considered serious and may amount to gross misconduct. (See Disciplinary Procedure and Harassment and Discrimination Procedure in the Manual of Personnel Guidance.)

## **Permitted Discrimination on Sex Grounds**

The use of a Genuine Occupational Qualification (GOQ) is permitted in the Sex Discrimination Act.

The Act sets out types of GOQ as follows:

- Jobs that require a person of a specific sex for reasons of authenticity – for example an actor of female gender to play a female role in a film. Section 7 (2) (a).
- The job requires privacy and decency to be preserved because it may include a level of physical contact, or a person may be in a state of undress or using sanitary facilities where they may object if the postholder was not of the same gender as the person receiving the services. For example a female in a Care Assistant post, which requires helping women dress. Section 7 (2)(b).
- In a private home, it would be reasonable to object to someone of the opposite sex having the degree of social or physical contact, which the job may entail, for example, live in carers. Section 7 (2)(ba)
- In posts, which require postholders to live in the premises, with no separate sleeping accommodation or sanitary facilities, it would be unreasonable for an employer to provide such facilities. An example would be a post in a remote location where there are no separate facilities. Section 7 (2)(c).
- Jobs undertaken in organisations providing specialist attention to those of one sex and it would not be reasonable given the nature of the work for the job to be done by a member of the opposite sex. For example a female worker in a centre for victims of rape crisis. Section 7(2)(d).
- Jobs requiring the provision of personal services that promote the welfare or education of individuals, which can most effectively be provided by a member of a specific sex. For example male workers providing advice and support on drug abuse personal problems. Section 7(2)(e).
- A job in a country where it's laws or customs are such that a member of a particular sex could not do the job effectively. Section 7 (2)(g).
- If a job is one of two that is to be occupied by a married couple. For example a post of female residential warden and caretaker, where the warden assists female residents in personal duties would need to be filled by a woman and the second post goes to her partner. Section 7(2)(h).

## **Positive Action on Sex Grounds**

The Act permits action that enables employers to redress gender imbalance, which has resulted from past discrimination such as:

- Special training activities for women (men) if under-represented in the workforce. For example a post of Management Trainee can be restricted to women if women are under-represented at this level. However, appointments to any permanent position must be subject to an 'open' recruitment exercise and not by an automatic slotting-in right.



- Special encouragement to apply for jobs can be given to women (men) e.g. advertisements which encourage applications from the minority gender, but make it clear that selection is based on merit.

The following steps can also be taken to start to redress the effects of past gender inequalities:

- Train existing employees for work that is traditionally the preserve of the other gender;
- Notify job agencies, if members of one gender are to be encouraged to apply for vacancies, where few or no member of that gender are doing the work in question;
- Promote the School's work/life balance policies and encourage existing employees to use existing schemes such as job sharing, flexible hours, special paid and unpaid leave and child care vouchers

## **12. The Disability Discrimination Act 1995**

The Disability Discrimination Act 1995 states that a person has a disability for the purposes of the Act if he/she has a physical or mental impairment, which has a substantial and long-term adverse effect on his/her ability to carry out normal day-to-day activities.

The Act provides measures aimed at ending the discrimination experienced by disabled people. The rights given to disabled people are broadly covered in three areas: employment, goods and services and land and property.

A crucial part of the Disability Discrimination Act 1995 is that it is unlawful for employers to discriminate against current or prospective disabled employees. This means that employers will act in a fair way and make 'reasonable adjustments' so that a disabled person is not put at a substantial disadvantage compared with a non-disabled person.

Although the Act confers a legal duty on employers it is not full and comprehensive anti-discriminatory legislation. The City Council has adopted the 'social' model of disability to protect disabled people from mistreatment causing them to be disabled in a situation where society, does not take into account their physical and/or mental difference. This can happen during a recruitment exercise and examples follow of how to avoid this happening at different stages of the recruitment process.

The employment provisions give disabled people the following important rights:

- Employers are required to consider reasonable adjustments that could be made to the duties of the post, the way the work is arranged and premises to enable the disabled person to undertake the duties. e.g. lowering of light switches, allocating some of the duties to another worker, alternative transport for work related journeys. This will be undertaken by the Chair of the recruitment panel as part of the job analysis.
- In the recruitment and selection process employers are required to consider reasonable adjustments to ensure disabled people can participate in the recruitment and selection process fairly. E.g. HR will welcome an application in a format other than the standard application form. Chairs will alter the method of testing where this is needed.

- Disabled people who feel that they have been discriminated against can take legal proceedings against an employer or service provider. Employment complaints will be taken to an employment tribunal. If it is upheld the employment tribunal can award damages for financial loss and injury to feelings and there is no limit on the amount of damages that can be paid.

The City Council will be required to give consideration to reasonable adjustments at all stages of the recruitment process. It therefore requires recruiting officers to give serious consideration to the issue of reasonable adjustments, particularly where a person's impairment could present no barrier to them undertaking the duties of the post if appropriate adjustments are made.

Further information and advice is available on all aspects which will promote equality for disabled people from either HR.

### **Reducing disadvantage for Disabled Applicants**

HR will actively encourage disabled candidates to discuss options for reasonable adjustments at the earliest opportunity, including adjustments to the selection methods or those required at any stage of the selection process.

Actions which schools will need to be aware of which reduce the potential for disadvantage for disabled applicants include:

- Drafting job descriptions and person specifications that focus on what the post is to accomplish, and avoid unnecessary or marginal requirements that can lead to discrimination and/or deter disabled people from applying.
- Placing adverts using the Employment Services disability symbol which helps to communicate to disabled people the City Council's commitment to employing disabled people. It must be used in all recruitment advertisements.
- Recruitment adverts can be used to publicly welcome applications from disabled people. Making it clear that vacancy information can be provided in different formats such as large print, tape, disk or by e-mail. Jobs-On-Line increases access for some disabled applicants.
- Inviting and responding to requests for adjustments throughout the recruitment process.

At **application stage** accepting applications in a different format from that specified for candidates in general. The standard application form invites applicants to say whether any provisions or facilities are required to fully participate in the selection process.

When **testing**, ensuring tests are conducted in appropriate environments where distractions are minimised, allow an applicant more time to complete a test if their disability reduces their speed in completing tasks, or give the test in an accessible format to meet particular individual circumstances. Interpretation of test results, particularly where 'fully meets' is concerned, should ensure there is no discrimination on grounds of disability.

At **shortlisting**, taking positive action measures at this stage which means all applicants with a disability who meet the minimum requirements for a job vacancy will be interviewed

and considered on their abilities at selection stage. This practice complies with conditions for use of the Employment Services disability symbol in adverts.

When making **interview arrangements** and considering the location for an interview the following criteria should be met:

- A standard paragraph in the letter inviting people for interview requesting details of any assistance or equipment required.
- Considering a distraction free venue to provide an equal opportunity to a person who is deaf or who has a hearing impairment where a signer could also be present.
- Access to the venue and nearby parking should be considered.
- Lighting/natural light in the room is appropriate whilst tests are being completed or during interviews, for people with light sensitive conditions e.g. some forms of epilepsy.

Head teachers/Governors should also actively encourage disabled candidates to discuss reasonable adjustments which may be required at the point of selection. Alternative options to fulfil the job description and duties of the post could include:

- Different working hours, start or leaving times,
- Sharing team duties with other members of the team, which the disabled person is unable to fulfil, whilst the disabled person takes over other team duties on behalf of other team members.
- Encouraging a reader or support worker to assist the disabled person
- Providing or modifying equipment to be used
- Provide written information in alternative formats
- Provide different or additional training
- Considering working from home or a different location

### **13. The Employment Equality (Sexual Orientation Regulations) (2003)**

The Sexual Orientation Regulations (2003) outlaw direct and indirect discrimination, harassment and victimisation on the grounds of a person's sexual orientation.

The Regulations define sexual orientation as an orientation towards:

- Persons of the same sex
- Persons of the opposite sex
- Persons of the same sex and the opposite sex

In other words it covers lesbians, gay men, heterosexuals and bisexuals.

The explanatory notes accompanying the legislation make it clear that the legislation does not cover sexual practices such as paedophilia.

The legislation covers applicants for jobs, employees, agency workers, police officers and some self employed individuals e.g. freelancers.

Direct discrimination is defined as where A treats B less favourably than A treats or would treat others on the grounds of B's sexual orientation

OR

where A treats B less favourably than others on the grounds of A's perception of B's sexual orientation even if that perception is wrong.

Indirect discrimination is where a provision, requirement or practice is applied equally to all individuals but it:

- Puts people with a particular sexual orientation at a disadvantage, and
- The individual is put at that disadvantage, and
- It cannot be shown to be a proportionate means of achieving a legitimate aim.

### **General Occupational Requirements (GOR's)**

The use of Genuine Occupational Requirements (GOR's) is permitted in the Regulations and is used in the same way as Genuine Occupational Qualifications (GOQ's) in the Sex Discrimination Act and Race Relations Act.

GORs can be used where:

- Being of a particular sexual orientation is a genuine and determining requirement, and
- It is proportionate to apply that requirement.

Managers who consider that a GOR would apply to a post must consult their Human Resources Team and must bear in mind the following points:

- GOR's must be identified when the person specification and job description are being drawn up.
- Adverts must state that a GOR applies and this should be reiterated in the paperwork sent to applicants.
- A GOR can only be claimed when it is necessary for the relevant duties to be carried out by someone of a specified sexual orientation not merely because it is preferable.
- A GOR must be reassessed on each occasion a post becomes vacant to ensure that it is still a valid requirement.
- GOR's cannot be used to establish or maintain a balance or quota of employees of a particular sexual orientation.
- GOR's are open to challenge by individuals and the burden of proof lies with the employer to establish its validity.

### **Positive Action**

As for race and sex discrimination there are provisions for positive action. The effect of these provisions is that there cannot be discrimination if something is done to:

- Give people of a particular sexual orientation access to facilities for training which would help fit them for particular work, or
- Encourage people of a particular sexual orientation to take advantage of opportunities for doing particular work.

Positive action under the Sexual Orientation Regulations differs from that allowed in the legislation relating to race and sex discrimination in that the employer does not have to

prove under representation in order to introduce positive action measures. In this the Regulations reflect the difficulty of gathering reliable data in relation to sexuality. It does not prevent monitoring but it does not make it a requirement for positive action measures.

#### **14. The Employment Equality (Religion or Belief Regulations) 2003**

The Religion or Belief Regulations 2003 outlaw direct and indirect discrimination, harassment and victimisation on the grounds of a person's religion or belief.

The Regulations define religion or belief as "any religion, religious belief or similar philosophical belief. The explanatory notes accompanying the legislation say that it does not include any philosophical or political belief unless it is similar to a religious belief.

The notes also state that courts and tribunals may consider a number of factors in deciding whether something is a religion or belief and gives the examples of:

- Collective worship
- A clear belief system
- A profound belief affecting way of life or view of the world

The ACAS Guidance on the Regulations lists some of the most commonly practiced religions – Baha'i, Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Rastafarianism, Sikhism and Zoroastrians. Other possible inclusions are Atheism, Druidism, Humanism and Veganism but until case law develops it is impossible to say exactly which religions or beliefs will be covered.

The legislation covers applicants for jobs, employees, agency workers, police officers and some self employed individuals e.g. freelancers

Direct discrimination is defined as where A treats B less favourably than A treats or would treat others on the grounds of B's religion or belief

OR

where A treats B less favourably than others on the grounds of A's perception of B's religion or belief even if that perception is wrong.

Indirect discrimination is where a provision, requirement or practice is applied equally to individuals but it:

- Puts people with a particular religion or belief at a disadvantage
- The individual is put at that disadvantage, and
- It cannot be shown that to be a proportionate means of achieving a legitimate aim.

#### **General Occupational Requirements (GOR's)**

The use of Genuine Occupational Requirements (GOR's) is permitted in the Regulations and is used in the same way as Genuine Occupational Qualifications (GOQ's) in the Sex Discrimination Act and Race Relations Act.

GORs can be used where:

- Being of a particular religion or belief is a genuine and determining requirement, and
- It is proportionate to apply that requirement.

Managers who consider a GOR would apply to a post must consult HR and must bear in mind the following points:

- GOR's must be identified when the person specification and job description are being drawn up.
- Adverts must state that a GOR applies and this should be reiterated in the paperwork sent to applicants.
- A GOR can only be claimed when it is necessary for the relevant duties to be carried out by someone of a specified religion or belief not merely because it is preferable.
- A GOR must be reassessed on each occasion a post becomes vacant to ensure that it is still a valid requirement.
- GOR's cannot be used to establish or maintain a balance or quota of employees of a particular religion or belief.
- GOR's are open to challenge by individuals and the burden of proof lies with the employer to establish its validity.

### **Positive Action**

As for race and sex discrimination there are provisions for positive action. The effect of these provisions is that there cannot be discrimination if something is done to:

- Give people of a particular religion or belief access to facilities for training which would help fit them for particular work, or
- Encourage people of a particular religion or belief to take advantage of opportunities for doing particular work.

Positive action under the Religion or Belief Regulations differs from that allowed in the legislation relating to race and sex discrimination in that the employer does not have to prove under representation in order to introduce positive action measures. In this the Regulations reflect the difficulty of gathering reliable data in relation to religion or belief. It does not prevent monitoring but it does not make it a requirement for positive action measures.

## **15. The Employment Equality (Age) Regulations 2006**

From 1 October 2006 the Employment Equality (Age) Regulations make it unlawful to discriminate against workers, employees, job applicants and trainees because of their age.

The Regulations cover recruitment, terms and conditions, promotions, transfers, dismissals and training.

The Regulations make it unlawful to:

- Discriminate directly against anyone because of their age (unless objectively justified)

- Discriminate indirectly – that is to apply a criterion, provision or practice that disadvantages people of a particular age (unless objectively justified)
- Subject someone to harassment because of their age
- Victimise someone because they have made or intend to make a complaint or allegation or intend to give evidence in relation to a complaint of discrimination on the grounds of age

However there are certain limited circumstances when it is lawful to treat people differently because of their age in relation to recruitment namely if:

- **There is an objective justification for treating them differently** e.g. it might be necessary to fix a maximum age for the recruitment of people if the maximum age reflected the training requirements for the post that would need to be completed before retirement and / or to provide sufficient return on investment before retirement. Any objective justification has to be a proportionate means of achieving a legitimate aim and it will be necessary to provide real evidence if challenged.
- **Where a person is older than, or within six months of, the employers' normal retirement age** (or 65 if the employer doesn't have one) there is a specific exemption in the Regulations allowing employers to refuse to recruit the person.
- **There is a genuine occupational requirement (GOR)** that a person has to be of a certain age e.g. a character in a play (it is unlikely that any posts with NCC will qualify for a GOR on the grounds of age).
- **The discrimination is covered by an exception or exemption given in the regulations** - Age criteria are used widely in legislation, notably to qualify for various licenses so a minimum age could be set where other legislation has to be complied with e.g. employees selling alcohol have to be 18 or over.

The Age Regulations also allow for **positive action**. Positive action is a mechanism that allows employers to encourage or support a particular age group and allows employers to maximize the opportunities for an under represented age group to apply for posts and / or gain appropriate training.

Two forms of positive action are allowed for:

- a) Positive action training – where people of a particular age or age group are given access to facilities for training which would help fit them for particular work; or
- b) Positive action encouraging people of a particular age or age group to take advantage of opportunities for doing particular work.

The positive action provisions do not allow for Positive Discrimination whereby a particular age group is favoured in the recruitment process. Once a candidate has applied they must be treated equally whatever their age.

In line with this legislation Nottingham City Council is committed to recruiting and retaining employees whose skills, experience and attitude are appropriate to the requirements of the various positions, regardless of age. Therefore the City Council will discourage inclusion of any age criteria in job advertisements and job/person specifications, and every attempt will be made to recruit and promote on the basis of competence and skill and not age.

Although the City Council may request an individual's date of birth as part of its recruitment process, this information will not be used to the detriment of the applicant but will be used to monitor the effectiveness of our recruitment processes in reaching different age groups.

Approved by:

Date of Review: