



Warrington Collegiate

QUALITY ASSURANCE

Policy: **Procedure for the Employment of Ex-offenders**

Policy Ref:

Approved by: **Director – Curriculum Development and Quality**

Date: **October 2006**

Signature:

1. Policy Statement

- 1.1 As an organisation using the Criminal Records Bureau (CRB) Disclosure service to assess applicants' suitability for positions of trust, Warrington Collegiate complies fully with the CRB Code of Practice (this can be accessed on the website www.crb.gov.uk), and undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a Disclose on the basis of conviction or other information received.
- 1.2 Warrington Collegiate is committed to the fair treatment of its staff, potential staff or users of its services, regardless of race, gender, religion, sexual orientation, responsibilities for dependants, age, physical/mental disability or offending background.
- 1.3 This policy on the recruitment of ex-offenders is made available to all applicants at the outset of the recruitment process.
- 1.4 We actively promote equality of opportunity for all with the right mix of talent, skills, and potential, and welcome applications from a wide range of candidates, including those with criminal records. We select all candidates for interview in accordance to the College's Recruitment and Selection Policy and Procedures.
- 1.5 All posts within Warrington Collegiate are offered subject to the successful applicant obtaining an Enhanced Disclosure. Applicants are invited to disclose, in complete confidence, an existing criminal record. Any such information received will be considered only in relation to the post applied to. Warrington Collegiate guarantees that this information will only be seen by those who need to see it as part of the recruitment process.
- 1.6 We ensure that those who are involved in the recruitment process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the employment of ex-offenders eg the Rehabilitation of Offenders Act 1974.
- 1.7 At interview, or in a separate discussion, we will ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought could lead to withdrawal of an offer of employment.
- 1.8 We undertake to discuss any matter revealed in a Disclosure with the person seeking the position as part of a risk assessment procedure relevant to the duties of the post offered.

1.9 Having a criminal record will not necessarily bar anyone from working at Warrington Collegiate. This will depend on the nature of the position and the circumstances of the offences.

1.10 All application forms, job adverts and recruitment briefs will contain a statement that a Disclosure will be requested in the event of an individual being offered the position.

2. Employing Ex-Offenders

2.1 A Standard or Enhanced Disclosure will show details of convictions, cautions, reprimands, final warnings or non-conviction information. It will also show whether, under Schedule Four of the Criminal Justice and Courts Services Act 2000 (see Appendix 1) whether the person is banned from working or seeking work with young people under the age of 18.

It is an offence for a person banned from working with young people to apply for such work and also for an employer to knowingly employ a banned person in such a capacity.

2.2 All applicants for posts within Warrington Collegiate are required to complete a declaration of criminal record. The applicant then has the opportunity to provide more information, in complete confidence, on a separate sheet of paper, which will be seen only by the College's Human Resources Manager.

2.3 If the applicant is offered the appointment, at this stage, a full risk assessment will be undertaken to determine the relevance of the criminal record to the post applied for. During this, the applicant will fully participate in the process and guidance from the Rehabilitation of Offenders Act 1974 (see Appendix 2) will be used. Only if the criminal record is a Schedule Four offence will the offer of employment be automatically withdrawn.

2.4 Where the applicant is still under probation or youth justice supervision, the College reserves the right, with the applicant's consent, to seek advice from a relevant probation officer or youth justice worker about suitability for the post applied for.

2.5 The College also reserves the right to amend the offer of employment to allow for the outcome of the risk assessment to be implemented, eg to temporarily amend the job description for the post so that the applicant may be given greater opportunity during their initial probationary period to demonstrate their suitability for the post.

2.6 Any subsequent decision to withdraw an offer of employment because of, or partly because of, a criminal record will relate to an aspect of the person specification which is seen to be unmet. In cases such as these, the applicant will be advised of why the offer of employment has been withdrawn.

2.7 In circumstances where the appointment of a person with a serious record might give rise to criticism of the College, the Human Resources Manager should be consulted before the appointment is confirmed.

PEOPLE BANNED FROM WORKING WITH CHILDREN

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

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

Examples of specified Schedule Four offences are:-

- Murder or manslaughter
- Rape or burglary with intent to commit rape
- Grievous bodily harm/Assault occasioning actual bodily harm
- Cruelty to children
- Kidnapping, false imprisonment and abduction
- Indecent assault on a man or a woman
- Sexual intercourse with a child under 13
- Intercourse with a girl aged between 13 and 16
- Buggery with a child under 16
- Indecency between men
- Abuse of trust
- Incest and related offences
- Assault with intent to commit buggery
- Indecency with children under the age of 14
- Offences relating to or encouraging child prostitution
- Offences relating to child pornography.

The “working with children” covers a number of areas. According to the *Guide on Protection of Children*, broadly these are:-

- **Employment in certain establishments**, which provide functions of various sorts exclusively, or mainly for children such as schools, children’s homes and children’s hospitals. All staff, whether primary or secondary carers or ancillary staff, are deemed to be primary carers
- **Employment in day care premises**
- **Caring for, training, supervising or being in sole charge of children**
- **A position where normal duties involve unsupervised contact with children or vulnerable adults**, eg minicab drivers who regularly transport unaccompanied children
- **Child employment**
- **Positions of influence and control** over children, which could place them at risk.

Juveniles – under 18 year olds, should only be banned if a court believes there is a likelihood of the offender committing a further offence against a young person.

The 1999 Act requires childcare organisations to refer the names of individuals considered unsuitable for work with children to the DoH and DfES lists. It also requires childcare organisations not knowingly to offer employment to anyone listed for any posts involving regular contact with children in a childcare capacity.

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

In addition section 142 of the Education Act 2002 gives the Secretary of State the power to make directions which prohibit or restrict a person from carrying out the following work:-

- Providing education at a school, including independent schools (eg teacher or teaching assistant).
- Providing education at a further education institution.
- Providing education under a contract of employment or for services where the person is employed by a local education authority or a person exercising a function relating to the provision of education on behalf of a local education authority (eg a home tutor employed by a LEA or by a contractor performing a LEA's functions).

Appendix 2

A SIMPLE GUIDE TO THE REHABILITATION OF OFFENDERS ACT 1974

The Rehabilitation of Offenders Act 1974 helps people who broke the law some time ago but have not been in trouble since if they want to get a job or insurance.

If a conviction is spent under the ROA 1974, then an applicant may say "no" if an employer or insurance company asks them if they have a conviction. **However certain employers, such as Warrington Collegiate which is a further education establishment working with children under 18, are exempt from the provisions of this Act and therefore all convictions – including spent ones must be declared.**

WHEN CONVICTIONS BECOME SPENT

Sentence	Time it takes to become spent (if 17 or under when found guilty)	Time it takes to become spent (if 18 or older when found guilty)
Prison & YOI term of 6 months or less	3½ years	7 years
Prison & YOI term of more than 6 months, up to 2½ years	5 years	10 years
Fine, compensation, probation*, community service or reparation order	2½ years	5 years
Absolute discharge	6 months	6 months
<i>*If found guilty on or after 3 Feb 1995</i>		
Sentence	Time it takes to become spent (if 12, 13 or 14 when found guilty)	Time it takes to become spent (if 15, 16 or 17 when found guilty)
Detention and training order of 6 months or less	1 year after order ends	3½ years
Detention and training order of more than 6 months	1 year after order ends	5 years
Sentence	Time it takes to become spent	
Probation*, supervision, care order, conditional discharge and bind-over	1 year or until the order ends (which ever is longer)	
Attendance center order	1 year after order ends	
Referral order	Once the order ends	
<i>*If found guilty on or after 3 Feb 1995</i>		