



## CES GUIDANCE

### NOTE ON RECRUITMENT OF STAFF FOR GOVERNING BODIES

References to schools / colleges in this Guidance Note includes academies and references to the Governing Body includes the Academy Trust Company / Multi Academy Trust Company and means the employer of staff in all cases.

This Guidance Note is intended for use by persons involved in the recruitment of staff in Catholic schools / colleges in England and Wales. It is for guidance purposes only - advice should be sought on specific queries arising from this Guidance Note.

#### Diocese Advice and the Bishops' Memorandum

**Advice should be sought from your diocese and/or the local authority as soon as practicable after the identification of the requirement to recruit for a Senior Leadership post and, in any case, before you begin any recruitment procedure or process.**

**Governing Bodies should also ensure that they have read the Bishops' Memorandum on the Appointment of Teachers to Catholic Schools in order to ensure that the requirements of the Memorandum are met. The Memorandum can be viewed by following the link below:**

<http://www.catholiceducation.org.uk/employment-documents/bishops-memorandum/item/1000049-memorandum-on-appointment-of-teachers-to-catholic-schools>

#### Advertising a vacancy

The Memorandum on Appointment of Teachers in Catholic Schools (September 2014) requires that dioceses are involved in recruitment processes. Governing Bodies must give sufficient advance notification to the Diocesan Director of a vacancy for any senior post to which the requirement to be a practising Catholic is applied before taking any action, including appointing an acting Head Teacher or Principal, acting Deputy Head Teacher or Deputy Principal, or advertising the vacancy. It is particularly important to agree all meeting and interview dates with the diocese in advance, to allow Diocesan Officers to be involved from the beginning of the process, including drawing up job descriptions, person specifications and advertisements.

#### Shortlisting for Interview

Once application forms have been submitted and the closing date has expired, the application forms must be reviewed in order that a shortlist can be drawn up listing those people the Governing Body wish to interview. Shortlisting will usually be performed by reference to the job description and person specification applicable to the role as well as any other relevant, pre-determined criteria set by the school / college for the purposes of recruitment.

Once a shortlist has been compiled contact should be made with the shortlisted applicants to invite them to interview. The CES provide a model Invitation to Interview Letter that may be used and can

be accessed on our website. Applicants should be reminded to bring the Rehabilitation of Offenders Act 1974 – Disclosure Form with them in a sealed envelope when they attend for interview. Please read the CES Guidance Note on Model Application Forms and GDPR Compliance for more information about the processing of criminal records information. A link to this guidance is provided below:

[http://www.catholiceducation.org.uk/recruitment-process/item/download/60724\\_d2aa9b591c9805ebf1606ff86533c36b](http://www.catholiceducation.org.uk/recruitment-process/item/download/60724_d2aa9b591c9805ebf1606ff86533c36b)

### **Gathering References**

Consider destroying the application forms and any data provided by unsuccessful applicants, unless you have a lawful basis for retaining the information. Please read the CES Guidance on Data Protection for further information by following the link below:

<http://www.catholiceducation.org.uk/guidance-for-schools/data-protection-and-foi>

The purpose of seeking references is to obtain objective and factual information to support appointment decisions. Most important are the decisions based on the Governing Body's own robust recruitment process. Common advice is therefore that the panel as a whole refer to the references towards the *end* of their decision making process. The application forms state that references may be taken up prior to interview and so contact will need to be made with the referees listed. References should be requested for all candidates shortlisted for interview and enough time allowed between the shortlisting and interviews for referees to receive the request, write the reference and return it. Safeguarding advice (Keeping Children Safe in Education (2018)) provides that references should be obtained before interview so that any issues of concern they raise can be explored further with the referee, and taken up with the applicant at interview. For further information about taking up references please read the CES Guidance on Employment References which can be accessed by using the following link:

[http://www.catholiceducation.org.uk/recruitment-process/item/download/60722\\_ec238757dbeca743a28edaed2be190e8](http://www.catholiceducation.org.uk/recruitment-process/item/download/60722_ec238757dbeca743a28edaed2be190e8)

You can also find Keeping Children Safe in Education (2018) here:

<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

References should always be requested directly from the referee and you should not rely on open references, for example in the form of 'to whom it may concern' testimonials. If an applicant for a teaching post is *not* currently employed as a teacher, you should check with the school, college or local authority at which they were most recently employed, to confirm details of their employment and their reasons for leaving. It is good practice for one panel member who has completed safer recruitment training to gather references, supported if applicable by any local authority or Diocesan adviser. This allows the rest of the panel to judge the recruitment process unencumbered by external opinions. All interview panels should contain at least one **person who has undertaken safer recruitment training** and this training should be refreshed at regular intervals (every three years is the suggested timescale).

Applicants are asked to complete a Consent to Obtain References Form which should be provided with the application form and this can be used in order to demonstrate to referees that appropriate consent has been obtained.

### **Invitation to Interview**

The CES model Invitation to Interview Letter makes reference to reasonable adjustments that may be made for attendance at interview in the event that the applicant has a disability. Stating this to all applicants at this stage confirms that the Recruitment Monitoring Form has not been seen by the person dealing with recruitment (as that may already disclose whether the applicant has a disability) and also ensures that reference to reasonable adjustments being made for interview does not feature in the application form itself (which contravenes good practice guidance issued by the Equality and Human Rights Commission which prefers the recruiter to have had no indication whether or not an applicant has a disability). The CES provide a model Reasonable Adjustments Statement as an enclosure to the Invitation to Interview Letter.

### **Interviews**

The person(s) conducting the interview will need to ensure that certain information and documentation has been provided by the applicant at this stage. The information *required* to be provided at interview is identification documentation and proof of entitlement to work in the UK. An employer is under a strict legal duty to ensure that it has carried out the relevant checks with regard to entitlement to work in the UK. Applicants are provided with guidance and examples of the types of documents they will need to provide by way of evidencing their right to work, as well as an explanation for the request, in the Notes to Applicants which are provided with the application form. Where you are unsure what documents are required to prove entitlement, you should seek appropriate advice. **If the information is not provided at the interview stage, or where further checks relating to a right to work in the UK are required, any offer of employment to be made must be made conditional upon receipt of the correct documentation and/or receipt of satisfactory results from the checks required to be made.**

If documentary evidence of qualifications, courses attended etc, is required to be provided at interview, the applicant should be notified in advance – good practice suggests this should be requested in the Invitation to Interview Letter (and is so requested in the CES model).

### **Post-Interview Selection**

After the interviews have taken place the Governing Body will need to consider all the applicants in light of their applications, personal statements, references, supplementary documents, results of checks and performance at interview as against the job description, the person specification and any other relevant national standards for the post with the aim of determining which applicants should proceed to the next stage of the recruitment process.

### **Making an Offer of Employment**

In many cases there may be several rounds of interviews but, for the purposes of this Guidance Note, we will assume that a selection can be made following the first interview. The Governing Body may, at this stage, make an offer of employment to the preferred applicant but it must stipulate that such offer is conditional upon receipt of a satisfactory DBS check (if appropriate to the role for which you are hiring), prohibition check (if appropriate to the role for which you are hiring) and disqualification check (as per the CES Disqualification guidance and model policy - <http://catholiceducation.org.uk/guidance-for-schools/disqualification>).

The offer may also need to be expressed to be conditional upon receipt of a current employer reference once you have the applicant's consent to make a request and/or satisfactory results of health checks (see paragraph C below).

### **Things that Governors need to look out for during the recruitment process**

- A. At application stage, make sure that applicants have fully completed the application forms and provided all relevant documentation/information required at that stage. If not, an application may be rejected on the grounds that it has not been fully completed.
- B. Make sure that, as the reviewer of application forms, you do not have sight of the completed Recruitment Monitoring Forms. The Recruitment Monitoring Form should only be used as a tool for the school / college to analyse the types of application that they receive which may assist them to comply with their public sector equality duty. For more information see the Equality Act 2010 guidance available from the Equality & Human Rights Commission: <http://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-guidance>. Further, the Recruitment Monitoring Form should be anonymous so that the school/college can demonstrate that the information collected from applicants is being used to monitor equality and diversity and not to discriminate, inadvertently or otherwise.
- C. Generally speaking, employers are not allowed to ask prospective employees questions relating to disability or health during the recruitment process. This is however, slightly different for those in the education sector. The current legal position with regard to the asking of health related questions of job applicants is a balancing act between two pieces of legislation; namely the Equality Act 2010 and the Education (Health Standards) (England) Regulations 2003 (“the 2003 Regulations”). These two pieces of legislation have come under scrutiny for being in conflict and, due to that conflict, the Department for Education issued supplementary advice (which was reviewed in February 2014). Ultimately, the school should ensure that any “fitness to practice” questions they ask (which is a permissible requirement under the 2003 Regulations) comply with the restrictions in the Equality Act 2010 which do not allow disability or health related questions to be asked during the recruitment process. The DfE previously suggested that schools/colleges should only ask health questions that are “targeted, necessary and relevant to the job applied for” and that those questions should be asked after an offer of employment is made. Whilst that advice has been withdrawn, in our opinion it continues to be a sensible approach and we would suggest that it is followed. Clearly, an offer of employment must be made conditional upon satisfactory answers which comply with the provisions of 2003 Regulations. Schools/colleges will, therefore, need to decide whether it is appropriate to ask health related questions in each individual case depending on the role required to be filled and, if in doubt, should seek legal advice. Governors are again reminded of their duties in respect of the public sector equality duty (the CES has provided guidance on the Public Sector Equality Duty which can be downloaded from our website: <http://www.catholiceducation.org.uk/guidance-for-schools/equality>. Further, any data collected as a result of health related enquiries is likely to be ‘Sensitive Personal Data’<sup>1</sup> within the meaning of the General Data Protection Regulation (GDPR) and must be processed in accordance with the requirements of that Regulation<sup>2</sup>.
- D. Discrimination – Schools/colleges designated with a religious character in England and Wales are permitted, by law, to require that all types of teaching post are filled by Catholics (ss.60 and 124A School Standards and Framework Act 1998 (“SSFA”)). The Memorandum on Appointment of Teachers in Catholic Schools (September 2014) provides that roles of Headteacher or Principal, Deputy Headteacher or Deputy Principal and Head or Coordinator

<sup>1</sup> Article 9(1) GDPR sets out the categories of sensitive personal data and ‘data concerning health’ is included as a category.

<sup>2</sup> See footnote 1 above.

of RE must be filled by practising Catholics. You must have regard to the fact that these leadership posts are to be filled by practising Catholics. The application forms make it clear that Catholic applicants will need to supply a reference from their Parish Priest. A Catholic applicant who is not a *practising* Catholic may be rejected. However, you should not deter applications and expressions of interest from Catholics who do not consider themselves to be *practising*. In the event that the permanent role cannot be filled immediately for example, a Catholic who is not *practising* would be eligible to receive preference over applicants who are not Catholic in relation to a temporary appointment.

It is for each diocese to provide guidance to schools/colleges regarding the definition of “practising” Catholic either by way of its own guidance or by reference to another source which is recognised as being the definition upon which the diocese relies. A copy of any guidance or other source of information must be provided to the applicant with the Invitation to Interview Letter so that the applicant has a clear understanding of the school’s expectations of a practising Catholic applicant.

With regard to other non-teaching posts (which, for the purposes of this Note, we shall call support staff) the effect of amendments to the SSFA (by virtue of the Education and Inspections Act 2006) provide that schools/colleges may take a support staff post applicant’s religion into account when considering their application but only to the extent that any decision to do so must be “objectively justified” to ensure that such a decision does not fall foul of the legislation relating to protection from religious discrimination. (This applies to schools/colleges in England only – schools/colleges in Wales cannot objectively justify religious discrimination in the recruitment of support staff). If you are considering applying an occupational requirement that a support staff post must be filled by a Catholic, you should first discuss the reasons for such a decision with the diocese and/or the school’s HR provider/legal advisers to ensure it can be objectively justified.

The Notes to Applicants that supplement the CES model Application Forms set out clearly the legal basis upon which a Governing Body is required to recruit, or may exercise a preference to recruit, a practising Catholic. A copy of the Notes to Applicants can be viewed by following the link below:

[http://www.catholiceducation.org.uk/recruitment-process/item/download/60723\\_c9e31905f74382a6eafacaf3ba585eef](http://www.catholiceducation.org.uk/recruitment-process/item/download/60723_c9e31905f74382a6eafacaf3ba585eef)

- E. Rehabilitation of Offenders Act 1974 – Disclosure Form – the answers provided on this form should be kept confidential and seen only by the relevant persons in the course of their specific duties relevant to recruitment and vetting purposes (this was a requirement under the original DBS’ Code of Practice relating to disclosure information provided and, whilst it appears to have been removed, we recommend that employers continue to comply with it). It is, therefore, for Governing Bodies to determine who sees the form. The Governing Body is under various duties relating to the access, handling, usage, retention, storage and disposal of information provided by the applicant and/or as a result of any DBS checks. The Disclosure Form should be handed to the interviewers in a sealed envelope when candidates attend for interview. The envelope should only be opened if the Governing Body has determined that they wish to make an offer of employment to the individual concerned. If a disclosure is made on the Form relevant questions about the offence should be asked of the applicant with a view to obtaining contextual information about the offence to enable the Governing Body to determine whether the applicant should be appointed.

- F. Disqualification Policy – the applicant is required to sign and return a copy of the school/college’s Disqualification Policy if they accept an offer an employment. They should submit the signed policy to the school/college’s designated safeguarding lead prior to commencement of employment or as soon as practicable thereafter. The signed policy should be kept on their personnel file. **This policy will not be relevant in all circumstances.** The CES has published guidance and a model Disqualification Policy for this purpose which can be accessed on our website.
- G. Data Protection and Privacy – The CES Model Invitation to Interview letter requests that the applicant brings certain documents to the interview. Governing Bodies should ensure that appropriate privacy notices or consents are in place in relation to personal information collected during the interview process.<sup>3</sup> All application forms have been updated in line with the provisions of the GDPR and the Data Protection Act 2018.

**Governor’s check box:**

1. Has the Recruitment Monitoring Form been removed from the application pack?
2. Has the application form been fully completed and is it accompanied by relevant supporting documents and documentary evidence (if required)?
3. Have appropriate references been taken up?
4. Has the Invitation to Interview Letter and appropriate enclosures been sent to the shortlisted applicant including:
  - Guidance on “practising Catholic” requirement
  - Appropriate CES model Contract of Employment
  - Reasonable Adjustments Statement
  - Disqualification Policy
5. Have any reasonable adjustments been made to the recruitment/interview process, if necessary?
6. At interview, has the applicant provided original evidence of:
  - Identity
  - Right to work in the UK (this may overlap with evidence of identity)
  - Qualifications attained (if required)
7. At interview, has the applicant signed a copy of the Invitation to Interview Letter to confirm that they have read and understood the contents of that Letter?
8. At interview, has the applicant signed the model Applicant Declaration confirming that they have read and understood the CES contract and had any relevant questions answered

---

<sup>3</sup> See Footnote 1 above.

(The CES has produced a separate checklist of items 7-9 above for signature by the candidate at interview so that it can be placed on the successful candidate's personnel file).

If you are ready to make an offer of employment, should that offer be conditional upon receipt of:

Has the Rehabilitation of Offenders Act 1974 – been handed in at interview? Has it been kept in a sealed envelope to be seen only by the “relevant person” in the event that a job offer is going to be made?

Any discussion necessary as a result of offences disclosed

Satisfactory DBS checks

Satisfactory prohibition checks (EA Online)

Reference from current employer (if not previously obtained)

Satisfactory health checks

A signed copy of the “Disqualification Policy for Staff” (if applicable)

Any discussion necessary as a result of offences disclosed

Any other document required but not yet provided by the applicant or a third party

**Note: you must have obtained evidence of identity and right to work in the UK before you allow a successful applicant to commence employment.**

Once the Applicant has been appointed, you must then ensure the following:

The Single Central Record has been updated

All documents collated during the recruitment process have been securely disseminated and/or destroyed in accordance with data handling requirements

The Applicant's (now employee's) signed and dated Disqualification Policy has been filed in their personnel file (if necessary)

The Applicant (now employee) has returned a signed and dated the relevant CES contract of employment

The Applicant (now employee) has been provided with information regarding the appropriate employment policies and procedures