



Recruitment of Ex-Offenders Policy

1. Purpose

Toddington Childcare and Forest School is committed to safeguarding and promoting the welfare of children while also ensuring that applicants and staff with criminal records are treated fairly, lawfully and without unfair discrimination.

We recognise that having a criminal record does not necessarily prevent a person from working in early years childcare. Any decision concerning an applicant or employee with a criminal record will be based on the requirements of the particular role, the nature and relevance of the information disclosed, and the circumstances of the individual case.

We will balance our commitment to fair and inclusive recruitment with our overriding responsibility to protect children from harm.

This policy applies to employees, prospective employees, volunteers, students, apprentices, agency workers, contractors and other individuals who may have regular contact with children at Toddington Childcare and Forest School, where relevant.

2. Legal And Regulatory Framework

This policy is intended to operate alongside the current requirements and guidance applicable to early years providers in England, including:

- the Early Years Foundation Stage (EYFS) statutory framework for group and school-based providers;
- the Childcare Act 2006;
- the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018, where applicable;
- the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, as amended;
- relevant Disclosure and Barring Service (DBS) legislation, guidance and Code of Practice;
- Working Together to Safeguard Children 2026;
- relevant data-protection legislation, including the UK General Data Protection Regulation and Data Protection Act 2018; and
- Ofsted's current requirements and inspection arrangements for early years providers.

The policy will be reviewed when relevant legislation, statutory guidance or EYFS requirements change.

3. Our Commitment To Equality

Toddington Childcare and Forest School is committed to equality of opportunity and will not unlawfully discriminate against an applicant or employee because of a criminal record.

We welcome applications from people with a wide range of skills, qualifications, experience and backgrounds, including people who have criminal records.

Recruitment decisions will normally be based on:

- the requirements of the role;
- qualifications and experience;
- skills, knowledge and competence;
- suitability to work with children;
- safeguarding considerations;
- references and other appropriate pre-employment checks; and
- any criminal-record information that the law permits us to consider.

A criminal record will not, in itself, automatically prevent a person from being considered for employment.

4. Safer Recruitment

Safeguarding children is a fundamental consideration throughout our recruitment process.

All applicants will be assessed fairly and consistently. We will undertake the checks required by the EYFS, DBS legislation and other applicable requirements before an individual is permitted to undertake duties for which those checks are required.

We will ensure that:

- the role has been assessed to determine which DBS check, if any, it is legally eligible for;
- recruitment documentation clearly states where a DBS check will be required;
- required references and other suitability checks are completed;
- qualifications are checked where appropriate;
- identity is verified;
- the person's suitability to work with children is considered;
- appropriate overseas or other additional checks are undertaken where required;
- childcare disqualification requirements are considered where applicable; and
- appropriate records of recruitment and suitability checks are maintained.

Starting Employment

For new employees, Toddington Childcare and Forest School will comply with the EYFS requirement that an individual does not commence employment before the required criminal-record check has been received.

Where the law permits a person to undertake a role without a particular level of DBS check, we will nevertheless ensure that all other required suitability and safeguarding checks have been completed before the person starts.

No individual will be permitted to undertake duties for which they are legally barred or otherwise unsuitable.

5. DBS Checks

The former Criminal Records Bureau (CRB) has been replaced by the **Disclosure and Barring Service (DBS)**. References in older documents to CRB checks will therefore be understood as references to the appropriate DBS check.

We will only request a Standard or Enhanced DBS check where the relevant legislation permits us to do so.

We will not request a higher level of DBS check simply because a person works in a preschool. Eligibility will be assessed according to the duties and circumstances of the particular role.

Where a role involves regulated activity with children, we will determine whether an Enhanced DBS check with a Children's Barred List check is required.

The changes to regulated activity which came into force on 1 September 2026 will be taken into account when assessing roles, including roles in which a person regularly teaches, trains, instructs, cares for or supervises children.

Where a person's role or responsibilities change, the DBS eligibility assessment will be reviewed where appropriate.

6. Volunteers, Students And Other Workers

Volunteers, students, apprentices, agency workers, contractors and other individuals who may have contact with children will be subject to the checks and suitability assessment required for their particular role.

The enhanced criminal-record checking requirements for volunteers introduced through the EYFS changes effective from 1 September 2026 will be followed.

We will not assume that supervision alone removes the need for an appropriate DBS check where the current legislation requires one.

7. Information Requested From Applicants

We will ensure that application forms and recruitment documentation use legally appropriate wording.

Where a role is eligible for a Standard or Enhanced DBS check, applicants will be informed that a DBS check will be required.

We will not routinely ask applicants to disclose information that they are legally entitled not to disclose.

In particular, applicants will not be required to disclose protected cautions or protected convictions that are filtered under the applicable legislation.

Where an exempted question is permitted by law, the wording used by the setting will reflect the current DBS/Ministry of Justice guidance and will distinguish between:

- unspent convictions and cautions;
- spent convictions and cautions which are legally disclosable for the particular role; and
- protected convictions and cautions which must not be taken into account.

The setting will not ask questions about an individual's entire criminal record unless the law specifically permits such a question for the particular role.

8. Assessing Criminal-Record Information

Where criminal-record information is disclosed, Toddington Childcare and Forest School will consider it fairly, objectively and on a case-by-case basis.

Relevant considerations may include:

- the nature and seriousness of the offence;
- the relevance of the offence to working with children;
- the circumstances in which the offence occurred;
- the age of the applicant at the time of the offence;
- the length of time that has passed;
- whether the offence was isolated or part of a pattern;
- the sentence or disposal imposed;
- evidence of rehabilitation and subsequent conduct;
- any relevant professional or safeguarding information;
- the duties and level of responsibility associated with the role;
- the level of contact with children;
- the degree of supervision involved;
- any other information which is legally permissible to consider; and
- the potential risk to children.

We will not automatically reject an applicant because a DBS certificate contains information.

A criminal record will only be regarded as a barrier to employment where this is justified by the circumstances of the individual case, the requirements of the role, safeguarding considerations, legal restrictions or other legitimate grounds.

9. Barred Persons And Disqualification

A person who is barred from working with children must not undertake regulated activity with children.

The setting will comply with its legal obligations concerning people who are disqualified from providing or being directly concerned in the management of relevant childcare under the Childcare Act 2006 and associated regulations.

Where information indicates that an individual may be disqualified, the setting will take appropriate action and seek specialist advice where necessary.

Where an individual may be eligible to apply to Ofsted for a waiver of disqualification, we will provide information about the relevant process where appropriate.

A person who is barred from working with children cannot overcome that restriction simply by applying for an Ofsted waiver.

10. Discussion With Applicants

Where criminal-record information is disclosed and it is not clear that the information prevents appointment, the setting will offer the applicant an opportunity for an open and proportionate discussion.

The purpose of the discussion will be to understand the circumstances and assess relevance and risk rather than to make assumptions about the individual.

The applicant will be given an opportunity to explain any information which may be relevant to the recruitment decision.

Where appropriate, the setting may seek further information or clarification from the applicant, references or other lawful sources.

We will not seek information that the law does not permit us to obtain.

11. Failure To Disclose Information

Where an applicant is legally required to disclose particular criminal-record information and knowingly fails to do so, this may be taken into account when assessing suitability.

However, we will distinguish between:

- information which an applicant was legally required to disclose;
- information which the applicant was not legally required to disclose; and
- information which is protected and must not be taken into account.

A person will not be penalised for failing to disclose protected information which they were legally entitled not to disclose.

12. DBS Certificate Information

DBS information will be handled confidentially and only accessed by people who have a legitimate need to see it as part of the recruitment or suitability process.

We will comply with the DBS Code of Practice and applicable data-protection requirements.

DBS information will:

- be kept securely;
- only be accessed by authorised individuals;
- only be used for the purpose for which it was obtained or another lawful purpose;
- not be disclosed unnecessarily to other staff, parents or third parties;
- be retained only for as long as necessary in accordance with our data-retention arrangements; and
- be securely destroyed when no longer required, subject to any legal or safeguarding requirement to retain relevant records.

We will not request an applicant's criminal-record information through an inappropriate subject-access route or require an individual to obtain their own police record for the purpose of circumventing DBS procedures.

13. Making An Appointment Following A DBS Disclosure

Where a DBS certificate contains information, the person responsible for the recruitment decision will consider whether further assessment is necessary.

Where appropriate, the decision may be made in consultation with the:

- Setting Manager;
- Designated Safeguarding Lead (DSL);
- The settings Board of Trustees, who have responsibility for the appropriate governance and employment matters of the setting;

- Designated Childcare Development Officer (CDO) at Central Bedfordshire Council, where appropriate;
- an appropriately qualified external HR, employment, safeguarding or legal adviser, where specialist advice is required.

The decision will be documented, including the reasons why the information was considered relevant or not relevant to the role.

A conditional offer will not be withdrawn solely because a DBS certificate contains information unless the circumstances justify that decision.

Before withdrawing a conditional offer because of information contained in a DBS certificate, we will, wherever appropriate, discuss the matter with the applicant and give them an opportunity to provide relevant information.

14. Ongoing Suitability

Suitability to work with children is not assessed only at the point of recruitment.

All staff and other relevant individuals are expected to notify Toddington Childcare and Forest School promptly of any matter that may affect their suitability to work with children where they are legally required to do so.

We will respond appropriately to new safeguarding or suitability information arising during employment.

Where necessary, we may review an individual's duties, supervision or deployment while information is assessed.

Where a safeguarding concern, allegation or other relevant matter arises, we will follow our safeguarding and child-protection procedures and make any referral or notification required by law.

15. Referrals To The DBS

Where an individual has harmed a child, placed a child at risk of harm, or otherwise meets the legal criteria for a referral, Toddington Childcare and Forest School will consider whether a referral to the DBS is required.

We will comply with the legal duty to refer where the relevant conditions are met.

A referral will not be used as a substitute for proper investigation or disciplinary procedures. Appropriate safeguarding, employment and referral processes will be followed.

16. Confidentiality And Fairness

Information about a person's criminal record is sensitive personal information and will be treated confidentially.

Only those who need the information to make or support a lawful recruitment, safeguarding or suitability decision will have access to it.

We will take reasonable steps to ensure that criminal-record information is not unnecessarily circulated or used for purposes unrelated to the legitimate safeguarding or employment decision.

17. Right To Challenge A Decision

An applicant who believes that criminal-record information has been misunderstood or incorrectly taken into account may request that the decision is reviewed.

Any review will consider whether:

- the correct legal requirements were applied;
- protected or filtered information was incorrectly considered;
- the information was relevant to the role;
- the decision was proportionate; and
- relevant information supplied by the applicant was properly considered.

Nothing in this section affects the settings obligation to refuse or prevent a person from working with children where the law prohibits them from doing so.

18. Recruitment Documentation

Where a DBS check is required, our recruitment documentation will clearly inform applicants that the appropriate DBS check will be requested if they are offered the position.

Our application forms will use current, legally compliant wording concerning criminal records and will be reviewed whenever DBS filtering rules or relevant legislation changes.

19. Policy Review

This policy will be reviewed at least annually and sooner if there is a change to:

- the EYFS statutory framework;
- DBS legislation or guidance;
- the Rehabilitation of Offenders Act or Exceptions Order;
- safeguarding legislation or statutory guidance;
- Ofsted requirements or inspection arrangements; or
- the setting's registration or operating arrangements.

The policy will be made available to applicants where a DBS check is relevant to the recruitment process.

Policy Review Date: September 2026

Next Review Date: September 2027

Signed on behalf of Toddington Childcare and Forest School;

Name: Sarah Malcolm

Position: Chair of the Board of Trustees