

National Modern Languages SCITT

Suitability Declaration Assessment Policy

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Contents

1. Introduction	3
2. How Will My Criminal Record Affect My Enhanced DBS?	3
3. What is a Self-Declaration?	3
4. The DBS Update Service.....	4
5. Change in Circumstances – revised declarations.....	5
6. Break in Study.....	5
7. Suitability Panel Meetings.....	5
8. Appeals	7
9. GDPR & Retention of Information	8
Appendix A: Further guidance on convictions and self-declarations	9

1. Introduction

- 1.1 The National Modern Languages SCITT is committed to ensuring that all applicants are treated fairly and without discrimination in relation to race, gender, religion, sexual orientation, age, disability, or offending behaviour background. The NML SCITT is committed to the principle of equality of opportunity including those with criminal records or other formal action against them, subject to the overriding consideration of protecting the public, in particular children. The NML SCITT is part of Chorus Trust and adheres to the **'HR Policy - Recruitment of Ex-Offenders Policy'**.
- 1.2 Applicants for Initial Teacher Training within The NML SCITT are required to complete their training in a school and therefore undertake what is referred to as 'regulated activity' (working with children) and are therefore subject to additional conditions for confirming their professional suitability. This policy relates to The NML SCITT course and those applicants who have disclosed information about their criminal record and / or other formal action taken against them.

2. How Will My Criminal Record Affect My Enhanced DBS?

- 2.1 Initial Trainee Teachers on The NML SCITT Course must be confirmed as having satisfactory certification of **a Disclosure and Barring Service (DBS) enhanced check and barred list check for the Child Workforce** before they may be permitted to work in regulated activity with children.
- 2.2 The DBS carry out criminal record checks using the following sources: The Police National Computer, The Children's and/or adults' barred list and local police records. The NML SCITT also check the Teacher Reference Agency (TRA) for disbarment in accordance with **safer recruitment policy and procedure**.
- 2.3 Due to the nature of Initial Teacher Training no convictions or cautions are considered spent under the 'exceptions' allowed under the **'Rehabilitation of Offenders Act' (1974)** although certain minor convictions may be 'filtered' out of the Disclosure as noted below. Having a criminal record does not necessarily prevent an applicant from undertaking the course. A full list of the offences that will never be filtered off a DBS check can be found via the DBS website: <https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>

3. What is a Self-Declaration?

- 3.1 As well as completing the DBS application, applicants must also complete a self-declaration (**suitability declaration form**) detailing any relevant previous criminal offences, disciplinary action or referrals to the DBS service. Applicants are asked to self-declare any criminal convictions and cautions that are 'protected' as defined by **the 'Rehabilitation of Offenders Act' (1974) 'Exceptions Order' (1975 as amended in 2013)**. This is to provide applicants with

the opportunity to declare any information that may be relevant to their suitability to teach. The form will be read by the NML SCITT Director and NML SCITT administrator in the first instance. They will refer any declarations to a Stage One Suitability Panel as detailed in Section 7 of this policy.

- 3.2 On receipt of any self-declarations the Suitability Panel will review the information declared to ensure that only offences that are subject to disclosure are considered and filter out declarations made in error using DBS filtering rules. Declarations which include only convictions which would be subject to DBS filtering are immediately processed and accepted. This process is explained in more detail in Section 7 of this policy.
- 3.3 If the DBS certificate of an applicant for Initial Teacher Training includes information about their criminal record that the trainee did not disclose when requested during the application process (in interview or on the **suitability declaration form**) the matter may be dealt with through the **NML SCITT Fitness to Practice Policy** which may result in the trainee being asked to withdraw from the course.
- 3.4 Suitability declarations with disclosures are considered by the NML SCITT Suitability Panel in confidence, and where appropriate anonymised. Panel members will also agree to a Statement of Confidentiality. To aid decision making, the panel may request further information from the applicant in writing. The applicant may also be invited to attend a Suitability Panel meeting to discuss any declarations before a decision is made. Further Guidance on convictions and self-declarations is available in the Appendix to this policy.
- 3.5 In addition to completing the DBS check applicants are asked to declare previous issues which may not appear on a DBS Disclosure such as disciplinary action taken against them or a referral to DBS. Where the applicant has been subject to a disciplinary or referral in a previous role, they will be required to supply the Suitability Panel with relevant written documentation from third parties such as their employer or the DBS that considered the case.
- 3.6 As a result of this procedure some applicants may be deemed unsuitable for Initial Teacher Training depending on the type and nature of the offence they have previously committed or the concerns raised about them. Alternatively, applicants may be allowed to proceed on a programme with a positive DBS Enhanced Disclosure or declaration once the NML SCITT is satisfied that they are likely to be professionally suitable. Decisions are made in context of guidance from the relevant professional regulatory body and on the balance of probabilities.

4. The DBS Update Service

- 4.1 Where a person has previously obtained a DBS check for the relevant workforce and have joined the DBS Update service they must provide the necessary information and consent to enable the NML SCITT to undertake a status check using the Update service. The applicant will still be required to complete a **suitability declaration form** which will be treated in the same way as a new application for an enhanced DBS certificate. The Update service can only be used where an existing Enhanced DBS certificate meets the conditions for working with

children. If the existing DBS certificate is not appropriate, applicants will be asked to apply for a new certificate at the appropriate level. DBS checks must be submitted via the NML SCITT, a previous certificate will not be accepted.

5. Change in Circumstances – revised declarations

- 5.1 After enrolment, any new or revised declarations will be referred to the NML SCITT Director for consideration under the ***NML SCITT Fitness to Practise regulations*** rather than referral to the Suitability Panel and/or a Suitability Meeting. Allegations that applicants have failed to disclose relevant information would also be investigated under the ***Fitness to Practise regulations***.
- 5.2 If a trainee has commenced on a programme of study with a satisfactory DBS check but their circumstances change following submission of the DBS application they are required to inform the NML SCITT Director. If a trainee is subject to criminal charges or receives a conviction while enrolled on a relevant course then the trainee would be required to submit a new personal declaration and a new DBS Enhanced Disclosure would be necessary.
- 5.3 As a result of this procedure, some trainees may be deemed unsuitable depending on the type and nature of the offence they have previously committed or the concerns raised about them. Alternatively, trainees may be allowed to proceed with the course with a positive DBS Enhanced Disclosure once the NML SCITT is satisfied that they are likely to be professionally suitable to undertake regulated activity. Decisions are made in the context of guidance from any relevant professional regulatory body and on the balance of probabilities.

6. Break in Study

- 6.1 Where trainees take a break in study for any reason, they are required to complete a new ***suitability declaration*** and have a new DBS check before they are permitted to undertake any placement activity. If a trainee returning to their studies has a change resulting in a new declaration this will be considered under the ***Fitness to Practise regulations***.
- 6.2 As a result of this procedure, some trainees may be deemed unsuitable depending on the type and nature of the offence they have previously committed or the concerns raised about them. Alternatively, trainees may be allowed to proceed with the course with a positive DBS Enhanced Disclosure once The NML SCITT is satisfied that they are likely to be professionally suitable to undertake regulated activity. Decisions are made in the context of guidance from any relevant professional regulatory body and on the balance of probabilities.

7. Suitability Panel Meetings

- 7.1 Applicant suitability will be reviewed subject to the information disclosed on the ***Suitability Declaration*** and in line with this policy. The NML SCITT has agreed guidelines about the

impact of certain offences and the likely suitability of applicants taking into account the time elapsed since the offence, disciplinary action or DBS referral and whether there is a pattern of good behaviour or repeated offences, disciplinary action or DBS referrals. The guidelines also take account of relevant information provided by the professional regulatory bodies and feedback from placement providers. The structure of the guidelines is included in the Appendix to this document, and is used to ensure consistency and fairness, however each disclosure is considered on its own merits.

- 7.2 Once the NML SCITT Director receives information from the NML SCITT Administrator relating to a positive declaration made by an applicant, or a positive disclosure from a DBS, it is scheduled to be reviewed by the Suitability Panel.
- 7.3 The Panel Constitution will be:
- a) the NML SCITT Director (Chair) or nominee.
 - b) a Senior Leader from a partner school.
 - c) the NML SCITT Internal Moderator.
 - d) a HR representative from Chorus Trust.
 - e) the SCITT Administrator (minute taking).
- 7.4 The Panel will operate under the following process: Stage 1 of the process is a review of any declaration made on the ***suitability declaration form*** and is carried out by the Suitability Panel. In Stage 1, some declarations will be noted and no further action taken so that the applicant can proceed on the course. The Suitability Panel will consider whether a referral to Stage 2 is required based upon the nature of the declaration. For example, a declaration for a low risk offence (as defined in guidelines contained in the Appendix to this policy) may not be referred to Stage 2 unless there was a pattern of repeat offending.
- 7.5 If the Suitability Panel refers a declaration to Stage 2 then the applicant will be asked to provide details regarding their declaration in writing, they will also be invited to a Stage 2 Suitability Panel Meeting where they can make oral representation to the panel. The Panel will have access to the applicant declaration, as well as other information that the applicant may wish to supply, including references and personal statements.
- 7.6 The Suitability Panel Stage 2 Decision Making Process: the Chair, taking advice from other staff present if relevant, would then consider the suitability of the applicant based on the information disclosed (using the guidance detailed in the Appendix to this policy) and the following criterion:
- a) Relevance of the declaration to the teaching profession;
 - b) Length of time since the incident(s) occurred;
 - c) Pattern of offending;
 - d) Circumstances surrounding the offence, disciplinary action or referral and the explanation offered by the applicant;
 - e) Whether the applicant's circumstances have changed since the offence, disciplinary action or referral;

f) Evidence of rehabilitation.

- 7.7 Applicants may include information on health or other personal circumstances.
- 7.8 The Chair would need to take into account any of this information which is relevant to the offence, disciplinary action or referral. Where an applicant maintains that a health issue is a mitigating factor, the Chair should expect this to be supported by medical evidence.
- 7.9 Where a health condition is disclosed by the applicant, the Chair should consider the disclosure to be confidential. It is not the role of the Chair to consider the impact of a health condition on the applicant's suitability as this would be considered by the Occupational Health screening process but the Chair may wish to make it clear to the applicant that they still need to disclose via Occupational Health.
- 7.10 Non-pertinent information which does not relate to the declaration (e.g. regarding health or personal circumstances) should not be taken into account by the Panel.
- 7.11 The Chair decides whether the applicant is considered professionally suitable to commence the programme. If the decision is to reject the applicant for this course at this time, it does not necessarily preclude the applicant from applying for other professional courses or re-applying at a later date. Each declaration is considered on its own merits during the suitability meeting.
- 7.12 Following the meeting, the decision and the supporting grounds will be recorded.
- 7.13 The applicant will be informed of the decision in writing within 10 working days of the meeting date.

8. Appeals

- 8.1 Decisions made on applicant declarations by the Suitability Panel are final. As for any admissions decision, if the applicant is dissatisfied with the manner in which their application has been considered or wish to appeal against a decision they must use the **NML SCITT Appeals Policy**. The appeal process would not overturn a judgement about the suitability of an applicant but would consider complaints about an error in the process or that the findings were manifestly unreasonable based on the evidence.
- 8.2 Appeals against decisions made as part of the Fitness to Practise process will be considered under the **Appeals Policy**. The appeal process would not overturn a professional judgment about the fitness to practise of a trainee but would consider new evidence, complaints about an error in the process or that the findings were manifestly unreasonable based on the evidence.
- 8.3 Appeals against decisions made under the **Disciplinary Policy** must be made in writing as detailed in the policy. The appeal process would not overturn a judgment but would consider new evidence, complaints about an error in the process or that the findings were manifestly unreasonable based on the evidence.

9. GDPR & Retention of Information

- 9.1 The NML SCITT take your privacy very seriously and are committed to meeting our obligations under the '*Data Protection Act*' (1998) and protecting your rights and freedoms under this legislation.
- 9.2 Full details of our policy can be found on the Chorus Trust website.
- 9.3 The NML SCITT will only share the contents of DBS certificate with a placement school when it has sought and obtained the express permission of the trainee. This permission would only be sought in order to benefit the trainee teacher and allow the placement school to provide appropriate support.

Appendix A: Further guidance on convictions and self-declarations

Risk Category	Definition	Example
<p>High Risk</p> <p><i>Individual would normally be rejected based on declaration.</i></p>	<p>Offences which suggest the individual is likely to pose a risk to the safety and well-being of children and young people and are therefore unsuitable to undertake regulated activity.</p> <p>Categories of high risk offences include:</p> <ul style="list-style-type: none"> • offences against children • sexual offences • offences involving the abuse of trust • offences involving cruelty. 	<ul style="list-style-type: none"> • Indecent conduct towards child. • Kidnapping, false imprisonment or abduction. • Take, permit or make, distribute or publish an indecent photograph of a child or pseudo photograph of a child. • Cruelty to persons under 16. • Murder. • Incest. • Cruelty to or abuse of animals. • Non-consensual sex acts. • Causing or inciting prostitution. • Burglary with intent to Rape. • Sexual abuse of trust. • Repeated Medium Risk offences.
<p>Medium Risk</p> <p><i>Individuals would normally be invited to attend a Suitability Meeting.</i></p>	<p>Offences which suggest the offender may pose a risk to the safety and wellbeing of vulnerable groups, and may therefore be unsuitable to undertake regulated activity.</p>	<ul style="list-style-type: none"> • Driving a motor vehicle with excess alcohol. • Failure to provide a specimen for analysis. • Possession of Class A, B, C drug. • Custody or control of a false instrument or document with intent. • Assault (common/GBH/ABH). • Theft. • Repeated Low Risk Offences.
<p>Low Risk</p> <p><i>Individuals would normally be accepted based on declaration.</i></p>	<p>Offences which suggest the offender is unlikely to pose a risk to the safety and wellbeing of vulnerable groups and is therefore likely to be suitable to undertake regulated activity.</p>	<ul style="list-style-type: none"> • Shoplifting offences as a minor. • Minor motoring offences resulting in a 'fixed penalty notice', for example: careless or inconsiderate driving, using a mobile phone while driving, not wearing a seatbelt or driving too close to another vehicle.

Factors to Consider	Relevant Considerations
The relevance of the declaration to the profession the individual is wishing to enter.	<ul style="list-style-type: none"> • The entire range of duties the applicant may undertake as a trainee on placement. • The placement settings should also be considered. For example Primary settings 3-11 year olds, whereas post 16 children will be 14+. • Trainee Teachers / Educators have contact with vulnerable groups and hold positions of trust. The seriousness of declarations should be assessed with this in mind.
The length of time since the incident occurred.	<ul style="list-style-type: none"> • The length of time since the incident should be considered, along with the age of the individual at the time of the incident. For example someone with a conviction for threatening behaviour at the age of 18 who is now 40 and has no other convictions may not pose a risk to vulnerable groups. A 40 year old with a recent conviction for threatening behaviour may be viewed differently. • Evidence suggests that most people who offend as juveniles do not go on to offend as adults. The exceptions to this are sexual offences and offences linked to active drug use.
The pattern of offending.	<ul style="list-style-type: none"> • The number of offences should be considered. Someone with a single conviction may be less of a risk than someone who has a pattern of repeat offending.
Circumstances surrounding the incident and explanation offered by the individual.	<ul style="list-style-type: none"> • Mitigating circumstances need to be considered. • Was there a financial, domestic or political context to the offence?
Whether the individual's circumstances have changed since the offence.	<ul style="list-style-type: none"> • Individual's circumstances may now be very different to those in which the incident occurred. For example, someone who has a history of offences linked to active drug use (such as theft), may have undergone treatment programmes and have been drug free for many years.
Evidence of rehabilitation.	<ul style="list-style-type: none"> • Individuals are invited to submit evidence of rehabilitation. This may take the form of character references, evidence of community work etc.