



## Policy and Procedure for Safer Recruitment

### Introduction

This policy has been produced in accordance with the guidance set out in the DfE publication: “Keeping children safe in Education (Statutory Guidance for schools and colleges”, March 2015 (Part 4) to ensure that the process of appointing staff reflects the importance of safeguarding children. It applies to everyone who works in the School. This includes administration personnel and other non-teaching staff.

The Head should be satisfied that those not on the payroll but working in the school, such as staff employed by contractors and unpaid volunteers, have undergone appropriate pre-employment checks.

The School recognises that a structured recruitment process which is applied consistently will minimise the risk of appointing someone who is unsuitable to work with children and help ensure that the capabilities of the individual closely match the needs of the School.

Those involved in recruitment and selection must have received appropriate training: the Head receive safer recruitment training.

This policy accords with the DfE guidance “Keeping Children Safe in Education” (2016), “Keeping children safe in education: childcare disqualification requirements - supplementary advice’ (2015) and new guidance which replaces the October 2014 document and clarifies the position with regard to schools called [Disqualification under the Childcare Act 2006](#) (disqualification by association).

Staff involved in recruitment must be familiar with the latest guidance (at the date of writing this policy):

[www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006](http://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006).

### Safer Practice

Safer practice in recruitment means thinking about and including issues relating to safeguarding and promoting the welfare of children at every stage of the process. It starts

with planning the recruitment, and ensuring that the advertisement makes clear the organisation's commitment to safeguarding children. It also requires a consistent and thorough process of obtaining, collating, analysing and evaluating information from and about applicants.

There are several elements of this process, including:

- obtaining comprehensive information from applicants, scrutinising the information and satisfactorily resolving any discrepancies or anomalies;
- obtaining two independent professional references (whenever possible) that answer specific questions to help assess an applicant's suitability to work with children and following up any concerns;
- holding a face-to-face interview (including Skype in case of applicants living abroad) that explores the candidate's suitability to work with children as well as his/her suitability for the post;
- checking previous employment history and experience;
- carrying out pre-employment checks, such as the mandatory check of barred individuals (DBS Barred list of individuals who are unsuitable for working with children when the position is a regulated activity);
- where appropriate, a criminal record check via the Disclosure and Barring Service In most cases (i.e. except when it is considered the person is not working in regulated activity- see supervised volunteers) , the School will do a barred list enhanced DBS check, otherwise the DSB check will exclude a barred list check;
- Check for teachers' prohibition order via the DfE secure access for employers;
- Where appropriate, in the case of personnel employed in childcare settings (pre or after school care accommodating pupils up to the age of 8) or in GSM, obtain a declaration that the candidate has not been convicted of one of a number of specified offences (set out in the Children Act 2006), or does not live in the same household as someone who has, are disqualified from registering as a childcare provider.

## **The Legal Framework**

Legislation applicable to recruitment and selection exists in order to protect individuals against discrimination in employment on the grounds of gender, disability, race/ethnicity, sexual orientation and age. Below is a brief summary of the main Acts:

1. The Equality Act 2010: The Act replaced previous anti-discrimination laws with a single Act to make the law simpler. The act also strengthened protection in some situations.

The act covers nine protected characteristics, which cannot be used as a reason to treat people unfairly. Every person has one or more of the protected characteristics, so the act protects everyone against unfair treatment. The protected characteristics are:

- Age
- Disability

- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

The Equality Act sets out the different ways in which it is unlawful to treat someone, such as direct and indirect discrimination, harassment, victimisation and failing to make a reasonable adjustment for a disabled person.

The Act prohibits unfair treatment in the workplace, when providing goods, facilities and services, when exercising public functions, in the disposal and management of premises, in education and by associations (such as private clubs).

2. The Disability Discrimination Act 1995 and 2005: makes it unlawful to unjustifiably discriminate against disabled people in employment (and in the provision of goods and services and in the sale and letting of premises). Discrimination includes failure to make reasonable adjustments to the working environment or working arrangements.

We ensure that all 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, e.g. the Rehabilitation of Offenders Act 1974.

3. Protection of Freedoms Act 2012: Regulated activity is work that a barred person must not do. As a key part of changes being introduced to reduce the scope of regulated activity, the Protection of Freedoms Act removes from regulated activity, broadly, supervised work such as instructing or looking after children, which if unsupervised would be regulated activity ( see when DBS barred list checks are required below).

4. Disqualification under the Childcare Act 2006: [www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006](http://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006).

Staff are covered by the Act if they are employed and/or provide childcare in either the Early Years or later years. Early Years means from birth until 1st September following a child's fifth birthday i.e. up to and including reception age (will cover GSM staff). Later Years means children under the age of 8 (in a childcare setting, i.e. pre or after school care).

Staff who are directly concerned in the management of early or later years provision are covered by the legislation. The School will need to use its judgement to determine who is covered, but this will include the head and may also include other members of the school's leadership team and any manager/supervisor, leader or volunteer responsible for day-to-day management.

In cases where this provision applies, a self-declaration (in a format set out by school

management) will need to be completed. The School must record the date on which disqualification checks were made, preferably on the single central record.

### **Recruitment and Selection Policy Statement**

***'The School is committed to safeguarding and promoting the welfare of children and young people and requires all staff and volunteers to demonstrate this commitment in every aspect of their work'.***

The School has adopted the following policy statement to demonstrate the school's complete support for the protection and safeguarding of children and/or young people.

***"CERENE is committed to safeguarding and promoting the welfare of children and it expects all members of staff and volunteers within the School to comply with its policy. Any successful applicant will be subject to enhanced disclosure through the Disclosure and Barring Service".***

The statement should be included in/on:-

- Publicity materials
- Advertisements
- Candidate Information Packs
- Person Specifications
- Job Descriptions
- Competency Frameworks
- Induction training

### **Recruitment Planning**

#### Recruitment Timeline

The Head, with the assistance of the Recruitment Officers or proprietor, will plan the recruitment process, identifying who should be involved, assigning responsibilities and setting aside sufficient time for the work needed at each stage to be completed so that the safeguards are not overlooked.

When possible, the Head will organise the selection process to allow references to be obtained on shortlisted candidates before the interview.

The use of a recruitment and selection checklist is good practice to ensure that no steps are omitted.

#### Job Description and Person Specification

When preparing to recruit, the job description, person specification and all other material that will form part of the candidate information pack will be prepared by the Recruitment Officers or proprietor working with the Head.

Job descriptions and person specifications are the key documents which underpin the recruitment and selection process and should be clear and concise.

A well-constructed person specification will enable management to make an effective and justifiable appointment. It is important to be clear about what mix of skills, abilities, knowledge, qualifications and experience are required to carry out the role successfully.

These documents should also clearly set out the extent of the individual's relationships/contact with children and degree of responsibility for children. The time and effort spent at this stage of the process should help minimise the risk of making an unsuitable appointment.

The job description should clearly state:

- the main duties and responsibilities of the post;
- the individual's responsibility for promoting and safeguarding the welfare of children and young people that they are responsible for, or come into contact with;

The person specification should include:

- the qualifications and experience, and any other requirements needed to perform the role in relation to working with children and/or young people;
- the competences, skills and qualities that the successful candidate should be able to demonstrate; and
- an explanation of how these requirements will be tested and assessed during the selection process.

The person specification must be specific, relevant to the requirements of the posts, measurable (i.e. criteria which can be tested or assessed) and justifiable.

### Advertising the Vacancy

The advertisement should include a statement about the employer's commitment to safeguarding and promoting the welfare of children. It should also reference the need for the successful candidate to undertake a criminal record check via the DBS, where appropriate.

The advert should include:

- job title;
- location (i.e. school);
- salary and hours (include pro rata salary);
- details of the job;
- qualifications, experience, skills and abilities - summarising the details in the person specification;
- information on how to apply.

Applicants should always be asked to complete an application form in full to ensure that a common set of core data is received from everyone. It is not good practice to accept CVs drawn up by applicants in place of an application form because these will only contain the information the applicant wishes to present and may omit important details or a complete job history.

### The Candidate Information Pack

The information pack sent out to prospective applicants must provide a clear image of the school and prominently set out its commitment to safeguarding children. It should consist of:

- job description and person specification;
- application form and guidance notes;
- the school's Child Protection Policy Statement;
- information about the school and the area it serves;
- a summary of expected conduct of staff;
- an outline of the shortlisting and interview procedure – e.g. only those fulfilling the essential criteria on the person specification will be shortlisted. References for shortlisted candidates should whenever possible be received before the interview and there should be a panel of interviewers;
- an equal opportunities statement.

The pack should also contain a section on the necessary Pre-employment checks, in line with our Policy on safeguarding children. The following Pre-employment checks will be required: Disclosure and Barring clearance; Two references, one of which must be the current or most recent employer if not currently in work; and a self-certification medical questionnaire.

### Shortlisting

All applications should be scrutinised to ensure that they are fully completed, that the information provided is consistent and does not contain any discrepancies.

Incomplete application forms should not be accepted and should be returned for completion.

Any anomalies, discrepancies or gaps in employment should be noted and taken into consideration when deciding whether to shortlist the applicant.

As well as reasons for obvious gaps in employment, the reasons for a history of repeated changes of employment where there is no clear career or salary progression, or a mid-career move from a permanent post to supply teaching or temporary work should be explored and verified.

All candidates should be assessed equally against the criteria contained in the person specification without exception or variation.

It is important not to discriminate against anyone on the basis of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

It is essential to use a shortlisting record to record the area(s) in which the applicant did or did not meet the criteria of the person specification. This can be used if necessary to defend a claim of discrimination and should also be used to provide useful feedback to the applicant.

Applicants who have a disability should be shortlisted if they meet the essential criteria of the person specification.

It is good practice to inform applicants in writing if they have not been shortlisted and to thank them for their interest in the post/school.

### Employment References

The purpose of seeking references is to obtain objective and factual information to support appointment decisions and the use of a reference pro forma will help to achieve this.

All requests for a reference should be accompanied by a job description and person specification to enable the referee to comment on the applicant's suitability for the role.

A minimum of two references should always be sought which should cover recent work history. If the applicant is not currently working with children but has done so in the past, his/her previous employer whilst working with children should be contacted for a reference.

References should always be sought and obtained directly from the referee. Management will not rely on references or testimonials provided by the candidate, or open references, i.e. 'To Whom It May Concern'.

References should be sought on all shortlisted candidates and should be obtained before the interview so that any areas of concern can be explored further with the referee and taken up with the candidate at interview.

In exceptional circumstances it might not be possible to obtain references prior to interview, either because of delay on the part of the referee, or because a candidate strongly objects to the current employer being approached at that stage. The Head should decide whether to accede to a candidate's request to delay contacting the referee until after interview.

Where a reference has not been obtained on the preferred candidate before interview, the Head must ensure that references are received and scrutinised, and that any concerns are resolved satisfactorily, before the person's appointment is confirmed and s/he starts in the role.

### Using a Reference Pro-forma

It is the School's policy that all reference requests should seek objective verifiable

information and not subjective opinion, and the use of reference pro-forma will achieve this. The use of such pro-forma also reduces the temptation to make assumptions about statements that are vague or unclear and saves time otherwise spent requesting clarification. The referee should be contacted subsequently for clarification of any part of the reference that is unclear.

#### On Receipt of the Reference

On receipt, references should be checked 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 telephoned and asked to provide written answers or amplification as appropriate.

The information should also be compared with the application form to ensure that the information provided about the candidate and his/her previous employment by the referee is consistent with the information provided by the applicant on the form. Any discrepancies should be taken up with the applicant.

Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case. Cases in which an issue was satisfactorily resolved some time ago, or where an allegation was determined unfounded and no further issues have been raised are less likely to cause concern than more serious or recent events. A history of repeated concerns or allegations over time is likely to give cause for concern.

If a shortlisted applicant claims to have some specific qualification or previous experience that is particularly relevant to the post for which s/he is applying, it is good practice to verify that fact before interview. The qualification or experience can usually be verified quickly by telephoning the relevant previous employer and asking for written confirmation.

It should be noted that there is no legal requirement to provide a reference unless stated in the individual's contract of employment. In the event that a referee refuses to provide a reference, please seek advice.

#### Invitation to Interview Letter

In addition to the standard interview arrangements such as time and place, directions to the venue and membership of the interview panel, the invitation to interview should explain to the candidates how the interview will be conducted and whether any testing will take place, as well as exploring the candidate's suitability to work with children.

Candidates must be asked to bring with them to interview documentation that verifies their identity for the purposes of the DBS.

Candidates should also be asked to bring documents confirming any educational and professional qualifications that are necessary or relevant for the post, e.g. the original or certified copy of a certificate, or diploma, or a letter of confirmation from the awarding body.

A copy of these documents should be retained on file for the successful applicant.

NB: If the successful candidate cannot produce original documents or certified copies, written confirmation of his/her relevant qualifications must be obtained from the awarding body by the school or applicant.

### Disclosure and Barring

All candidates should be instructed to bring with them original documentary evidence of their identity that will satisfy DBS requirements. Identification checking guidelines can be found on the DBS website.

This enables the School to check and verify the identity documents on the day of the interview and will therefore speed up the process for obtaining a DBS Disclosure for the successful candidate.

A copy of the documents used to verify the individual's identity should be kept on the file of the successful candidate. All other applicants' documents should be securely destroyed. It is a statutory requirement that all new appointments to the school's workforce have an enhanced DBS Disclosure and they should have this prior to taking up the post.

Some volunteer/supervised positions, if they are considered not to be working in a "regulated activity" will not be eligible to be checked against the Barred list. Although a standard DBS check will still be required.

Regulated activity: The full legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012. HM Government has produced a [factual note on Regulated Activity](#) in relation to Children (see also the annex to this Policy).

### Disability Discrimination

The Disability Discrimination Act 1995 (DDA) makes it unlawful to discriminate against someone with a disability in relation to their terms of employment and promotion opportunities or by dismissing them or subjecting them to any other detriment.

It is good practice during recruitment to:

- consult people with disabilities to find out about the effects of their disability and job requirements;
- check job specifications to make sure they are not likely to lead to discrimination;
- ask candidates before interviews if they have specific requirements and make necessary reasonable adjustments in advance;
- take care to ensure that people with disabilities are given the right conditions to do tests and take part in other selection processes;
- concentrate on abilities to do the job during interview and only ask about a disability if it has a bearing on the person's ability to work; and
- consider modifications to job qualification requirements if a person could not

achieve it due to disability but otherwise would perform the job well.

### Interview

The interview will assess the merits of each candidate against the job requirements and will explore their suitability to work with children. Interviews should ideally be held face to face and best practice would be to have a minimum of two interviewers. The same interviewers should conduct all interviews relating to a position.

If possible the interviews should all be scheduled for the same day. This will allow the panel to make their decision while their impressions of the candidates are still fresh.

The timetable for interviews should allow sufficient time for the interviewing panel to discuss each candidate and prepare for the next interview.

Involving pupils in the recruitment and selection process in some way, or observing shortlisted candidates' interaction with pupils is common, and recognised as good practice.

There are different ways of doing this, for example, shortlisted candidates might be shown around the school by the pupils and a governor or senior member of staff or those applying for a teaching post may be asked to teach a lesson.

### Determining the Interview Panel

There should be a minimum of two interviewers, although if interviewing for senior or specialist posts a larger panel may be appropriate. This allows for one person to assess and observe the candidate and make notes whilst the candidate is talking to the other, it also reduces the possibility of any misunderstanding about what was said at interview.

The members of the panel should:

- have the necessary authority to make decisions about the appointment;
- be appropriately trained, (one member of the interview panel in schools should have undertaken Safer Recruitment training)
- meet before the interviews to:
  - reach a consensus about the required standard for the job to which they are appointing;
  - consider the issues to be explored with each candidate and who on the panel will ask about each of those; and
  - agree their assessment criteria in accordance with the person specification.

### Interview Questions

The panel should agree a set of questions they will ask all the candidates relating to the requirements of the post. They may also agree a set of questions they will ask candidates in order to explore information contained in their application and references.

Where possible it is best to avoid hypothetical questions because they allow theoretical answers. It is better to ask competence based questions that ask a candidate to relate how

s/he has responded to, or dealt with, an actual situation, or questions that test a candidate's attitudes and understanding of issues.

In addition to assessing and evaluating the applicant's suitability for the particular post, the interview panel should also explore:

- the candidate's attitude toward children and young people;
- his/her ability to support the authority/school's agenda for safeguarding and promoting the welfare of children;
- the candidate's aptitude to embrace and represent the values, philosophy, ethos and practices of the School;
- gaps in the candidate's employment history;
- concerns or discrepancies arising from the information provided by the candidate and/or a referee;
- whether the candidate wishes to declare anything in light of the requirement for a DBS check.

If for any reason references cannot be obtained before the interview, the candidate should also be asked at the interview if there is anything s/he wishes to declare or discuss in light of the questions that will be put to his/her referees. It is vital that the references are obtained and scrutinised before the appointment is confirmed and before s/he starts work.

#### Checking Qualifications and Identity

Before the interview or at the end of the interview you should ask the candidate for their documentation for photocopying. This includes educational/professional qualifications and identity documents for DBS purposes. The person taking the copies must then sign the copies to confirm sight of the original documentation.

The person who has signed and verified the copied documentation (usually the HR Manager or his or her assistant) is then responsible for completing the relevant section on the DBS form, and forwarding this, together with the DBS form to the School for submission to the DBS.

All copied documentation relating to unsuccessful applicants should be securely destroyed.

#### Making a Conditional Offer of Appointment and Pre-employment Checks

An offer of appointment to the successful candidate, even one who has lived or worked abroad, should be conditional upon:

- The verification of the candidate's identity (referring to the identification checking guidelines);
- the receipt of at least two satisfactory references (if not already received);
- verification of the candidate's eligibility to work in the UK (if not already received);
- obtaining a certificate for an enhanced DBS check which will include barred list

information, for those who will be engaging in regulated activity /obtaining a separate barred list check if an individual will start work in a regulated activity before the DBS check is available ( but after applying for the check);

- if the person has lived or worked outside the UK, make any further checks the School considers appropriate ( e.g. *casier judiciaire* for French nationals);
- verification of the candidate's medical fitness (mental and physical fitness to carry out their work responsibilities) ;
- verification of qualifications (if not verified at interview);
- verification of professional status where required e.g.: *titularisation*, QTS status, etc;
- Ensure that a candidate to be employed as a teacher is not the subject of a prohibition order issued by the Secretary of State using the Employer Online Service; <https://www.gov.uk/teacher-status-checks-information-for-employers>
- The school should seek advice and follow relevant DBS guidance if a Disclosure reveals information that a candidate has not disclosed in the course of the selection process.

All checks should be confirmed in writing, documented and retained on the personnel file (subject to certain restrictions on the retention of information imposed by DBS regulations), and followed up where they are unsatisfactory or there are discrepancies in the information provided.

In the following instances, the facts should be reported to the police and/or the barring services/home office:

- where the candidate is found to be on the barred List, or the DBS Disclosure shows s/he has been disqualified from working with children by a court;
- where an applicant has provided false information in, or in support of, his/her application;
- where there are serious concerns about an applicant's suitability to work with children.

Note: there is no requirement to obtain a DBS certificate before the applicant starts work in the School if the applicant has worked in a school in England in a post which brought them into regular contact with children in the three months prior to their appointment but a Barred list check must be done. A DBS check must still be applied for (unless the applicant is registered with the Update Service, in which case the school will check the Update Service before the applicant starts work) – see annex for further information

#### Retention of Recruitment Records – Data Protection

Schools need to establish and adhere to retention periods for recruitment records because personal information should be retained only as long as it is justified and relevant to do so.

In relation to recruitment records this may be only as long as the statutory period in which a claim arising from the process may be brought or whilst the recruitment is ongoing.

It is therefore strongly advised that recruitment records are only retained for a maximum

period of six months and following this all manual records should be shredded and electronic records permanently deleted.

Unsuccessful applicants should be advised that it is our intention to keep their names on file for future vacancies, to give them the opportunity to remove their details from saved records.

More detailed guidance on Data Protection and retention of a wide range of records can be found in 'Data Protection Employment Practices Code' published by the Information Commissioner's Office, <http://www.ico.gov.uk/http://www.ico.gov.uk/>

### Post Appointment Induction

For all staff and volunteers newly appointed into the school, including teaching staff, regardless of experience, there should be an induction programme. The purpose of the induction is to:

- provide training and information about the school's policies and procedures;
- support individuals in a way that is appropriate for the role for which they have been appointed;
- confirm the conduct expected of staff within the School;
- provide opportunities for a new member of staff or volunteer to discuss any issues or concerns about their role or responsibilities;
- enable the person's line manager to recognise any concerns or issues about the person's ability or suitability at the outset and address them immediately.

As far as safeguarding and promoting the welfare of children is concerned the induction programme should include information about, and written statements of:

- policies and procedures in relation to safeguarding and promoting welfare e.g. child protection, anti-bullying, anti-racism, physical intervention/restraint, intimate care, internet safety and any local child protection/safeguarding procedures;
- how and with whom any concerns about those issues should be raised;
- safe practice and the standards of conduct and behaviour expected of staff and pupils within the school;
- other relevant personnel procedures e.g. disciplinary, capability and whistle-blowing.

### Probation

It is important to monitor successful candidates during their probationary period.

A probationary programme covering all new staff will be put in place by the School management.

Policy written July 2016

To be Reviewed in July 2017

## ANNEX: USEFUL GUIDANCE FOR RECRUITING STAFF/ HR DPT

The latest DfES guidance can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418686/Keeping\\_children\\_safe\\_in\\_education.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418686/Keeping_children_safe_in_education.pdf)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418686/Keeping\\_children\\_safe\\_in\\_education.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418686/Keeping_children_safe_in_education.pdf)

<http://www.ofsted.gov.uk/schools/for-schools/safeguarding-children>  
<http://www.ofsted.gov.uk/schools/for-schools/safeguarding-children>

<https://www.gov.uk/schools-colleges-childrens-services/safeguarding-children/latest>  
<https://www.gov.uk/schools-colleges-childrens-services/safeguarding-children/latest>

<https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006>  
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### Key Points

#### 1 REQUIREMENT FOR CRIMINAL RECORD CHECKS (DBS checks)

The School has a responsibility to take reasonable steps to ensure employees recruited are suitable in all respects for the work they will undertake. The School should obtain details of any criminal conviction(s) a job applicant may hold, for the purpose of determining whether that information renders them unsuitable for appointment. Conviction information is obtained from the Disclosure and Barring Service (DBS).

This guidance note aims to clarify the current statutory requirements with regard to DBS checks. It should not be regarded as a definitive interpretation of legislation.

#### 2 WHAT IS A DBS CHECK?

An Enhanced DBS check provides access to a range of different types of information as follows:

- Convictions, Cautions, Reprimands and Warnings and most of the relevant convictions held on the Police National Computer (PNC). The DBS reserves the right to add new data sources. Filtering of some information now applies;
- Other relevant non-conviction information held locally by the police; and

- Lists of those barred from working with children maintained by the DBS, which includes information previously included in List 99. This information can only be requested for those in Regulated Activity.

Before the implementation of changes arising from the Protection of Freedoms Act on 10th September 2012 all enhanced DBS checks resulted in a check against both the record of criminal offences and the Barred List (for children this was formerly known as 'List 99').

Since 10 September 2012 (Protection of Freedom Act), we are not entitled to check the barred list for people not in the new definition of regulated activity. For example unless a volunteer is unsupervised they are not in regulated activity. This means a criminal record check can be requested but not a barred list check.

The definition of Regulated activity was revised in the Protection of Freedoms Act. Posts that are deemed to be in Regulated Activity are exempt from the Rehabilitation of Offenders Act and employers are entitled to request an Enhanced DBS check with a check of the barred list for post holders.

The current definition of Regulated Activity with regard to activities working with children is set out below.

(a) Unsupervised activities: teaching, training, instructing, caring for or supervising children, or providing advice/guidance on well-being or driving a vehicle only for children.

(b) Working for a limited range of establishments (known as 'specified places'), with opportunity for contact, e.g. schools, children's homes, childcare premises (but not work by supervised volunteers).

*Work in (a) and (b) above still has to be carried out on a regular basis. The current definitions have not changed:*

*Frequently - at least once a week*

*Intensively - 4 days or more in a 30 day period*

*Overnight - between the hours of 2am and 6am.*

(c) Relevant personal care, e.g. washing or dressing; or health care by or supervised by a professional, even if done once.

(d) Registered child-minding and foster carers.

### 3. WHICH DBS CHECKS SHOULD SCHOOLS CARRY OUT?

#### 3.1 EMPLOYEES

Given the definition above, all paid roles in schools employed or engaged directly by the school must be regarded as undertaking 'regulated' activity.

Enhanced DBS checks are required with a check of the children's Barred List.

## 3.2 VOLUNTEERS

Supervised volunteers are not in Regulated activity and a check of the Children's Barred List is not allowed. Schools may still require an Enhanced DBS check without a Barred List check for regular supervised volunteers. There is no requirement to do so however.

Unsupervised volunteers who are working regularly in the school (as defined above) must have an Enhanced DBS check including a check of the Children's Barred List.

Schools will need to determine whether or not volunteers are 'supervised' (to a reasonable level) by someone who has been barred list and DBS checked when determining whether or not they are undertaking 'regulated activity'. If the school considers that a volunteer is adequately supervised there is no requirement to carry out a DBS check. However you may do so if the work is regular. You will not however be entitled to ask whether the volunteer is barred from working with children.

Statutory guidance is available to assist head teachers in determining whether volunteers are supervised or unsupervised. It can be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/280881/supervision\\_of\\_activity\\_with\\_children\\_which\\_is\\_regulated\\_activity\\_when\\_unsupervised.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/280881/supervision_of_activity_with_children_which_is_regulated_activity_when_unsupervised.pdf)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/280881/supervision\\_of\\_activity\\_with\\_children\\_which\\_is\\_regulated\\_activity\\_when\\_unsupervised.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/280881/supervision_of_activity_with_children_which_is_regulated_activity_when_unsupervised.pdf)

Head teachers are advised to look at the guidance in detail, but key points are that:

- there must be supervision by a person who is in regulated activity;
- the supervision must be regular and day to day;
- the supervision must be "reasonable in all the circumstances to ensure the protection of children".

Supervision does not mean that the supervisor has to be present all the time.

Ofsted has said 'For the purposes of an Ofsted inspection, schools (and colleges) should be able to explain the rationale for those who have been checked and those who have not. The key criterion for checking volunteers is regular unsupervised contact with children'.

Ofsted offer the following guidance:

If the volunteer is not in regulated activity, the school or college should undertake a risk assessment and use their professional judgement and experience when deciding whether to require an enhanced criminal records check. They should consider:

- the nature of the work with children;
- what the establishment knows about the volunteer including formal or informal information offered by staff, parents and other volunteers;
- And whether the volunteer has other employment or undertakes voluntary activities where referees can advise on suitability.

Under no circumstances should a volunteer who is proposing to work in regulated activity

and in respect of whom no checks have been obtained be left unsupervised with children.

### 3.3 GOVERNORS

School governors do not fall into the new definition of 'regulated activity' because they are school governors. This means that governors should not automatically be asked to obtain a check.

If a school governor is to be involved in unsupervised voluntary work with children in a school, they will be undertaking regulated activity, but only because they are undertaking unsupervised voluntary work, not because they are a school governor.

Only governors deemed to be in regulated activity as indicated above must have a DBS check with a barred list check. It would be possible to ask governors who are supervised and who regularly work with children to obtain a DBS check, but not with a barred list check.

### 3.4 CONTRACTORS

Contractors, that is, individuals working for third parties (such as building or maintenance contractor in schools), unless they are involved in activities that are regulated (that is, in essence, teaching, training or supervising or providing personal care to children), will no longer come under the definition of 'regulated activity' providing that they are 'contracted' to provide 'occasional' or 'temporary' services.

To determine whether the service is 'temporary' or 'occasional' schools should consider whether:

- the work has to be carried out at a school regularly (once a week or more or on four days or more in a single month or overnight);
- the work has to take place regularly on the same school premises. For example, a tradesperson who works in several different schools, but only works in the same school once a fortnight, is not in regulated activity;
- the work has to involve the opportunity for contact with children at the school. If the work is done out of hours when no children are on site, or on a part of the site which is separated from areas where children have access, it is not regulated activity.

Only if all the above apply will DBS checks with a barred list check be required.

Contracted staff that come into regular contact with children and young people – such as cleaning, caretaking and kitchen staff will continue to be in Regulated activity and require an Enhanced DBS check with a check of the Barred List.

If schools let their own contracts and DBS checks are required in line with the above guidance they must ensure that the contractor confirms in writing that they follow safe recruitment practices as set out in "Keeping children safe in education", including:

- Identity checks
- Barred list/ (used to be called List 99)

- DBS Disclosure
- Appropriate references
- Qualifications – legally required for the post
- Right to work in the UK
- Further checks for those who have lived outside the UK
- DfE secure employers' access (prohibition/ access to teachers records)

For contracts let by the school the contractor must supply the school with a list of names of the staff that are working on the school site and confirm their DBS status. This information must be held on the school's central record.

The School should always check the identity of contractors and their staff on arrival at school. Most contract staff will carry photographic identity.

Contractors for whom a DBS check has not been undertaken should be supervised if they will have contact with children. This would apply where a contractor is not in regulated activity.

### 3.5 SUPPLY TEACHERS – DIRECTLY EMPLOYED

The School usually directly employs supply staff and must carry out all the pre-employment checks.

If supply teachers are subscribers to the DBS Update Service, schools are able to check their DBS status on-line with the permission of the teacher. See paragraph 8 for information on the Update Service.

### 3.6 SUPPLY TEACHERS EMPLOYED THROUGH AN AGENCY

If you employ supply staff through an agency it is the responsibility of the Head to obtain written confirmation directly from the agency (not via the person being hired) that all the necessary checks have been undertaken by the agency and that this is recorded on the central record. Since 2013 the Agency must confirm that the teacher is not the subject of a prohibition order or an interim prohibition order made by the Secretary of State. Where there is disclosed information on a DBS certificate the school must obtain a copy of the Disclosure from the agency or the teacher before the individual starts work.

Identity checks must be carried out to demonstrate that the person who comes is the one referred by the agency. Some photographic identity should be seen.

The agency should tell you who the checks were carried out by, for example the HR department.

### 3.7 OVERSEAS STAFF

Enhanced DBS checks are mandatory for all overseas staff.

All overseas teachers, whenever appointed, should have an Enhanced DBS check.

If you have staff from overseas, whenever recruited and where this has not already been

done, you should apply to their home police force for a certificate of good conduct, as well as from other countries where they have worked. You should also apply for a certificate of good conduct from the country or countries where nationals returning to the UK have worked abroad.

Further information about the criminal record details that may be obtained from overseas police forces and countries is available from the DBS at <https://www.gov.uk/dbs-check-requests-guidance-for-employers#overseas-applicants><https://www.gov.uk/dbs-check-requests-guidance-for-employers-overseas-applicants>

You must make sure that all overseas teachers have permission to work in the UK. A record of this check must be made. Please see the recruitment policy appendix 8 for full details on employing staff from overseas.

### 3.8 SELF-EMPLOYED COACHES/CLUBS FREELANCE

Individuals are not able to apply for a DBS check on their own behalf, but some coaches will belong to associations who may have obtained a check for them.

When the School engages self-employed coaches (for example for Clubs) the School must conduct full recruitment checks including Enhanced DBS with Barred List check.

### 3.9 STUDENTS ON TEACHER TRAINING COURSES

The Teacher Training Provider (if a UK organisation) is responsible for ensuring that an enhanced DBS Disclosure is applied for when a place at a teacher training institution has been accepted. The school should obtain written confirmation from the university/college that the check has been done, when it was done and who obtained it. The school must check the identity of the trainee when he/she arrives and, for the duration of any placement, the student should appear on the school's central register.

If the university/college advises that the DBS check has not yet been received the Head may allow the trainee to begin as long as a check is made against the children's barred list and appropriate supervision is put in place.

Teachers on a school direct salaried scheme must undergo checks by the school as with any other new employee.

### 3.10 CHECKS ON OTHER PUBLIC SECTOR STAFF INCLUDING LOCAL AUTHORITY STAFF

Individuals such as psychologists, nurses, dentists, centrally employed teachers and other public sector staff will have been checked by their employing organisation.

It is sufficient for schools to seek written confirmation that appropriate checks, including DBS checks, have been carried out and by whom – most commonly the relevant human resources department (it is not necessary to specify a named individual) – and to confirm the identity of these visitors. It is not necessary (or practicable) to require a date for such checks unless the providing organisation supplies a list of named individual supply staff. Written confirmation may be in the form of a public statement on the agency website, as is

the case with Ofsted.

#### 4. COMMENCING WORK PRIOR TO RECEIPT OF DBS CHECK

If because of very compelling reasons concerned with maintaining services, you wish an applicant, appointed subject to a Disclosure, to commence employment before a Disclosure has been obtained, such a step must be authorised in advance by the Head. All other pre-employment checks must have been carried out including a children's barred list check. If approval is given all practical steps must be taken to minimise risks to children during the period before the Disclosure is obtained (e.g. ensuring appropriate supervision until after the Disclosure has been received).

The Barred List check must be recorded on the central record as soon as it is done.

The use of a standard risk assessment form is advised to assess whether sufficient checks have been undertaken to satisfy school management that the person recruited can commence work before receipt of a DBS check.