



# RECRUITMENT, SELECTION & DISCLOSURES POLICY

Autumn 2023

*Nisi Dominus Frustra* - Without the Lord, everything is in vain

## MISSION STATEMENT

- \* A Rose Hill School child's learning experience is one of aspiration, adventure, and achievement in a nurturing, caring school.

## AIMS

Working with **integrity** your child will:

- \* Be inspired to develop **confidence** to thrive in all areas of our rich curriculum.
- \* Foster the skills and talents which enable them to **organise** their learning and plan to achieve success.
- \* Demonstrate **persistence** to flourish in the face of challenge.
- \* Show **resilience** and learn from difficult situations.
- \* **Get along** with others, work collaboratively and accept everyone.

## 1. General

Rose Hill School ("the School") is committed to ensuring the best possible environment for the children and young people in its care. Safeguarding and promoting the welfare of children and young people is our highest priority.

The School aims to recruit staff that share and understand our commitment and to ensure that no job applicant is treated unfairly by reason of a protected characteristic as defined within the Equality Act 2010. To ensure compliance this policy should be read in conjunction the relevant legislation, recommendations and guidance including the statutory guidance published by the Department for Education (DfE), Keeping Children Safe in Education (KCSIE) 2023, Disqualification under the Childcare Act 2006 (DUCA), the Prevent Duty Guidance for England and Wales 2015 (the Prevent Duty Guidance) and any guidance or code of practice published by the Disclosure and Barring Service (DBS) and the Teaching Regulation Agency <https://teacherservices.education.gov.uk/>. All queries on the School's Application Form and recruitment process must be directed to the Bursar.

## **2. Scope of this Policy**

The Recruitment, Selection and Disclosures Policy and Procedure herewith refers and applies to staff directly recruited and employed by the School. In the Education (Independent Schools Standards) (England) Regulations 2014, staff are defined as: *Any person working at the School whether under a contract of employment, under a contract for services or otherwise than under a contract but does not include supply staff or a volunteer.*

In the case of agency or contract workers, the School shall obtain written confirmation from the agency or company that it has carried out the appropriate checks. The School conducts identity checks on agency and contract workers on arrival in school and, in the case of agency workers which includes supply staff, the school must be provided with a copy of the DBS check for such staff. (The DBS does not charge for checks on volunteers. However, if schools or colleges use an external organisation to carry out the check, there may be an administration charge.)

Any staff who TUPE transfer into the School's staff, will be required to undertake the statutory requirements with regard to safer recruitment checks.

The recruitment process follows these steps:



- i. the recruitment and selection process;
- ii. pre-appointment and vetting checks, regulated activity and recording of information;
- iii. other checks that may be necessary for staff, volunteers and others, including the responsibilities on schools for children in other settings; and
- iv. how to ensure the ongoing safeguarding of children and the legal reporting duties on employers.

#### **i. Recruitment and selection process**

This section focuses on ensuring potential applicants are given the right messages about the school's commitment to recruit suitable people. We have a culture that safeguards and promotes the welfare of children in our school. As part of this culture, it is important that we have a robust recruitment procedures that deter and prevent people who are unsuitable to work with children from applying for or securing employment, or volunteering opportunities.

We ensure that those involved with the recruitment and employment of staff to work with children have received appropriate safer recruitment training. The School Staffing (England) Regulations 2009 and the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 requires us to ensure that at least one of the persons who conducts an interview has completed safer recruitment training, either the Head or the Bursar.

We include the following information when defining the role (through the job or role description and person specification):

- the skills, abilities, experience, attitude, and behaviours required for the post; and
- the safeguarding requirements, i.e. to what extent will the role involve contact with children and will they be engaging in regulated activity relevant to children.

The advert will include:

- the school's commitment to safeguarding and promoting the welfare of children and make clear that safeguarding checks will be undertaken;
- the safeguarding responsibilities of the post as per the job description and personal specification; and
- whether the post is exempt from the Rehabilitation of Offenders Act 1974 and the amendments to the Exceptions Order 1975, 2013 and 2020. Which means that when applying for certain jobs and activities certain spent convictions and cautions are 'protected', so they do not need to be disclosed to employers, and if they are disclosed, employers cannot take them into account. Further information about filtering offences can be found in the DBS filtering guide.

### **3. Application Form**

Where a role involves engaging in regulated activity relevant to children, we include a statement in the application form or elsewhere in the information provided to applicants that it is an offence to apply for the role if the applicant is barred from engaging in regulated activity relevant to children. We also provide a copy of the child protection policy and practices and policy on employment of ex-offenders in the application pack or refer to a link on its website. We require applicants to provide:

- personal details, current and former names, current address and national insurance number;
- [Legislation.gov.uk](https://legislation.gov.uk) - section 7(1)(a) of the SVGA 2006.
- details of their present (or last) employment and reason for leaving;
- full employment history, (since leaving school, including education, employment and voluntary work) including reasons for any gaps in employment;
- qualifications, the awarding body and date of award;



- details of referees/references; and
- a statement of the personal qualities and experience that the applicant believes are relevant to their suitability for the post advertised and how they meet the person specification.

The application form informs the applicant that the school will perform an online search should they be shortlisted. The School will only accept applications from candidates completing the relevant Application Form in full. CVs will not be accepted in substitution for completed Application Forms.

As the position for which candidates are applying involves substantial opportunity for access to children, it is important that applicants provide the School with legally accurate answers. Upfront disclosure of a criminal record may not debar a candidate from appointment as the School shall consider the nature of the offence, how long ago and at what age it was committed and any other relevant factors. Information should be submitted in confidence enclosing details in a separate sealed envelope which will be seen and then destroyed by the Head. If candidates would like to discuss this beforehand, they are asked to please telephone in confidence to the Head for advice.

Any unspent convictions, cautions, reprimands or warnings must be disclosed to the School. However, amendments to the Exceptions Order 1975 (2013) provide that certain spent convictions and cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account. Guidance and criteria on the filtering of these cautions and convictions can be found at the Disclosure and Barring Service website.

The successful applicant will be required to complete an on-line Disclosure Form from the Disclosure and Barring Service (DBS) for the position. Additionally, successful applicants should be aware that they are required to notify the school immediately if there are any reasons why they should not be working with children. This includes any staff who are disqualified from childcare or registration including anyone who has been disqualified from working with children under the Childcare Act 2006.

The Childcare (Disqualification) Regulations 2009 apply to those providing early years childcare or later years childcare, including before school and after school clubs, to children who have not attained the age of 8 AND to those who are directly concerned in the management of that childcare.

The School takes its responsibility to safeguard children very seriously and any staff member and/or successful candidate who is aware of anything that may affect his/her suitability to work with children must notify their line manager immediately. This will include notification of any convictions, cautions, court orders, reprimands or warnings he/she may receive.

Staff and/or successful candidates who are disqualified from childcare or registration, may apply to Ofsted for a waiver of disqualification. Such individuals may not be employed in the areas from which they are disqualified, or involved in the management of those settings, unless and until such waiver is confirmed. Please speak to the head for more details.

Failure to declare any convictions (that are not subject to DBS filtering) may disqualify a candidate for appointment or result in summary dismissal if the discrepancy comes to light subsequently.

The School has a legal duty under section 26 of the Counter-Terrorism and Security Act 2015 to have 'due regard to the need to prevent people from being drawn into terrorism'. This is known as



the Prevent duty. Schools are required to assess the risk of children being drawn into terrorism, including support for extremist ideas that are part of terrorist ideology.

If the candidate is currently working with children, on either a paid or voluntary basis, the School will ask their current employer about disciplinary offences, including disciplinary offences relating to children or young persons (whether the disciplinary sanction is current or time expired), and whether the candidate has been the subject of any child protection allegations or concerns and if so the outcome of any enquiry or disciplinary procedure.

If the candidate is not currently working with children but has done so in the past, the School will ask the previous employer about those issues. Where neither the current nor previous employment has involved working with children, the School will still ask the current employer about the candidate's suitability to work with children. Where the candidate has no previous employment history, the School may request character references which may include references from the candidate's school or university.

All candidates should be aware that provision of false information is an offence and could result in the application being rejected or summary dismissal by the School if they have been appointed, and a possible referral to the police and/or DBS.

### **Shortlisting**

Shortlisted candidates should be asked to complete a self-declaration of their criminal record or information that would make them unsuitable to work with children. Self-declaration is subject to Ministry of Justice guidance on the disclosure of criminal records. For example:

- if they have a criminal history;
- whether they are included on the barred list;
- whether they are prohibited from teaching;
- whether they are prohibited from taking part in the management of an independent school;
- information about any criminal offences committed in any country in line with the law as applicable in England and Wales, not the law in their country of origin or where they were convicted;
- if they are known to the police and children's social care;
- have they been disqualified from providing childcare; and,
- any relevant overseas information.

This information will only be requested from applicants who have been shortlisted. The information should not be requested in the application form to decide who should be shortlisted. Applicants should be asked to sign a declaration confirming the information they have provided is true. Where there is an electronic signature, the shortlisted candidate should physically sign a hard copy of the application at point of interview.

The purpose of a self-declaration is so that candidates will have the opportunity to share relevant information and allow this to be discussed and considered at interview before the DBS certificate is received. We:

- ensure that at least two people carry out the shortlisting exercise (it is recommended that those who shortlist carry out the interview for a consistent approach);
- consider any inconsistencies and look for gaps in employment and reasons given for them; and,
- explore all potential concerns.

## **4. Selection and invitation to interview**



We use a range of selection techniques to identify the most suitable person for the post. Those interviewing should agree structured questions. These should include:

- finding out what attracted the candidate to the post being applied for and their motivation for working with children;
- exploring their skills and asking for examples of experience of working with children which are relevant to the role; and
- probing any gaps in employment or where the candidate has changed employment or location frequently, asking about the reasons for this.

The interviews should be used to explore potential areas of concern to determine the applicant's suitability to work with children. Areas that may be concerning and lead to further probing include: implication that adults and children are equal;

- lack of recognition and/or understanding of the vulnerability of children;
- inappropriate idealisation of children;
- inadequate understanding of appropriate boundaries between adults and children; and,
- indicators of negative safeguarding behaviours.

Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case. Where possible pupils should be involved in the recruitment process in a meaningful way. Observing short listed candidates and appropriately supervised interaction with pupils is common and recognised as good practice. All information considered in decision making should be clearly recorded along with decisions made.

The School will short list applicants according to the relevance and applicability of their professional attributes and personal qualities to the role. Short-listed applicants will then be invited to attend a formal interview at which his/her relevant skills and experience will be discussed in more detail.

All formal interview will have a panel of at least two people chaired by the Head/Bursar or another designated senior member of staff. It is recommended best practice that at least one person on the appointment panel will have undertaken safer recruitment training. The Chair of Governors (or their representative) should chair the panel for the Bursar's & Head's appointment. The interviewers involved will be required to state any prior personal relationship or knowledge of any of the candidates and a judgement will be made by the Chair as to whether or not an interviewer should withdraw from the panel. Should the Chair have a conflict of interest, the Vice Chair shall decide whether the Chair should withdraw from the panel.

The interview will be conducted in person and the areas which it will explore will include suitability to work with children.

All candidates invited to interview must bring documents confirming any educational and professional qualifications that are necessary or relevant for the post (e.g., the original or certified copy of certificates, diplomas etc.). Where originals or certified copies are not available for the successful candidate, written confirmation of the relevant qualifications must be obtained by the candidate from the awarding body.

The School requests that all candidates invited to interview also bring with them:

1. A current driving licence including a photograph or a passport or a full birth certificate;
2. A utility bill or financial statement issued within the last three months showing the candidate's current name and address;
3. Where appropriate any documentation evidencing a change of name;
4. Proof of entitlement to work and reside in the UK.



**Please note that originals of the above are necessary. Photocopies or certified copies are not sufficient.**

Candidates with a disability who are invited to interview should inform the School of any necessary reasonable adjustments or arrangements to assist them in attending the interview.

### **Online Recruitment Searches**

It is not unusual for the School to carry out a quick internet or social media search (Google, or other similar platforms, Facebook or similar) on a shortlisted candidate during a recruitment exercise. However, in light of the changes in Keeping Children Safe in Education, 2023 online searches on shortlisted candidates state that the School should "consider carrying out an online search as part of their due diligence on the shortlisted candidates" when recruiting.

Whilst online searches on shortlisted candidates are not an obligation the School should "consider" doing so. "Should" in this context means following the advice unless there is good reason not to. Accordingly, we expect online searches to now become a normal (and open) aspect of our recruitment process.

Therefore:

- we have reviewed the School's recruitment documentation to include its approach to online searches
- updated the School's privacy notices to reflect the approach to online searching, **therefore the shortlisted applicant is informed that this is part of the recruitment process.**
- we will consider what information will be searched and the Head/Bursar will carry this out
- we will consider what information will be recorded, and how long it will be retained along with the shortlisted candidate's files
- satisfy themselves that staff who are involved in undertaking the searches and in recruitment decisions understand what kinds of online search results should be considered in the context of recruitment decisions, in order to reduce the risk of arguments of discrimination, etc. The Head/Bursar have both completed safer recruitment training.

### **5. Conditional Offer of Appointment: Pre-appointment vetting checks, regulated activity and recording information**

This section provides the legal requirements that the Governors need to understand (and which must be carried out) when appointing individuals to engage in regulated activity relating to children. It covers the importance of ensuring the correct pre-appointment checks are carried out. These checks will help identify whether a person may be unsuitable to work with children (and in some cases is legally prohibited from working with children and/or working as a teacher). They should be seen as the part of a wider safeguarding regime which will carry on following appointment.

#### **Information we must record on the single central record.**

The Education and Training (Welfare of Children) Act 2021 covers safeguarding provisions for safer recruitment regulations in school. Therefore, we should carry out these pre appointment checks.

All offers of appointment should be conditional until satisfactory completion of the mandatory pre-employment checks. We must:

- verify a candidate's identity, it is important to be sure that the person is who they claim to be, this includes being aware of the potential for individuals changing their name. Best practice is checking the name on their birth certificate, where this is available.
- obtain (via the applicant) an enhanced DBS check (including children's barred list information, for those who will be engaging in regulated activity with children). Note that





when using the DBS update service you still need to obtain the original physical certificate;

- obtain a separate children's barred list check if an individual will start work in regulated activity with children before the DBS certificate is available;
- verify the candidate's mental and physical fitness to carry out their work responsibilities. A job applicant can be asked relevant questions about disability and health in order to establish whether they have the physical and mental capacity for the specific role;
- verify the person's right to work in the UK, including EU nationals. If there is uncertainty about whether an individual needs permission to work in the UK, then we follow advice on the GOV.UK website;
- if the person has lived or worked outside the UK, make any further checks the school or college consider appropriate; and,
- verify professional qualifications, as appropriate.

The Teaching Regulation Agency's (TRA) Employer Access Service should be used to verify any award of qualified teacher status (QTS), and the completion of teacher induction or probation.

In addition:

- independent schools, must check that a person taking up a management position is not subject to a section 128 direction made by the Secretary of State;
- all schools must ensure that an applicant to be employed to carry out teaching work is not subject to a prohibition order issued by the Secretary of State (see paragraph 234 for prohibition checks or any sanction or restriction imposed - that remains current) by the GTCE, before its abolition in March 2012;
- when providing childcare we must ensure that appropriate checks are carried out to ensure that individuals employed to work in reception classes, or in wraparound care for children up to the age of 8, are not disqualified from working in these settings under the Disqualification under the Childcare Act 2006, amended 2018.

For a candidate that has lived or worked outside the UK, an EEA check using the TRA Teacher Regulation Agency (<https://teacherservices.education.gov.uk/>) for information about any teacher sanction or restriction.

It is the School's practice that a successful candidate must complete a pre-employment health declaration. The information contained in the questionnaire will then be held by the School in strictest confidence. This information will be reviewed against the Job Description and the Person Specification for the particular role, together with details of any other physical or mental requirements of the role i.e. proposed workload, co-curricular activities, lay out of the School.

The School is aware of its duties under the Equality Act 2010. No job offer will be withdrawn without first consulting with the applicant, considering medical evidence and considering reasonable adjustments.

### **Employment history and references**

The purpose of seeking references is to allow employers to obtain factual information to support appointment decisions. We obtain references before interview, this allows any concerns raised to be explored further with the referee and taken up with the candidate at interview. We should:

- not accept open references e.g. to whom it may concern;
- not rely on applicants to obtain their reference;
- ensure any references are from the candidate's current employer and have been completed by a senior person with appropriate authority (if the referee is school or



college based, the reference should be confirmed by the Head as accurate in respect to disciplinary investigations);

- obtain verification of the individual's most recent relevant period of employment where the applicant is not currently employed;
- secure a reference from the relevant employer from the last time the applicant worked with children (if not currently working with children), if the applicant has never worked with children, then ensure a reference from their current employer;
- always verify any information with the person who provided the reference;
- ensure electronic references originate from a legitimate source;
- contact referees to clarify content where information is vague or insufficient information is provided; compare the information on the application form with that in the reference and take up any discrepancies with the candidate;
- establish the reason for the candidate leaving their current or most recent post; and,
- ensure any concerns are resolved satisfactorily before appointment is confirmed.

When asked to provide references we should ensure the information confirms whether they are satisfied with the applicant's suitability to work with children and provide the facts (not opinions) of any substantiated safeguarding allegations but should not include information about allegations which are unsubstantiated, unfounded, false, or malicious. References are an important part of the recruitment process and should be provided in a timely manner and not hold up proceedings.

### **Applicant moving from previous post**

There is no requirement for a school to obtain an enhanced DBS certificate or carry out checks for events that may have occurred outside the UK if, during a period which ended not more than three months before the person's appointment, the applicant has worked, in a school in England, in a post:

- which brought the person regularly into contact with children; or
- to which the person was appointed on or after 12th May 2006 and which did not bring the person regularly into contact with children or young persons.

Whilst there is no requirement to carry out an enhanced DBS check in the circumstances described above, we may still choose to request one to ensure they have up to date information. However, we must still carry out all other relevant pre-appointment checks, including where the individual is engaging in regulated activity with children, a children's barred list check.

### **Regulated activity**

In summary, a person will be engaging in regulated activity with children if, as a result of their work, they:

- will be responsible, on a regular basis in a school, for teaching, training instructing, caring for or supervising children;
- will be working on a regular basis in a specified establishment, such as a school, for or in connection with the purposes of the establishment, where the work gives opportunity for contact with children; or
- engage in intimate or personal care or healthcare or any overnight activity, even if this happens only once.

### **Types of DBS checks**

These are the types of checks available.





- Basic DBS check – this provides details of convictions and conditional cautions considered to be 'unspent' under the terms of the Rehabilitation of Offenders Act 1974.
- Standard DBS check – this provides information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC), regardless of whether they are spent under the Rehabilitation of Offenders Act 1974. The law allows for certain old and minor matters to be filtered out.
- Enhanced DBS check – this provides the same information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC) as a Standard DBS check, plus additional information held by police such as interviews and allegations. Additional information will only be disclosed where a chief police officer reasonably believes it to be relevant and considers that it ought to be disclosed.

The position being applied for/or activities being undertaken must be covered by an exempted question in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and by provisions in the Police Act 1997 (Criminal Records) Regulations 2002.

Enhanced DBS check with children's barred list information – where people are working or seeking to work in regulated activity relating to children, this allows an additional check, to be made, about whether the person appears on the children's barred list, along with a check of the Police National Computer records plus additional information held by police as above.

The position being applied for or activities being undertaken must be eligible for an enhanced DBS check as above and be for a purpose listed in the Police Act 1997 (Criminal Records) (No2) Regulations 2009 as qualifying for a barred list(s) check. In addition, this check can also include information as to whether an individual is subject to a section 128 direction. However, they have to use specific wording in the position applied for field (see paragraph 240).

### **Considering which type of check is required**

Most staff in a school working with children will be engaging in regulated activity relating to children, in which case an enhanced DBS check which includes children's barred list information, will be required. For all other staff (e.g. contractors) who have an opportunity for regular contact with children who are not engaging in regulated activity, an enhanced DBS certificate, which does not include a barred list check, will be appropriate. Barred list information must not be requested on any person who is not engaging in or seeking to engage in regulated activity.

Where a DBS certificate is required, it must be obtained from the candidate before, or as soon as practicable after, the person's appointment, including when using the DBS update service.

Once the checks are complete, the DBS will send a DBS certificate to the applicant. The applicant must show the original paper DBS certificate to their potential employer before they take up post, or as soon as practicable afterwards. We are able to compare any information disclosed on the certificate with any information shared by the applicant during the recruitment process.

We assess cases fairly, on an individual basis. A decision not to appoint somebody because of their conviction(s) should be clearly documented, so if challenged the school or college can defend its decision, in line with its policy on recruitment of ex-offenders. When assessing any disclosure information on a DBS certificate we take into consideration the explanation from the applicant, including for example:

- the seriousness and relevance to the post applied for;
- how long ago the offence occurred;



- whether it was a one-off incident or a history of incidents;
- the circumstances around the incident; and
- has the individual accepted responsibility for their actions?

We also consider the incident in the context of the Teachers' Standards and Teacher misconduct guidance, if the applicant is applying for a teaching post. Should we decide to allow an individual to start work in regulated activity relating to children before the DBS certificate is available, we ensure that the individual is appropriately supervised and that we carry out all other checks, including a separate children's barred list check. Separate barred list checks must only be carried out in the following circumstances:

- for newly appointed staff who are engaging in regulated activity, pending the receipt of an Enhanced Certificate with Barred List information from the Disclosure and Barring Service (DBS) (and where all other relevant checks have been carried out); or,
- where an individual has worked in a post in a school or college that brought them into regular contact with children or young persons which ended not more than three months prior to that person's appointment to the organisation (and where all other relevant checks have been carried out).

### **DBS Update Service**

Individuals can join the DBS Update Service at the point that an application for a new DBS check is made. Subscription to the service enables future status checks to be carried out by employers to confirm that no new information has been added to the check since its issue. As good practice, we require new staff to join the Update Service as part of their employment contract. The benefits of joining the Update Service are:

- portability of a DBS check across employers;
- free online checks to identify whether there has been any change to the information recorded, since the initial certificate was issued and advise whether the individual should apply for a new DBS check; and
- that individuals will be able to see a full list of those organisations that have carried out a status check on their account.

Before using the Update Service, we must:

- obtain consent from the individual to carry out an online check to view the status of an existing standard or enhanced DBS check;
- confirm the DBS certificate matches the individual's identity;
- examine the original certificate to ensure that it is valid for the children's workforce; and
- ensure that the level of the check is appropriate to the job they are applying for, e.g. enhanced DBS check/enhanced DBS check including with barred list information.

Prohibitions, directions, sanctions and restrictions Secretary of State teacher prohibition, and interim prohibition orders. Teacher prohibition and interim prohibition orders, prevent a person from carrying out teaching work as defined in the Teachers' Disciplinary (England) Regulations 2012 in schools, sixth form colleges, 16-19 academies, relevant youth accommodation and children's homes in England.

Teacher prohibition orders are made by the Secretary of State following consideration by a professional conduct panel convened by the TRA. Pending such consideration, the Secretary of State may issue an interim prohibition order if it is considered to be in the public interest to do so. The TRA's role in making prohibition orders and the processes used to impose them are described in more detail in the publication "Teacher misconduct: disciplinary procedures for the teaching profession" and "Teacher misconduct: the prohibition of teachers: Advice on factors relating to decisions leading to the prohibition of teachers from the teaching profession".



A person who is prohibited must not be appointed to a role that involves teaching work (as defined in the Teachers' Disciplinary (England) Regulations 2012 (see footnote 72). Historic General Teaching Council for England (GTCE) sanctions and restrictions. There remain a number of individuals who are still subject to disciplinary sanctions, which were imposed by the GTCE (prior to its abolition in 2012).

### **Secretary of State section 128 direction**

A section 128 direction prohibits or restricts an unsuitable individual from participating in the management of an independent school, including academies and free schools. An individual who is subject to a section 128 direction is unable to:

- take up a management position in an independent school, academy, or in a free school as an employee;
- be a trustee of an academy or free school trust; a governor or member of a proprietor body of an independent school; or
- be a governor on any governing body in an independent school, academy or free school that retains or has been delegated any management responsibilities.

There is no exhaustive list of roles that might be regarded as 'management' for the purpose of determining what constitutes management in an independent school. The DfE's view is that roles involving, or very likely to involve, management of a school include (but are not limited to) headteachers, principals, deputy/assistant headteachers, governors and trustees. It is important to note that the individual's job title is not the determining factor and whether other individuals such as teachers with additional responsibilities could be considered to be 'taking part in management' depends on the facts of the case.

The grounds on which a section 128 direction may be made by the Secretary of State are set out in The Independent Educational Provision in England (Prohibition on Participation in Management) Regulations 201 made under section 128 of the Education and Skills Act 2008. A section 128 direction will be disclosed when an enhanced DBS check with children's barred list information is requested, provided that 'child workforce independent schools' is specified on the application form as the position applied for. Where a person is not eligible for a children's barred list check but will be working in a management position in an independent school, a section 128 check should be carried out using the TRA's Employer Access service.

A person subject to a section 128 direction is also disqualified from holding or continuing to hold office as a governor of a maintained school.

### **How to check TRA, Teacher Employer Access service for prohibitions, directions, sanctions and restrictions.**

We use the TRA's Employer Access service to make prohibition, direction, restriction, and children's barred list checks. The service is free to use and is available via the TRA's web page. Users will require a DfE Sign-in account to log onto the service.

### **European Economic Area (EEA) regulating authority teacher sanctions or restrictions**

From 01 January 2021 the TRA Teacher Services system no longer maintains a list of those teachers who have been sanctioned in EEA member states.

### **Childcare disqualification**

Childcare disqualification is an additional requirement to the general child safeguarding arrangements provided under the Disclosure and Barring Service (DBS) regime, which apply to all children. The childcare disqualification arrangements apply to staff working with young



children in childcare settings, including primary schools, nurseries and other registered settings, such as childcare provision on college sites. The arrangements predominantly apply to individuals working with children aged 5 and under, including reception classes, but also apply to those working in wraparound care for children up to the age of 8, such as breakfast clubs and after school care. For staff who work in childcare provision, or who are directly concerned with the management of such provision, we need to ensure that appropriate checks are carried out to ensure that individuals are not disqualified under the Childcare Disqualification Regulations 2018.

### **Recording information Single central record**

We must maintain a single central record of pre-appointment checks, referred to in the Regulations as the register and more commonly known as the single central record.

The single central record must cover the following people:

- for schools, all staff, including teacher trainees on salaried routes, agency and third party supply staff, even if they work for one day;
- for colleges, details of staff, including agency and supply staff providing education to children under the age of 18; and
- for independent schools, all members of the Governors.

Paragraph below sets out the minimum information that must be recorded in respect of staff members (including teacher trainees on salaried routes). For agency and third party supply staff, we must include whether written confirmation has been received that the employment business supplying the member of supply staff has carried out the relevant checks and obtained the appropriate certificates, the date this confirmation was received and whether details of any enhanced DBS certificate have been provided in respect of the member of staff.

The single central record must indicate whether the following checks have been carried out or certificates obtained, and the date on which each check was completed or certificate obtained:

- an identity check;
- a barred list check;
- an enhanced DBS check requested/certificate provided;
- a prohibition from teaching check;
- further checks on people who have lived or worked outside the UK;
- a check of professional qualifications, where required; and
- a check to establish the person's right to work in the United Kingdom. In addition:
  - colleges must record whether the person's position involves 'relevant activity', i.e. regularly caring for, training, supervising or being solely in charge of persons aged under 18; and independent schools must record details of the section 128 checks undertaken for those in management positions.

The details of an individual should be removed from the single central record once they no longer work at the school or college.

### **Non statutory information**

We are free to record any other information they deem relevant. For example:

- whether relevant staff have been informed of their duty to disclose relevant information under the childcare disqualification arrangements;
- checks made on volunteers;
- checks made on governors;
- dates on which safeguarding and safer recruitment training was undertaken; and



- the name of the person who carried out each check.

The single central record can be kept in paper or electronic form.

### **Retention of documents**

We do not have to keep copies of DBS certificates in order to fulfil the duty of maintaining the single central record. To comply with the requirements of the Data Protection Act 2018, when we choose to retain a copy, there should be a valid reason for doing so and it should not be kept for longer than six months. When the information is destroyed we keep a record of the fact that vetting was carried out, the result and the recruitment decision taken if they choose to. Copies of DBS certificates and records of criminal information disclosed by the candidate are covered by UK GDPR/DPA 2018 Article 10. A copy of the other documents used to verify the successful candidate's identity, right to work and required qualifications should be kept on their personnel file.

iii. Other checks that may be necessary for staff, volunteers and others, including the responsibilities for children in other settings

This section sets out the checks that are necessary for individuals who have lived or worked outside the UK; agency and third-party staff; contractors; trainee teachers; volunteers; governors. It also sets out responsibilities placed on us in relation to, work experience and host families.

### **Individuals who have lived or worked outside the UK**

Individuals who have lived or worked outside the UK must undergo the same checks as all other staff in school. This includes obtaining (via the applicant) an enhanced DBS certificate (including barred list information, for those who will be engaging in regulated activity) even if the individual has never been to the UK. In addition, we must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered. Following the UK's exit from the EU, we should apply the same approach for any individuals who have lived or worked outside the UK regardless of whether or not it was in an EEA country or the rest of the world. These checks could include, where available:

- criminal records checks for overseas applicants; and for teaching positions
- obtaining a letter (via the applicant) from the professional regulating authority in the country (or countries) in which the applicant has worked confirming that they have not imposed any sanctions or restrictions, and or that they are aware of any reason why they may be unsuitable to teach.

Where available, such evidence can be considered together with information obtained through other pre-appointment checks to help assess their suitability.

Where this information is not available we seek alternative methods of checking suitability and or undertake a risk assessment that supports informed decision making on whether to proceed with the appointment.

Although sanctions and restrictions imposed by another regulating authority do not prevent a person from taking up teaching positions in England, we consider the circumstances that led to the restriction or sanction being imposed when considering a candidate's suitability for employment.

Not all countries provide criminal record information, and where they do, the nature and detail of the information provided varies from country to country. We should also be mindful that the criteria for disclosing offences in other countries often have a different threshold than those in the UK.



Some overseas qualified teachers can apply to the TRA for the award of qualified teacher status (QTS) in England. More information about this is available [here](#). Please note that holding a teaching qualification (wherever it was obtained) does not provide suitable assurances for safeguarding purposes that an individual has not been found guilty of any wrongdoing or misconduct, and or is suitable to work with children.

### **Agency and third-party staff (supply staff)**

We must obtain written notification from any agency, or third party organisation, that they have carried out the checks on an individual who will be working at the school or college that the school or college would otherwise perform. In respect of the enhanced DBS check, we must ensure that written notification confirms the certificate has been obtained by either the employment business or another such business.

Where the agency or organisation has obtained an enhanced DBS certificate before the person is due to begin work at the school or college, which has disclosed any matter or information, or any information was provided to the employment business, the school or college must obtain a copy of the certificate from the agency.

Where the position requires a children's barred list check, this must<sup>92</sup> be obtained by the agency or third party by obtaining an enhanced DBS certificate with barred list information, prior to appointing the individual.

We should also check that the person presenting themselves for work is the same person on whom the checks have been made.

### **Contractors**

Where we use contractors to provide services, we should set out their safeguarding requirements in the contract between the organisation and us.

We should ensure that any contractor, or any employee of the contractor, who is to work at the school, has been subject to the appropriate level of DBS check. Contractors engaging in regulated activity relating to children will require an enhanced DBS check (including children's barred list information).

For all other contractors who are not engaging in regulated activity relating to children, but whose work provides them with an opportunity for regular contact with children, an enhanced DBS check (not including children's barred list information) will be required. In considering whether the contact is regular, it is irrelevant whether the contractor works on a single site or across several sites. In cases where the contractor does not have opportunity for regular contact with children, we should decide on whether a basic DBS disclosure would be appropriate.

Under no circumstances should a contractor on whom no checks have been obtained be allowed to work unsupervised or engage in regulated activity relating to children. We are responsible for determining the appropriate level of supervision depending on the circumstances.

If an individual working at a school or college is self-employed, the school or college should consider obtaining the DBS check, as self-employed people are not able to make an application directly to the DBS on their own account.

We should always check the identity of contractors on arrival at the school.





### **Trainee/student teachers**

Where applicants for initial teacher training are salaried by the school, we must ensure that all necessary checks are carried out. If these trainee teachers are engaging in regulated activity relating to children (which in most cases by the nature of the work, they will be), an enhanced DBS check (including children's barred list information) must be obtained.

Where trainee teachers are fee-funded, it is the responsibility of the initial teacher training provider to carry out the necessary checks. We should obtain written confirmation from the provider that it has carried out all pre-appointment checks that we would otherwise be required to perform, and that the trainee has been judged by the provider to be suitable to work with children.

There is no requirement for us to record details of fee-funded trainees on the single central record. However, we may wish to record this information under non statutory information.

### **Visitors**

We have different types of visitors, those with a professional role i.e. educational psychologists, social workers etc. those connected with the building, grounds maintenance, children's relatives or other visitors attending an activity in school such as a sports day.

We do not request DBS checks or barred list checks, or ask to see existing DBS certificates, for visitors such as children's relatives or other visitors attending a sports day.

The Head use her professional judgment about the need to escort or supervise such visitors.

For visitors who are there in a professional capacity check ID and be assured that the visitor has had the appropriate DBS check (or the visitor's employers have confirmed that their staff have appropriate checks).

Whilst external organisations can provide a varied and useful range of information, resources and speakers that can help us enrich children's education, careful consideration should be given to the suitability of any external organisations.

Our safeguarding policies set out the arrangements for individuals coming onto their premises, which may include an assessment of the education value, the age appropriateness of what is going to be delivered and whether relevant checks will be required.

### **Volunteers**

Under no circumstances should a volunteer on whom no checks have been obtained be left unsupervised or allowed to work in regulated activity.

Whilst volunteers play an important role and are often seen by children as being safe and trustworthy adults, the nature of voluntary roles varies, so we undertake a written risk assessment and use their professional judgement and experience when deciding what checks, if any, are required.

The risk assessment should consider:

- the nature of the work with children, especially if it will constitute regulated activity, including the level of supervision;
- what the establishment knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers;



- whether the volunteer has other employment or undertakes voluntary activities where referees can advise on their suitability; and
- whether the role is eligible for a DBS check and if it is, what level is appropriate. Details of the risk assessment should be recorded.

### **When should a DBS with barred list be obtained for volunteers?**

Schools or colleges should obtain an enhanced DBS check (which should include children's barred list information) for all volunteers who are new to working in regulated activity with children, i.e. where they are unsupervised and teach or look after children regularly, or provide personal care on a one-off basis.

Employers are not legally permitted to request barred list information on a supervised volunteer, as they are not considered to be engaging in regulated activity.

### **Supervision of volunteers**

It is for us to determine whether a volunteer is considered to be supervised. Where an individual is supervised, to help determine the appropriate level of supervision, we must have regard to the statutory guidance issued by the Secretary of State.

For a person to be considered supervised, the supervision must be:

- by a person who is in regulated activity relating to children;
- regular and day to day; and
- reasonable in all the circumstances to ensure the protection of children.

### **Existing volunteers**

Volunteers engaging in regulated activity do not have to be re-checked if they have already had a DBS check (which includes barred list information) unless the school or college have any concerns.

### **Proprietors of independent schools**

Before an individual becomes either the proprietor of an independent school or the chair of a body of people which is the proprietor of an independent school, the Secretary of State will:

- carry out an enhanced DBS check; and
- where such a check is made, obtain an enhanced DBS certificate (either including or not including children's barred list information as appropriate);
- confirm the individual's identity; and
- if the individual lives or has lived outside of the UK, where applying for an enhanced check is insufficient, such other checks as the Secretary of State considers appropriate.

The Secretary of State also undertakes these checks in respect of the chair of governing bodies of non-maintained special schools. Where the proprietor is a body of people, the chair must ensure that enhanced DBS checks are undertaken, for the other members of the body, and that where such a check has been undertaken, an enhanced DBS certificate is obtained, and the chair must ensure that identity checks are completed before, or as soon as practicable after, any individual takes up their position. The chair must also ensure that other members are not subject to a section 128 direction that would prevent them from taking part in the management of an independent school (including academies and free schools). Further checks, as the chair considers appropriate, should be undertaken where, by reason of the individual's living or having lived overseas, obtaining an enhanced DBS check is not sufficient to establish an individual's suitability to work in a school.

### **Adults who supervise children on work experience**



When organising work experience placements we should ensure that the placement provider has policies and procedures in place to protect children from harm. Children's barred list checks via the DBS might be required on some people who supervise a child under the age of 16 on a work experience placement. We consider the specific circumstances of the work experience. Consideration must be given in particular to the nature of the supervision and the frequency of the activity being supervised, to determine what, if any, checks are necessary. These considerations would include whether the person providing the teaching/training/instruction/supervision to the child on work experience will be:

- unsupervised themselves; and
- providing the teaching/training/instruction frequently (more than three days in a 30-day period, or overnight).

If the person working with the child is unsupervised and the same person is in frequent contact with the child, the work is likely to be regulated activity relating to children. If so, the school or college could ask the employer providing the work experience to ensure that the person providing the instruction or training is not a barred person.

We are not able to request that an employer obtains an enhanced DBS check with children's barred list information for staff supervising children aged 16 to 17 on work experience.

If the activity undertaken by the child on work experience takes place in a 'specified place', such as a school or sixth form college, and gives the opportunity for contact with children, this may itself be considered to be regulated activity relating to children. In these cases, and where the child doing the work experience is 16 years of age or over, the work experience provider e.g. school or sixth form college should consider whether a DBS enhanced check should be requested for the child in question. DBS checks cannot be requested for children under the age of 16.

## 6. References

The School will seek the references referred to in section 5 above for shortlisted candidates and may approach previous employers for information to verify particular experience or qualifications, before interview. If the candidate does not wish the School to take up references in advance of the interview, they should notify the School at the time of applying.

The School will ask all referees if the candidate is suitable to work with children.

The School will compare any information provided by the referee with that provided by the candidate on the Application Form. Any inconsistencies will be discussed with the candidate.

## 7. Criminal Records Policy

The School will refer to the Department for Education (DfE) document, 'Keeping Children Safe in Education' 2023, and any amended version in carrying out the necessary required DBS checks. The School complies with the provisions of the DBS Code of Practice, a copy of which may be obtained on request or accessed here:

<https://www.gov.uk/government/publications/dbs-code-of-practice>].

There are limited circumstances where the school will accept a check from another educational institution which are as follows:

Where the new member of staff ("M") has worked in: -

- (a) A school or a maintained school in England in a position which brought M regularly into contact with children or young persons;
- (b) A maintained school in England in a position to which M was appointed on or after May 2006 and which did not bring M regularly into contact with children or young persons.

## DBS Update Service



Where an applicant subscribes to the DBS Update Service the applicant must give consent to the school to check there have not been changes since the issue of a disclosure certificate. A barred list check will still be required.

### **DBS - Important Changes from 1st April 2021**

From the 1 April 2021, standalone checks of the children's barred list will be administered by the Teaching Regulation Agency (TRA) on behalf of the DfE. This means that standalone barred list checks can no longer be obtained from TP Online or from the various umbrella bodies and supply agencies who currently sell these checks.

We ensure that we see the original (paper) DBS certificate for all new appointments in regulated activity with children. A digital certificate or letter of clearance is not acceptable.

If the appointee is transferring directly from another school in England without a break in service of 3 months or more, the appointing school can undertake a stand-alone barred list check using the TRA website.

### **If disclosure is delayed**

A short period of work is allowed under controlled conditions, at the Head's discretion. However, if an 'enhanced disclosure' is delayed, a Head may allow the member of staff to commence work:

- Without confirming the appointment;
- After a satisfactory check of the barred list if the person will be working in regulated activity and all other relevant checks (including any appropriate prohibition checks) having been completed satisfactorily;
- Provided that the DBS application has been made in advance;
- With appropriate safeguards taken (for example, loose supervision);
- Safeguards reviewed at least every two weeks by the Head/Bursar and member of staff;
- The person in question is informed what these safeguards are; and
- It is recommended, but not a requirement that a note is added to the single central register and evidence kept of the measures put in place.

## **8. Retention and Security of Records**

The School will comply with its obligations regarding the retention and security of records in accordance with the DBS Code of Practice and its obligations under its Data Protection Policy. Copies of DBS certificates will not be retained for longer than 6 months.

### **Safeguarding**

The School makes all candidates and staff aware that all posts in the School involve responsibility for safeguarding children although the extent of that responsibility will vary according to the nature of the post.

### **Related Policies and Documents**

This policy should be read in conjunction of the following:

Safeguarding & Child Protection Policy

Keeping Children Safe in Education 2023

Staff Code of Conduct Policy

Reviewed by Catherine Lupton, Autumn 2023

### **Appendix**

#### **Social media and internet search**

**Name..... Role Applied for: .....**



Date of check	initials of checker	Information found relating to suitability of role	Comments



## **Appendix**

### **Policy on the Recruitment of Ex-Offenders**

The School will not unfairly discriminate against any candidate for employment on the basis of conviction or other details revealed. The School makes appointment decisions on the basis of merit and ability. If an individual has a criminal record this will not automatically bar him/her from employment within the School. Instead, each case will be decided on its merits in accordance with the objective assessment criteria set out below.

All candidates should be aware that provision of false information is an offence and could result in the application being rejected or summary dismissal if they have been appointed, and a possible referral to the police and/or DBS.

Under the relevant legislation, it is unlawful for the School to employ anyone who is included on the lists maintained by the DBS of individuals who are considered unsuitable to work with children. In addition, it will also be unlawful for the School to employ anyone who is the subject of a disqualifying order made on being convicted or charged with the following offences against children: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence. It is also unlawful for the School to knowingly employ someone who works in the relevant settings and is disqualified from providing childcare under the Childcare (Disqualification) Regulations 2009.

It is a criminal offence for any person who is disqualified from working with children to attempt to apply for a position within the School. The School will report the matter to the Police and/or the DBS if:

- the School receives an application from a disqualified person;
- is provided with false information in, or in support of an applicant's application; or
- the School has serious concerns about an applicant's suitability to work with children.

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, the School will consider the following factors before reaching a recruitment decision:

- whether the conviction or other matter revealed is relevant to the position in question;
- the seriousness of any offence or other matter revealed;
- the length of time since the offence or other matter occurred;
- whether the applicant has a pattern of offending behaviour or other relevant matters;
- whether the applicant's circumstances have changed since the offending behaviour or other relevant matters;
- in the case of disqualification from providing childcare, whether the applicant has or is able to obtain an Ofsted waiver from disqualification; and
- the circumstances surrounding the offence and the explanation(s) offered by the convicted person.

If the post involves regular contact with children, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of any of the following offences: murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence, serious class A drug related offences, robbery, burglary, theft, deception or fraud.

If the post involves access to money or budget responsibility, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of robbery, burglary, theft, deception or fraud.

If the post involves some driving responsibilities, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted of drink driving.