



# PRE-EMPLOYMENT CHECKS PROCEDURE

July 2017

Passmores Co-operative Learning Community

## Changes – May 2017

All references to eCRB have been updated to eDBS. Page references have been updated throughout the document.

Section / paragraph / page	Issue	Detail / Change
2.1 and 2.2	Single Central Record.	Insertion of reference to the model Excel SCR template on the EES for schools website.  Re-wording section 2.1 and 2.2 to mirror current statutory guidance wording. No change to application in practice.
11	Removal of section requiring schools to update the Disclosure Unit with the recruitment decision where a positive check has been received.	The Disclosure Unit has confirmed this is no longer required.
11.8	Starting work pending a DBS Disclosure.	Insertion of wording to clarify that a standalone DBS Children's Barred list is required prior to an individual starting work where a DBS check is still pending.

This policy is based on the Essex County Council HR Model released in May 2017.

The PCLC Trust Directors formally approved the policy on 13<sup>th</sup> July 2017. This policy will be reviewed when the ECC HR model policy is updated, and in the event of any changes to legislation.

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## Introduction

The following guidance sets out the requirements and procedures for obtaining pre-employment checks.

The over-arching requirements for pre-employment checks are contained in the statutory guidance issued by the DfE “Keeping Children Safe in Education” (as amended), which replaced “Safeguarding Children and Safer Recruitment in Education” in April 2014. The current version of Keeping Children Safe in Education is dated 5 September 2016 and is available at the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/526153/Keeping\\_children\\_safe\\_in\\_education\\_guidance\\_from\\_5\\_September\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/526153/Keeping_children_safe_in_education_guidance_from_5_September_2016.pdf)

On 27th February 2015, the Department for Education issued new statutory guidance on the application of the Childcare (Disqualification) Regulations 2009 (“the Regulations”) and the related obligations under the Childcare Act 2006 for schools. This replaced the supplementary advice to Keeping Children Safe in Education issued on 10 October 2014. A new section relating to the Regulations was inserted into the procedure.

Consultation on amending the Childcare (Disqualification) arrangements in schools (and non-domestic registered settings) ended on 1<sup>st</sup> July 2016. The outcome of the consultation due in January 2017 could be the removal of disqualification by association in schools or retaining it in a modified form (and possibly with a reduced scope). Implementing any change will require change to legislation and so currently the existing regulations still apply.

From 5 January 2015 a revised set of independent school standards came into force. These standards apply in part, to academies and free schools. The further revisions, together with all previous amendments, have been brought together into a single set of regulations made under s.94 of the Education and Skills Act 2008.

<http://www.legislation.gov.uk/ukxi/2014/3283/contents/made>

The changes in Part 4 bring the requirements for barred list checks into line with those set in place by the Protection of Freedoms Act 2012, and make it a requirement that no member of staff or proprietor works at the school in contravention of a prohibition order issued by the Secretary of State, or occupies a management position when subject to a direction barring that person from such a post (**this part applies to academies and free schools**).

A mechanism for carrying out checks for the existence of directions made by the Secretary of State under s.128 of the Education and Skills Act 2008 barring individuals from taking part in the management of an independent school (which includes academies and free schools) was not immediately available but the DfE has now agreed procedures with the Disclosure and Barring Service (DBS) and the NCTL so that any s.128 directions made by the Secretary of State will show up on checks made on individuals with those bodies.

It is not necessary to check existing staff or members of proprietor bodies for the existence of an s.128 direction. If an individual already at a school is the subject of a direction made from now onwards, that would be taken up by the department with the school concerned. A new section relating to these regulations has been inserted into this procedure (section 12).

Additional legislation relevant to specific checks are set out in the relevant sections.

Each section sets out the requirements in respect of employed staff, volunteers and workers/volunteers provided by third parties.

- Where the school directly employs a person (or engages them as a volunteer) the school is responsible for carrying out all checks.
- Where the worker is provided by a third party, the school must receive written confirmation that relevant checks have been carried out.

A table summarising the relevant checks for different workers is on the next page.

### **Records**

The school must maintain a Single Central Record of the key pre-employment checks it has carried out in accordance with statutory guidance issued by the DfE “Keeping Children Safe in Education”. See Section 2 for further information.

It is recommended that evidence that checks have been undertaken is kept on individual’s personal files, and for some checks this is statutory. For casual staff/volunteers the evidence should be kept in a central file. See Appendix 2.

# 1. Pre-Employment Checks at a glance

■ school responsibility to obtain/check

■ third party responsibility

■ Single Central Record

<b>Staff employed/engaged through school</b> <b>NB: This table does NOT include the Childcare Disqualification Regulations check (see section 14) or the Section 128 Direction Check which applies in academies (see section 12)</b>	DBS Enhanced	DBS Children's Barred List	ECC LADO check (Essex Schools Only)	Right to work in UK	Prohibition from teaching	Proof of Identity	Self-Declaration (SDA)	References	Checks on individuals who have lived or worked abroad <sup>4</sup>	Sign in & out	Medical	Qualifications relevant to post
New staff	■	■	■	■	■	■	■	■	■	■	■	■
Individuals who have lived or worked outside the UK	*	■	■	■	■	■	■	■	■	■	■	■
School Direct (salaried) Trainees	■	■	■	■	■	■	■	■	■	■	■	■
Residential Staff	■	■	■	■	■	■	■	■	■	■	■	■
Supply Staff	■	■	■	■	■	■	■	■	■	■	■	■
AOTTs (Adults other than Teachers)	■	■	■	■	■	■	■	■	■	■	■	■
Volunteers(in Regulated Activity) <sup>1</sup>	■	■	■	■	■	■	■	■	■	■	■	■
Volunteers (not in Regulated Activity) <sup>2</sup>	■	■	■	■	■	■	■	■	■	■	■	■
Work Placement (16 years & over through school direct)	■	■	■	■	■	■	■	■	■	■	■	■
Apprentices	■	■	■	■	■	■	■	■	■	■	■	■
<b>Staff employed through third party</b>	■	■	■	■	■	■	■	■	■	■	■	■
Supply Staff <sup>3</sup>	■	■	■	■	■	■	■	■	■	■	■	■
Foreign Language Assistants	*	■	■	■	■	■	■	■	■	■	■	■
Contract workers <sup>3</sup> (e.g. PFI)	■	■	■	■	■	■	■	■	■	■	■	■
SCITT <sup>3</sup> /Schools Direct (Tuition fees) Trainees	■	■	■	■	■	■	■	■	■	■	■	■
LA Staff (i.e. Essex Music Services)	■	■	■	■	■	■	■	■	■	■	■	■
Other Providers <sup>3</sup> (i.e. sport centres)	■	■	■	■	■	■	■	■	■	■	■	■
Work Placement <sup>3</sup> (16 years & over through study course)	■	■	■	■	■	■	■	■	■	■	■	■
<b>Other</b>	■	■	■	■	■	■	■	■	■	■	■	■
Visitors	■	■	■	■	■	**	■	■	■	■	■	■
Work Experience (under 16 years)	■	■	■	■	■	■	■	■	■	■	■	■
Self-employed <sup>5</sup>	■	■	■	■	■	■	■	■	■	■	■	■
Governors (in Regulated Activity)	■	■	■	■	■	■	■	■	■	■	■	■
Governors (not in Regulated Activity)	■	■	■	■	■	■	■	■	■	■	■	■

**KEY** <sup>1/2</sup> Regulated Activity is defined in Section 10 <sup>2</sup> DBS optional - DBS Children's Barred List not included. <sup>3</sup> Schools should receive written confirmation from third party that all relevant checks have been carried out (employer to determine which checks required according to regulations) <sup>4</sup> Employee to obtain / Schools to check.



5 If individual engaging in Regulated Activity they should produce a DBS check with DBS Barred List check (see section 10 for definition of Regulated Activity and Appendix 5 for DBS requirements) \* Once the applicant has an address in the UK a DBS check should be completed. \*\* Visitors do not need to be recorded on SCR.

## 2. Single Central Record (SCR)

The Keeping Children Safe in Education Guidance (Sept 2016), requires all schools and academies to produce and maintain a “Single Central Record of Recruitment and Vetting Checks”. The record may be in paper or electronic format.

### 2.1. Who must be on the Single Central Record?

The statutory guidance states that all school and academies must keep and maintain a single central record of the checks which have been carried out on the following people:

- All staff who work at the school (including teacher trainees on salaried routes);
  - Supply staff (both directly employed by the school or engaged through an agency);
  - For Academies and free schools, all members of the proprietor body\*; and
  - Where checks are carried out on volunteers, schools should record this on the SCR
- \*For Single Academies/Free schools, all members of the governing board and for multi academy trust schools, all trustees/directors should be recorded on the SCR. The statutory guidance does not specifically require governors in maintained schools or local governing boards in multi-academy trusts to be recorded on the SCR but we would recommend that where checks have been carried out that they are recorded.

In addition to those listed above, we strongly recommend the following individuals are recorded on the SCR (and we understand Ofsted expect to see these individuals recorded):

- All others who have regular contact with children at the school for example:
  - Others brought into school to provide additional instruction to pupils (e.g. Sport Coaches, Artists etc).
  - Public Sector staff working at the school e.g. school nurse.
  - Contractors (e.g. contract cleaners, caterers – not occasional or temporary contractors such as builders (see 10.2.4 and Appendix 5).

The Single Central Record (SCR) should be a live document, recording those who are currently at the school. Individuals should be removed from the SCR when they have left employment or ceased to attend the school, although they must be placed back on the SCR if they return to the school. In such cases the school may need to re-complete checks. In order to comply with Data Protection Legislation, schools should ensure that information on leavers is not retained for longer than necessary and the SCR should be periodically checked to ensure that the information is up to date.

### 2.2. What information should the SCR contain?

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

- An identity check;
- A check of professional qualifications (where these are required for the post);
- A DBS Children’s Barred List check (where this is not applicable for a supervised volunteer, it is recommended that ‘supervised volunteer’ is entered in this box);
- An enhanced DBS check/certificate;
- A section 128 check (for those engaged in management roles in academies and free schools -see section 12 for more information);

- A prohibition from teaching check;
- A check to establish the person's right to work in the UK (NB the date of this check must be completed for all employees – DO NOT PUT N/A. This check is not required for volunteers/governors where the entry N/A can be used); and
- Further checks on individuals who have lived or worked outside the UK (see sections 9 and 13 for more information).

Where the Childcare Disqualification Regulations 2009 (see section 15) apply, schools may wish to include an additional column relating to the Disqualification checks. Ofsted will check this information is recorded somewhere as part of their inspection process (see 13.8 below).

The SCR must indicate whether particular checks are required and when each check was carried out. It is recommended that the SCR also includes the name or initials of the person who carried out the check.

A sample format for the SCR can be found at Appendix 1. A model Excel Spreadsheet template is also available from our website.

### **2.3. What evidence must be seen and retained?**

The processes for obtaining checks and details of acceptable evidence are complex and are detailed in this document.

A summary of the evidence to be retained for a personal file can be found at Appendix 4.

Evidence must be held on personal files for:

- Identify
- Qualifications
- The right to work in the UK.

The evidence must be copied and held on the employee's personal file. Evidence that an agency/3<sup>rd</sup> party employer have carried out the checks should be kept on a secure file.

The Data Protection Act allows the retention of sensitive personal data in connection with employment - as it is required for Safeguarding purposes. All files must be kept in secure locked cabinets and access restricted to relevant authorised persons.

Employers may keep a summary printed off from the eDBS online system to confirm that a check has been carried out. The DfE guidance states that schools do not have to keep copies of DBS certificates in order to fulfil the duty of maintaining the Single Central Record and that where a school chooses to retain copies of DBS certificates (while making the employment decision) they should only do so where a DBS consent form has been signed and should not retain them for longer than 6 months from the date of receipt. It is recommended best practice that all copies of DBS certificates are destroyed once the employment/engagement decision has been made.

The date of the check should be recorded on the Single Central Record if the employment/engagement is confirmed. Schools may also wish to record details of the person who carried out the checks and the DBS certificate number on the Single Central Record but are not required to do so.

## 2.4. Checks on third party staff

Where the person is provided to the school by a third party (e.g. Agency, Contractor, Sports Club), the school must:

- Receive written confirmation, from the third party, that all the necessary checks have been satisfactorily completed (A sample letter requesting this information is available at Appendix 15).
- Carry out its own identity checks to verify that the person who presents for work is the person the third party has checked.
- In the case of Supply Agencies only, receive a copy, from the Agency, of any DBS certificates with Disclosure information (once an employment decision is made by the school the Certificate must be destroyed and the normal record (date and Disclosure number) retained).
- Record the date that written confirmation of the necessary checks has been received from the third party employer on the SCR.

The school does not need to carry out the checks for third party staff itself, other than checking identity. However, if written confirmation from the third party provider cannot be obtained, the school will need to undertake these checks or decide not to allow the person to work at the school.

### 2.4.1 Public Sector staff

Individuals who have regular contact with children such as psychologists, nurses, dentists, centrally employed teachers and other public sector staff will have been checked by their employing organisation. The school should record their status (i.e. Public Sector) on the SCR.

The school must carry out its own identity checks when an individual arrives.

### 3. Identity

<b>Who:</b>	<ul style="list-style-type: none"> <li>All staff directly employed by the school, all volunteers, governors, contractors, workers provided by external agencies, etc.</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Applicants – at interview (where applicable) or prior to commencing work</li> <li>Others – on arrival at the premises</li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>School to verify each individual's identity. Identification checking guidelines can be found on the GOV.UK website:   <a href="https://www.gov.uk/government/publications/dbs-identity-checking-guidelines/id-checking-guidelines-for-dbs-check-applications">https://www.gov.uk/government/publications/dbs-identity-checking-guidelines/id-checking-guidelines-for-dbs-check-applications</a> </li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>DfE Statutory Guidance “Keeping Children Safe in Education” 5 September 2016</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>The school should check the identity of any worker/volunteer provided by a third party.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Required to be recorded on SCR</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

#### 3.1 Verifying Identity

Schools should check the identification for anyone who will work on the premises.

Recent versions of the statutory guidance relating to ID checking have referred to the DBS checking guidelines on the GOV.uk website. Therefore for staff recruited on or after March 2015 at least 3 documents are required to verify identity (in line with DBS guidelines) and these should be retained on file. Prior to this the statutory guidance (April 2014) stated identity could be verified preferably by current photo ID and proof of address except where, for exceptional reasons, none was available. A copy of all documents used to verify identity for regular visitors may be retained so they will not need to reproduce evidence on subsequent visits.

Copies of documents retained on file should ideally have the date they were copied and the name/initials of who took the copy marked onto the copy documents to confirm the date they were seen for the Single Central Record.

Visitors such as psychologists, nurses, dentists, centrally employed teachers, other public sector staff and supply staff from an agency should have official ID badges.

Visitors such as parents and family members attending events such as parents evenings, or sports days etc. are not required to provide identification.

## 4. References

<b>Who:</b>	<ul style="list-style-type: none"><li>• All staff directly employed by the school</li><li>• Volunteers working regularly</li></ul>
<b>When:</b>	<ul style="list-style-type: none"><li>• Immediately following shortlisting – on all shortlisted applicants</li></ul>
<b>How:</b>	<ul style="list-style-type: none"><li>• Standard format reference request letter</li><li>• Enclose job description/person specification</li></ul>
<b>Source:</b>	<ul style="list-style-type: none"><li>• DfE Statutory Guidance Keeping Children Safe in Education dated 5 September 2016</li><li>• School Staffing Regulations 2012</li></ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"><li>• Third parties providing workers are expected to follow the best practice set out in the DfE Keeping children safe in education statutory guidance.</li></ul>
<b>SCR:</b>	<ul style="list-style-type: none"><li>• Not required to be recorded on SCR</li></ul>
<b>Forms:</b>	<ul style="list-style-type: none"><li>• Standard format reference request letter can be found at Appendix 3</li><li>• A letter requesting further information relating to the preferred candidate can be found at Appendix 4</li></ul>

### 4.1. How many and from whom

It is recommended best practice that two references are requested for all shortlisted candidates, including internal candidates, immediately after shortlisting.

It is expected that, wherever possible, the referees should be the two most recent employers. If this is not possible, the applicant should clearly outline who the referees are. Other referees should, where possible, be from another recent employer working with children.

References supplied on behalf of a school should only be accepted where they are from/sent on behalf of the Headteacher, even though the applicant might have given a different referee (e.g. the Head of Department).

Where an applicant does not have a previous employer they should identify a trusted authoritative source, wherever possible, who has knowledge of the person's interaction with children. Examples may include from an academic institution, voluntary organisation, church etc.

The school should not accept references from relatives or from people writing solely in the capacity of friends. Open references should also not be accepted.

In exceptional circumstances, a candidate may present with their application, a good reason not to want their referees to be contacted prior to interview. In such cases the school should liaise with the applicant and where they agree to defer, contact the referee immediately after interview and before an unconditional offer of employment is made.

The school should use their best endeavours to obtain appropriate references. This may entail making repeat requests for references in the event that no response is received. Where no reference is obtained the school should keep copies of all their attempts to obtain references and carry out a risk assessment as to whether to proceed with the recruitment process in the absence of such references and in light of all other pre-employment checks. A model form is available at Appendix 16.

## 4.2. Format

References must be in writing and specific to the job applied for. “Open” references or “testimonials” are not acceptable. Telephone references must always be confirmed in writing.

A template reference request is available at Appendix 3.

Reference requests should specifically ask:

- about the referee’s relationship with the candidate;
- whether the referee is satisfied that the candidate has the ability, and is suitable, to undertake the job in question;
- whether the referee is completely satisfied that the candidate is suitable to work with children, and, if not, to provide specific details of the concerns and the reasons why the referee believes the person might be unsuitable.

Referees should also be asked to confirm details of:

- the applicant’s current post, and salary;
- performance history, capability\* and conduct;
- any disciplinary procedures in which the disciplinary sanction is current;
- any disciplinary procedures and the outcomes, involving issues related to the safety and welfare of children, in which the disciplinary sanction has expired; and,
- any details of allegations or concerns related to the safety and welfare of children, except where they have been found to be unsubstantiated, unfounded or malicious. A history of repeated concerns or allegations which have all been found to be unsubstantiated and malicious should also not be included in any reference.

\*In accordance with the School Staffing (Amendment) Regulations 2012, Maintained Schools should specifically ask if the current employer has implemented its capability procedures in respect of the individual within the last 2 years. Any maintained school is obliged to respond to this question. This applies specifically to teachers but may be applied for all staff. Academies are also obliged to respond to this question by virtue of the Academies Funding Agreement.

In accordance with the Equality Act 2010, the school should not request information concerning the individual’s sickness and attendance record prior to the selection stage. Once the preferred candidate has been selected following the interview, then sickness and attendance records (i.e. period of absence over the last 2 years and number of day’s absence over the last 2 years) can be requested from the referee as part of the pre-employment checks (see Appendix 4 for a sample letter). Where such information is provided, the school must discuss the information with the candidate prior to making any decision in relation to whether to confirm the offer of employment. If a school wishes to withdraw an offer following receipt of additional information relating to sickness absence/attendance they should seek advice from their HR Consultant.

Where a school receives a request for further information relating to a preferred candidate’s sickness absence/attendance, this information must only be released where the individual has provided their express (written) consent. Where the individual does not provide their consent, the information must not be released (this is notified to employers in the sample letter Appendix 4). Schools should inform the employer requesting the information that the

individual has not consented to the release of such information. In these circumstances the prospective employer will need to make a decision based on the information available to them.

### **4.3. Checking references**

On receipt, references should be checked to ensure that all specific questions have been answered satisfactorily. If all questions have not been answered satisfactorily or the reference is vague or unspecific, the referee should be contacted and asked to provide written answers or amplification as appropriate.

References must be compared to the details contained in the application form to ensure that the information provided is consistent. Any discrepancies should be taken up with the candidate at, or prior to, interview.

### **4.4. Access to references**

The Data Protection Act allows individuals to access references about themselves received by a school (subject to respecting the confidentiality of third parties), but not those *provided* by a school.

References received from a third person are not exempt from the Data Protection Act. If a reference is held in a way that is covered by the act, any request for access to that information must be considered under the rules of access.

An individual can have access to information about them, but may not necessarily have access to information about other people, provided in confidence. Advice should be sought from your link HR Consultant if access is requested.

Where the school has written a reference for an employee or ex-employee, the individual may request to see a copy of the reference. If someone asks for a copy of a reference the school has written about them, the school does not have to provide this, due to an exemption within the Data Protection Act. However, the school is recommended to adopt an open reference policy whereby the information contained within a reference is shared with the individual on request.

### **4.5. Use of information**

Any information about current or past disciplinary/capability issues should be considered in the circumstances of the individual case. Such information should not be used to automatically discount applicants and should be considered in the overall context of the selection process including all other pre-employment checks, the role and the discussion with the applicant. Cases in which an issue was satisfactorily resolved some time ago, or did not require a formal sanction, and where no further issues have been raised, are less likely to cause concern.



## 5. Self-disclosures (SD2s)

<b>Who:</b>	<ul style="list-style-type: none"> <li>All applicants and volunteers</li> <li>Governors complete a self-declaration form available from governor services.</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Applicants should bring a completed SD2 form to the interview.</li> <li>Volunteers should complete an SD2 form prior to starting work.</li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>Completion of SD2 form</li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>Criminal Justice &amp; Courts Services Act 2000 &amp; Rehabilitation of Offenders Act 1974</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>SD2's are an ECC form. Third parties providing workers to Schools are expected to follow the best practice set out in the DfE Keeping Children Safe in Education Sept 2016 statutory guidance.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Not required to be recorded on SCR</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>SD2 Form (and guidance) can be found at Appendix 5.</li> <li>These forms are also available to download from the Education HR section of the EES for Schools website at the following link <a href="http://www.eesforschools.org/">http://www.eesforschools.org/</a> (click on Customer Login (top right) to login. Once logged in click on Education HR on the left hand side and select "pre-employment checks" from the list on the left hand side).</li> </ul>

### 5.1. Declaration

School workers and volunteers are exempt from the Rehabilitation of Offenders Act which means that spent convictions must be declared, save for those that have been filtered (see section 11.5). Although applicants must be asked to self-declare convictions, cautions, pending prosecutions and any current investigations (save for those that have been filtered) – this does not negate the requirement for DBS and DBS Children's Barred List checks to be carried out where the applicant or volunteer will be carrying out Regulated Activity.

### 5.2. Declaration on application forms

All applicants and volunteers should complete an application form and this should include a declaration that they are not disqualified from working with children, or where applicable, subject to sanctions imposed by a regulatory body e.g. National College for Teaching and Leadership.

### 5.3 Information that should be declared on an SD2 form

From 29 May 2013, the new police filtering of criminal information came into effect. As a result, DBS Certificates will no longer contain certain information about some old or minor offences and therefore employers may no longer ask applicants to declare these "filtered" offences on self-declaration forms.

The general rules on filtering are set out in section 11.5 (DBS checks) and these are also explained in the guidance on the back of the SD2 Form (attached at Appendix 5).

There is a list of offences which must always be declared (as they will never be filtered) irrespective of when they occurred.

This list is too large to replicate on the form or in this procedure and can be found at <https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>.

It is the responsibility of the individual to check what they must declare. In the event that an individual declares cautions or convictions which would be filtered by the Police these must be disregarded by the school for the purposes of the recruitment decision.

In the event that an applicant/volunteer fails to disclose information on the SD2, schools will need to consider whether this was a result of confusion over the information which they should declare or a deliberate misrepresentation.

#### **5.4. Processing and using information**

SD2 forms should be submitted in a sealed envelope, marked private and confidential, to the chair of the selection panel/headteacher, prior to interview/once a volunteer has been provisionally accepted.

Schools should not automatically reject any applicant on the basis of a self-disclosure. The chair of the panel/headteacher should discuss relevant positive declarations confidentially with the applicant/volunteer and consider them in the same way as positive DBS Disclosures (see section 11.10 and Appendix 11). In some cases the school may prefer not to allow the employee to start work until receipt of the DBS disclosure.

The SD2 form should be retained on the applicants' personal file until the DBS certificate has been processed and an employment decision made. The SD2 should then be destroyed. Where a DBS is requested, the information on the DBS certificate should be compared with that on the SD2 form and any discrepancies explored (see section .11.10). Deliberate false declaration may constitute gross misconduct. The SD2 is not a replacement for the full DBS.

Where a DBS check is not requested (e.g. in the case of a volunteer who will not be engaging in Regulated Activity), the SD2 form must be assessed as detailed above. However, in these circumstances there will be no DBS check to compare the information with and the school must decide whether to allow the person into school based on the information on the SD2 form. An appropriate risk-assessment should be carried out and retained with any other documentation relating to the volunteer. Once a decision is made the SD2 should then be destroyed

## 6. Medical Screening

<b>Who:</b>	<ul style="list-style-type: none"> <li>All staff directly employed by the school</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Preferred candidates sent form (paper or electronic)</li> <li><u>A person should not start work until medically cleared.</u></li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>Preferred candidate completes and returns health declaration form</li> <li>School checks declaration</li> <li>If candidate has answered “No” school can proceed with appointment, retaining the form on personal file</li> <li>If candidate answers “Yes” a pre-employment health assessment form must be completed (first section employer must complete and then the form is emailed to the candidate to complete remainder). Completed form is then emailed directly to Occupational Health by the candidate. School await OH confirmation of clearance by email.</li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>The Education (Health Standards) (England) Regulations 2003 (as amended). Statutory responsibility of employers to satisfy themselves that individuals have the appropriate level of physical and mental fitness.</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>Third Parties are not obliged to carry out the same pre-employment screening for staff (except Teaching Agencies).</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Not required to be recorded on SCR.</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>The health declaration form (available in paper or electronic format) &amp; pre-employment health assessment form can be obtained from the Essex Schools Infolink, under Occupational Health.</li> </ul>

These procedures apply to those using the Essex Occupational Health Service.

### 6.1 Reasonable Adjustments

Under the Equality Act 2010 it is not permissible to ask about health and attendance prior to selection other than to establish if reasonable adjustments are necessary to enable the person to participate in the selection process and/or whether the applicant will be able to carry out a function which is intrinsic to the work once reasonable adjustments are in place. Once a candidate is selected a conditional offer is made and pre-employment medical screening can be carried out (see above for the process).

### 6.2 Medical Clearance

On receipt of a pre-employment assessment form (from a candidate who answered “Yes” on the preliminary health declaration form) the Occupational Health Service will need to gain further information from the applicant and occasionally will need to write to their GP or require to see them in clinic. This will need to take place before medical clearance can be given and before the person can start work.

In some cases, the Occupational Health Service may indicate that the employee has a disability under the Equality Act (2010) and make recommendations about relevant adjustments. The school will need to determine if the adjustments can be reasonably made and discuss this with the applicant.

There is a statutory requirement for employers to make reasonable adjustments for disabled applicants and employees, and employers should not reject an application simply on the basis of a recommendation of adjustments.

The school is responsible for paying the costs of medical clearances and appointments.

## 7. Right to Work in the UK

<b>Who:</b>	<ul style="list-style-type: none"> <li>All new employees (not volunteers)</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Applicants should provide the school with original documentary evidence. Checks must be undertaken before appointment is confirmed.</li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>Prospective employees should be asked to bring original documents from either List A or List B of acceptable documents (see Appendix 6). Comprehensive guidance including requirements and processes for checking right to work in the UK can be obtained at: <a href="https://www.gov.uk/government/publications/right-to-work-checks-employers-guide">https://www.gov.uk/government/publications/right-to-work-checks-employers-guide</a></li> <li>A checklist is also available which employers can complete for each new starter (and attach copies of the relevant documents to) for retention on each personal file: <a href="http://www.gov.uk/government/publications/right-to-work-checklist">www.gov.uk/government/publications/right-to-work-checklist</a></li> <li>There is also an online interactive tool “check if someone can work in the UK”. <a href="https://www.gov.uk/legal-right-work-uk">https://www.gov.uk/legal-right-work-uk</a></li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>Asylum and Immigration Act 1996 and Immigration, Asylum and Nationality Act 2006 (as amended) Immigration (Restrictions on Employment) (Codes of Practice and Amendment) Order 2014. Immigration Act 2016.</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>Third parties are required to undertake the same checks as schools / academies and provide written confirmation to the school that these checks have been completed.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Required to be recorded on SCR</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

It is illegal to employ a worker who does not have the right to work in the UK and considerable fines can be levied (up to £20,000 for each illegal worker). An employer commits an offence if s/he employs an illegal worker and knows or has reasonable cause to believe that the person has no right to do the work in question. Checks should be carried out on all prospective employees. Employers should not omit completion of checks on the basis that an individual claims or appears to be British and/or an EEA National.

Schools should obtain original versions of one or more acceptable documents and check the documents’ validity in the presence of the holder and retain a clear copy (signed and dated by the person who saw the original version).

A copy of relevant documents must be kept on the employee’s personal file for the duration of their employment and for a further two years after the end of their employment. This can be a hard copy or a scanned and unalterable copy (e.g. jpeg or pdf document).

Employers must be vigilant regarding the ongoing requirement to check and retain evidence of the ongoing right to work in the UK of overseas workers. If an employee presents a document from List A (see Appendix 6) e.g. a UK passport showing a **permanent** right to work in the UK at the time of their appointment there is no requirement for any follow up check if/when this passport expires whilst they remain in post.

If an employee presents a document from List B (see Appendix 6) showing a **temporary** right to work in the UK at the time of their appointment there is a requirement to conduct a follow-up check. This is generally when permission to work in the UK comes to an end. An

employee will not be permitted to continue to work without the required permissions. In addition, failure to carry out such follow-up up checks could lead to the imposition of fines and/or criminal sanctions.

The Home Office guidance (link above) gives details of the required follow up checks where there are restrictions on an employee's right to work in the UK.

When recording the check on the Single Central Record it is important to ensure the column records the date and ideally the initials/name of the person who completed the check. This column should not say "Not Applicable" in respect of any employee.

## 8. Qualifications

<b>Who:</b>	<ul style="list-style-type: none"> <li>For any post where qualifications are a <u>requirement</u> this must be evidenced (see below)</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Applicants should present original evidence of qualifications at interview/prior to confirmation of post. Teaching qualifications can alternatively be verified by the school using the Teacher Services System (formerly known as Employer Access Online service).</li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>Applicants with QTS should be asked to provide original certificates or letter/certified copy of certificate from awarding body (if required). Qualifications can alternatively be verified by the school using the Teacher Services System (formerly known as Employer Access Online service).</li> <li>Schools employing teachers that have QTLS via the Society for Education &amp; Training (SET) must check evidence of this qualification before they are offered a qualified teacher position in a school (see 8.5 for further information).</li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>School Staffing (Education) Regulations (September 2003, 2009 and 2012 as amended) The Education (School Teachers' Qualifications and Specified Work) (England) Regulations 2012</li> <li>The School Staffing (England) (Amendment) Regulations 2013</li> <li>The Education (Induction Arrangements for School Teachers) (England) Regulations (2008 and 2012 as amended)</li> <li>Keeping Children Safe in Education statutory guidance (5 September 2016)</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>Third parties providing workers are expected to follow the best practice set out in the DfE Keeping Children Safe in Education Guidance.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Required to be recorded on SCR</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

### 8.1 Qualified Teacher Status (QTS)

No person may teach in a maintained school, unless he/she

- Has qualified teacher status (QTS), or
- Has QTLS awarded by the Society for Education & Training (SET) and is a member of the SET, or
- Falls within one of the special categories set out in the Education (Specified Work and Registration) (England) Regulations (2003, as amended). These are:
  - Student teachers
  - Instructors with special qualifications or experience
  - Overseas Trained Teachers
  - Staff on an employment-based teacher training scheme
  - Support Staff (HLTAs – Higher Level Teaching Assistants) – may undertake some elements of teaching subject to being directed and supervised by a qualified teacher and where the headteacher is satisfied they have the skills, experience and expertise required.

## 8.2 Teacher Reference Number

A Teacher Reference Number (previously known as DfE Number) is not evidence of QTS. In order to search for a teacher using the Teacher Services System (formerly known as Employer Access Online) a teacher reference number and date of birth will be required.

## 8.3 Statutory Induction (Teachers)

Teachers who obtained QTS after May 1999 must successfully complete a Statutory Induction Period within the set time period in order to teach in a maintained school. This does not apply, from 1 April 2012, to:

- Teachers awarded QTS by virtue of holding the QTLS qualification and who are members of the IFS (Institute for Learning)
- Qualified teachers from New Zealand, Australia, Canada or the USA who are awarded QTS by the National College for Teaching and Leadership (formerly the Teaching Agency).

The statutory induction period is not a mandatory requirement for teachers working in Academies. Any teacher who begins their career in an Academy and does not complete their Statutory Induction Period must do so if they move to a maintained school.

## 8.4 NCTL Teacher Services System

This is a free service available for employers and potential employers to view the record of any trainee or qualified teacher – with the exception of teachers who have achieved QTS through holding qualified teacher learning and skills (QTLS).

This free service can be accessed at <https://teacherservices.education.gov.uk/>.

The individual teacher record allows you to view the record of any trainee or qualified teacher held on NCTL's database of teachers. The record will display:

- Teacher's personal details
- Initial teacher training qualifications
- Qualified teacher status
- Induction status
- Supplementary qualifications

The National College for Teaching and Leadership can also provide advice to schools regarding the UK equivalency of qualifications that have been obtained by overseas applicants.

Individuals who successfully pass their induction will receive a certificate from the National College for Teaching and Leadership.

## 8.5 QTLS status

Teachers who have been awarded QTLS by the Society for Education & Training (SET) and are members of the SET will be recognised as qualified teachers in schools and academies. There is no need to carry out a check on these teachers via the NCTL Teacher Services System as there is no need for them to apply to the NCTL. A certificate from the SET is sufficient evidence.



The Society of Education & Training holds and maintains the national register of all QTLS holders, including those teaching in schools. Schools remain responsible for decisions on employing QTLS holders and should check with the SET that a teacher has QTLS status before they are offered a qualified teacher position.

## **8.6 Record retention**

The statutory guidance states that copies of documents to verify the candidate's qualifications should be kept on the personal file.

## 9. Prohibition from Teaching check

<b>Who:</b>	<ul style="list-style-type: none"> <li>Individuals employed to teach (including in Academies support staff undertaking unsupervised/undirected teaching work).</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Prior to confirming a teaching post the school must check that the individual is not prohibited from teaching.</li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>A check of any prohibition is carried out using the Teacher Services System (formerly known as Employer Access online)</li> <li>There is currently no scope to check the status of Early Years Teachers via the Teachers' Services System.</li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>School Staffing (Education) Regulations (September 2003, 2009 and 2012 as amended). The Education (School Teachers' Qualifications and Specified Work) (England) Regulations 2012</li> <li>The School Staffing (England) (Amendment) Regulations 2013</li> <li>Education and Skills Act 2008</li> <li>Keeping Children Safe in Education statutory guidance (5 September 2016)</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>Third parties providing workers are expected to follow the best practice set out in the DfE Keeping Children Safe in Education Guidance.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Required to be recorded on SCR</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>

There is a requirement to check that individuals employed to teach are not prohibited from teaching by virtue of a prohibition order/interim prohibition order issued by the Secretary of State. This check is known as a "prohibition from teaching check").

The DfE and Ofsted have clarified that this check is only required to be undertaken on an individual who is undertaking "unsupervised/undirected teaching work".

In a maintained school this does include unqualified teachers and trainees but does not include support staff such as HLTAs, Cover Supervisors or LSAs who can only undertake teaching work under a system of supervision (in accordance with Specified Work Regulations).

In Academies, the requirement for support staff to be under a system of supervision when undertaking teaching work does not apply and Academies will therefore have to assess whether such staff are undertaking unsupervised/undirected teaching work, and if so, they will have to complete the prohibition from teaching check and record the date of this check on the Single Central Record (SCR) under the "Teacher Prohibition Check" column. N/A should be recorded where this check is not required.

From 18<sup>th</sup> January 2016, any information (including sanctions/prohibitions) relating to a qualified teacher in any country within the EEA will also be available from the Teacher Services' system (formerly known as Employer Access Online service) alongside the UK information. The check will inform employers if an EEA restriction has been determined after 18<sup>th</sup> January 2016 in respect of the teacher being checked. There is no requirement to retrospectively check teachers who were on post prior to this date.

Where this check is undertaken, the date of the check should be recorded on the SCR under the “Checks on individuals who have lived or worked abroad” column. N/A should be recorded where this check is not required.

If a check reveals that there are restrictions imposed by an EEA country, the restrictions do not mean that a person is automatically prevented from working as a teacher in England. Employers should consider the nature of, and circumstances leading to, the restriction when assessing a candidate's suitability to be employed. Contact Education HR for Advice.

### **9.1 NCTL Teacher Services System (formerly known as Employer Access online)**

The NCTL Teacher Services System is a free service available for employers and potential employers to view the record of:

- Any teacher with an active restriction (including any teacher with QTLS to whom this applies).
- Any teacher who has been the subject of a decision by the Secretary of State not to impose a prohibition order following a determination by a professional conduct panel of unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or conviction of a relevant offence.

It also provides access to separate lists of:

- Teachers who have been prohibited from teaching.
- Teachers who have failed to successfully complete their induction or probation period.
- Teachers who may be the subject of a suspension or conditional order imposed by the General Teaching Council for England (prior to abolition) that is still current.

This free service can be accessed at <https://teacherservices.education.gov.uk/>.

Once a check has been completed confirming that an individual is not subject to a prohibition order or interim prohibition order or any other sanction or restrictions, this must be recorded on the Single Central Record (see section 2). The Single Central Record should record the date that the check was completed and preferably the initials of the person who carried it out.

### **9.2 Record retention**

There is no specific requirement to keep documentary evidence of a statutory prohibition check, although schools may wish to print a copy of the list of teachers showing there are no red warning triangles against any of their names or they may decide to print a copy of the individuals details as held on the Teacher Services System (formerly known as Employer Access Online System).

## **10. DBS Children’s Barred List check (Previously List 99, PoCA (Protection of Children Act) Lists and ISA List)**

<b>Who:</b>	<ul style="list-style-type: none"> <li>All new employees, governors and volunteers engaging in Regulated Activity*</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Before starting work</li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>A check against the Barred List is automatically done as part of a qualifying DBS application (an application for an employee in Regulated Activity*)</li> <li>If DBS application is not a qualifying DBS (if it is for an applicant not in Regulated Activity*) no DBS Barred List check will or can be undertaken</li> <li>Where an existing DBS certificate for a Regulated Activity post is accepted for an applicant who meets the portability criteria (see 11.4.1) a standalone DBS Children's Barred List must be carried out before they start work (via the eDBS system).</li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>Education (Restriction of Employment) Regulations (2000, as amended)</li> <li>Protection of Freedoms Act 2012</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>Third parties providing workers are expected to undertake the same checks as Schools.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Required to be recorded on SCR</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>Forms are no longer available; all List checks are now carried out online.</li> </ul>

The DBS Children's Barred list is a confidential document maintained by the DBS, of people who are barred from working in Regulated Activity\*. A check against the DBS Children's Barred List is automatically carried out as part of a qualifying DBS application that makes it clear that it is a Regulated Activity post working with children.

It is an offence for Schools to appoint someone who is barred from working in Regulated Activity\*. \*Regulated Activity is defined in section 11.1/11.2.

The statutory guidance "Keeping Children Safe in Education" makes it clear that where portability requirements are met (i.e. the individual is transferring from a similar Regulated Activity position in a school without a break of more than three months – see section 11.4.1) there is no requirement to obtain a new enhanced DBS certificate but a barred list check **must** be obtained.

The method of carrying out standalone barred list checks is via Teachers' Pensions online (this is an option via the eDBS system).

Where the post is not Regulated Activity, the DBS check will not include a check against the DBS Barred list and barred individuals may be appointed to these non-Regulated Activity positions. However, where a DBS check is undertaken this may include information related to the reasons for a barring decision.

The statutory guidance states that Governance is not a Regulated Activity and that governors do not need a barred list check unless, in addition to their governance duties, they also engage in Regulated Activity.

## 11. Disclosure and Barring Service Checks

<p><b>Who:</b></p>	<ul style="list-style-type: none"> <li>• All new staff and volunteers working in Regulated Activity over the age of 16 <b>must</b> be DBS checked.</li> <li>• The school may choose to obtain a DBS Check on an employee or volunteer who is not engaged in Regulated Activity but this will not include a DBS Children’s Barred List check.</li> <li>• In Maintained Schools and single academies governors must have an enhanced DBS check.</li> <li>• In a multi academy trust the directors/trustees must be DBS checked but members of the local governing boards do not have to be DBS checked (although a check can be requested).</li> <li>• The DBS check for governors as office holders will not include a DBS Children’s Barred List check.</li> </ul>
<p><b>When:</b></p>	<ul style="list-style-type: none"> <li>• Check to be carried out on successful applicant/volunteer.</li> <li>• New governors should be checked within 21 days of their appointment.</li> </ul>
<p><b>How:</b></p>	<ul style="list-style-type: none"> <li>• Where the preferred candidate/volunteer meets the portability criteria (see section 11.4.1) there is no requirement to obtain a new DBS check. The candidate should complete a DBS consent form (see Appendix 8) and the school should check the existing Enhanced DBS certificate and request a standalone children’s’ barred list check (see guidance at section 11.4.1) before confirming an offer.</li> <li>• Where the preferred candidate/volunteer is registered with the DBS online update service there is no requirement to obtain a new DBS check. The candidate should complete a DBS consent form (see Appendix 8) and an online status check should be completed (see guidance at section 11.4.2) before confirming an offer.</li> <li>• Where the preferred candidate/volunteer does not meet the portability criteria and/or is not registered with the online update service the school must apply for a DBS check. The candidate should complete a DBS consent form (see Appendix 8) and the school completes relevant sections of the online DBS application, the preferred candidate/volunteer/governor completes online application either “here and now” or “later at home” and the online application is submitted to eDBS Services for verifying and countersigning then sent to DBS electronically.</li> <li>• Where a clear DBS check is received, the school confirms the employment decision/appointment with the individual.</li> <li>• Where a positive notification is received, the school must assess the information contained (see guidance at 11.10 below) in order to make a recruitment decision. (For governors, where a positive notification is received please refer to separate advice relating to DBS checks available from governor services.)</li> </ul>
<p><b>Source:</b></p>	<ul style="list-style-type: none"> <li>• School Staffing (Education) Regulations (September 2003, 2009 and 2012 as amended) (schools), DfE Statutory Guidance (Keeping Children Safe in Education (5 September 2016)) and DBS Code of Practice. Independent School Standards Regulations (Academies)</li> <li>• The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016</li> </ul>

<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>• Third parties are required to undertake the same checks as Schools and provide written confirmation to the school that these checks have been completed.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>• The date that the school see evidence of an appropriate DBS clearance must be recorded on SCR. Recording the DBS certificate number and the person who carried out the check is recommended.</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>• All DBS applications are now made online via the eDBS system.</li> <li>• DBS Consent form can be found at Appendix 8.</li> </ul>

### 11.1 Regulated Activity

The definition of Regulated Activity, as it relates to work with children comprises:

I.	Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children;
II.	Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. Not work by supervised volunteers;
	<ul style="list-style-type: none"> <li>• Work under (II.) is not Regulated Activity if it does not include the activities in I. AND does not involve contact with children AND is not done regularly (see 11.2).</li> <li>• Work under (I). is not Regulated Activity if it is done on a voluntary basis AND is supervised. Statutory guidance about supervision of activity which would be Regulated Activity if unsupervised is given at 11.3 below</li> </ul>
III.	Relevant personal care, for example washing or dressing; or health care by or supervised by a professional;
IV.	Registered child-minding; and foster-carers.

### 11.2 Definition of "Regularly"

Work under I. and II. in the table above, will fall within the definition of Regulated Activity if the same person undertakes it on a regular basis defined as:

- once a week or more often; or
- 4 or more days in a 30 day period; or
- Overnight.

The exception is supervised volunteers (see 11.3 below).

Work under III. and IV. in the table above falls in the definition of Regulated Activity, even where it is only undertaken once.

### 11.3 Statutory Guidance on supervision

The DfE has produced Statutory Guidance on supervision. This determines which posts may be excluded from Regulated Activity by virtue of being a supervised activity.

The precise nature and level of supervision will vary from case to case. Employers must make sure that the supervision in place is sufficient, in their judgement, to provide reasonable assurance for the protection of children.

The law makes three main points:

- there must be supervision by a person who is in Regulated Activity;
- the supervision must be regular and day to day; and
- the supervision must be “reasonable in all the circumstances to ensure the protection of children”.

The precise nature and level of supervision will vary from case to case.

Supervision by a person in Regulated Activity / regular and day to day. Supervisors must be in Regulated Activity themselves. The duty that supervision must take place “on a regular basis” means that supervision must not, for example, be concentrated during the first few weeks of an activity and then tail off thereafter, becoming the exception not the rule. It must take place on an on-going basis, whether the worker has just started or has been doing the activity for some time.

Reasonable in the circumstances. Within the statutory duty, the level of supervision may differ, depending on all the circumstances of a case. Organisations should consider the following factors in deciding the specific level of supervision the organisation will require in an individual case:

- ages of the children, including whether their ages differ widely;
- number of children that the individual is working with;
- whether or not other workers are helping to look after the children;
- the nature of the individual’s work (or, in a specified place such as a school, the individual’s opportunity for contact with children);
- how vulnerable the children are (the more they are, the more an organisation might opt for workers to be in Regulated Activity);
- how many workers would be supervised by each supervising worker.

In law, an organisation will have no entitlement to do a barred list check on a worker who, because they are supervised, is not in Regulated Activity.

Employers should record details of the supervision on the risk assessment form (see Appendix 9(ii)).

As previously, the Regulations remain a little unclear in some areas. It is believed that virtually everyone on the school payroll will be in Regulated Activity. The only people who might be excluded from Regulated Activity are:

- Direct employment in a school which does not involve ANY contact with children AND also does not meet the definition of “regularly” (see 11.2). We expect this to be very rare (e.g. casual cleaner working school closures only).
- Volunteers who are supervised as defined in 11.3 above. They may work regularly.

Where it is deemed that a person is not in Regulated Activity, it is recommended that a risk assessment form is completed (see Appendix 9(ii)) to record the reasons and where appropriate, the nature of the supervision undertaken.

The other people who will not fall into the category of Regulated Activity are temporary or occasional contractors (i.e. not on a contract of employment with the school) where their work does not include teaching, training or supervising children e.g. building contractor.

## **11.4 When is a new DBS certificate not required?**

### **11.4.1 Circumstances when an existing DBS certificate be accepted (Portability)**

There is no requirement to obtain an enhanced DBS certificate or carry out checks for events that may have occurred outside the UK if, in the three months prior to their appointment, the applicant has worked:

- in a school in England in a post which brought them into regular contact with children or young persons in any post in a school since 12 May 2006; or
- in an institution within the further education sector in England or in a 16-19 Academy, in a post which involved the provision of education which brought the person regularly into contact with children or young persons.

All other pre-employment checks must still be completed, including where the individual is engaging in Regulated Activity, a barred list check. Schools or colleges may also choose to request an enhanced DBS certificate should they wish to do so.

Where an existing DBS certificate is accepted for a Regulated Activity post, a standalone DBS Children's Barred List check must be done (see section 10 above). This can be obtained from eDBS as a standalone check for a cost of £15 (see section 10 for further details).

Where these portability requirements are met, the individual should be required to produce their original Enhanced DBS certificate (which should have included a DBS Children's barred list check) to the school within a reasonable timeframe and before any offer of employment is confirmed. Schools must be vigilant when checking certificates to ensure that all of the details are correct, including that all names which the individual is known by have been recorded and that the correct address is shown. The school must also check that all the pages of the certificate are present. If any information is not correct the school should carry out a new DBS check.

Where a DBS certificate is accepted, schools should record that the check has been completed and the date they checked this on their Single Central Record (the certificate number may also be recorded).

If a DBS certificate produced to the school contains information, this should be assessed in line with the guidance set out at 11.10 below.

Where a new DBS is not required because the portability criteria are met, employers may still choose to carry out a new DBS check.

### **11.4.2 Candidate is registered with the DBS Update Service**

Individuals can register with the DBS for an annual fee of £13 (no fee applies to volunteers). They must apply for a DBS Certificate before they can register and must register within 19 calendar days of the issue date of that DBS Certificate. The responsibility for paying the annual fee rests with the individual. Employers may still pay the fees for DBS checks as they do now.



Applicants and employees cannot be compelled to register. Individuals most likely to register will be those who work on an irregular basis and/or in a range of organisations where currently multiple checks are required e.g. supply teachers, invigilators, coaches, those working in schools and also with scouts or other voluntary organisations.

Where an applicant is registered, employers will be able to check their DBS status on-line free of charge, rather than requiring a fresh DBS certificate.

Employers will need:

- the individual’s consent (see 11.6 below and Appendix 8);
- the individual’s name and date of birth; and
- the Disclosure Certificate number.

Employers access the on-line system at [www.gov.uk/dbs](http://www.gov.uk/dbs). The link above includes screen shots of the on-line checking process. Detailed guidance for employers can also be found at: <https://www.gov.uk/government/publications/dbs-update-service-employer-guide/dbs-update-service-employer-guide>.

Individuals who are registered with the DBS online update service will be required to produce their original DBS certificate (whether clear or positive) in order to use the online update service and should complete the additional section on the consent form. This confirms their consent to the employer carrying out an online status check (see 10.3.3).

The school should check that the DBS certificate produced is at the appropriate level and for an equivalent role (i.e. that it is an enhanced DBS check, is for Regulated Activity and includes a Children’s Barred List check) before carrying out the status check. Schools must be vigilant when checking certificates to ensure all the details are correct, including that all names which the individual is known by have been recorded and that the correct address is shown. If any information is not correct the school should carry out a new DBS check.

Schools should consider any information on the DBS certificate in order to make an employment decision.

There is no requirement to undertake periodic checks on individuals in employment and employers should not routinely re-check employees’ or volunteers’ on-line status. Individuals will be able to see on-line which organisations have made checks on their status and when these were undertaken.

When making a status check the employer will receive one of the following responses:

<p>This Certificate did not reveal any information and remains current as no further information has been identified since its issue.</p>	<p>This means:</p> <ul style="list-style-type: none"> <li>• the Certificate when issued was blank i.e. it did not reveal any information about the person; and,</li> <li>• no new information has been found since its issue and can therefore be accepted as being still current and valid</li> </ul>
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<p>This Certificate remains current as no further information has been identified since its issue.</p>	<p>This means:</p> <ul style="list-style-type: none"> <li>• the Certificate revealed information about the person; and,</li> <li>• no new information has been found since its issue and can therefore be accepted as being still current and valid.</li> </ul>
<p>This Certificate is no longer current. Please apply for a new DBS check to get the most up-to-date information.</p>	<p>This means:</p> <ul style="list-style-type: none"> <li>• new information has come to light since the Certificate was issued and a new DBS check must be obtained. In these circumstances employers must follow the steps above in relation to obtaining and considering the new DBS check.</li> </ul>
<p>The details entered do not match those held on our system. Please check and try again.</p>	<p>This means either:</p> <ul style="list-style-type: none"> <li>• the individual has not subscribed to the Update Service; or,</li> <li>• the Certificate has been removed from the Update Service by the individual; or,</li> <li>• the employer has not entered the correct information.</li> </ul>

## 11.5 Filtering rules for DBS certificates

Following the introduction of the police filtering of criminal information, DBS Certificates no longer contain certain information about some old or minor offences and therefore employers may no longer ask applicants to declare these “filtered” offences on self-declaration forms.

The general rules on filtering are as follows:

### For those 18 or over at the time of the offence:

An adult conviction will be removed from a DBS criminal record certificate if:

- 11 years have elapsed since the date of conviction; and
- it is the person’s only offence, and
- it did not result in a custodial sentence.

Even then, it will only be removed if it does not appear on the list (see web link below) of offences which will never be filtered.

If a person has more than one offence, then details of all their convictions will always be included.

An adult caution will be removed after 6 years have elapsed since the date of the caution – and if it does not appear on the list of offences relevant to safeguarding.

For those under 18 at the time of the offence:

The same rules apply as for adult convictions, except that the elapsed time period is 5.5 years  
The same rules apply as for adult cautions, except that the elapsed time period is 2 years.

There is a list of offences which must always be declared (as they will never be filtered) – irrespective of when they occurred. This list is too large to replicate on the form or in this procedure and can be found at <https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check>.

It is the responsibility of the individual to check what they must declare. Further details of what should be included on an SD2 form are set out in section 6 of this procedure.

## **11.6 DBS Consent Form**

Prior to completing a new DBS check or carrying out an online status check all individuals (except governors) should be asked to complete and sign a DBS consent form. The purpose of the form is:

- to inform the individual of the requirement to produce an original DBS certificate;
- to obtain their permission for the school to copy the certificate (if necessary) and hold it for as long as necessary to complete the recruitment process;
- to obtain their consent to share the information with a third party (e.g. Education HR) for the purposes of seeking guidance on the recruitment decision (where information is contained on the DBS certificate).

Where an individual is registered with the online update service, there is an additional section

- to confirm they give one-off consent to carry out an online status check (if any further online status checks are subsequently carried out schools must obtain the individuals consent by asking them to complete a consent form for each check).

If the individual does not sign the form then the school should not take copies of the DBS certificate or share the information contained (other than with the recruitment panel).

The DBS Consent Form can be retained on file as evidence that consent was received.

## **11.7 Identity Requirements for DBS checks**

The ID checking process has three routes and incorporates the ability to use a new external ID validation check. The new external ID validation services are incorporated into the eDBS online system, with an expected turnaround time of 5 seconds and will give a PASS or FAIL outcome.

Guidance on the type and range of identity documents that must be supplied as evidence is available from the DBS website: <https://www.gov.uk/government/publications/dbs-identity-checking-guidelines/id-checking-guidelines-for-dbs-check-applications>

The documents checked to undertake a DBS check are the same documents that should be seen to carry out the separate mandatory check of identity. The statutory guidance “Keeping Children Safe in Education “ requires that copies the documents used to check identity must be retained on file. It is therefore acceptable (and necessary) to retain copies of these documents.

## **11.8 Starting Work Pending a DBS Disclosure**

Headteachers have the discretion to allow an individual to begin work within their establishment pending the receipt of the DBS Disclosure, but must ensure that all other checks have been completed including a standalone DBS Children's Barred List check where the individual is engaging in Regulated Activity.

An exemption to this is residential staff who must not begin work at the school until satisfactory completion of an Enhanced DBS Check.

A risk assessment needs to be undertaken, and the employee should not usually have unsupervised access to children until DBS clearance is received (see Appendix 9(ii)). The degree of supervision for individuals who start work prior to the result of a DBS Disclosure being known needs to reflect what is known about the person concerned, their experience, the nature of their duties and the level of responsibility they will carry. For those with limited experience and where references have provided limited information about their suitability to work with children, the level of supervision may be high.

For those with more experience and where the references are detailed and provide strong evidence of good conduct in previous relevant work, a lower level of supervision may be appropriate.

The nature of the supervision should be agreed between the employer and employee and the role of staff undertaking the supervision should be made clear. The arrangements should be reviewed regularly, at least every two weeks, until the DBS disclosure is received.

## **11.9 Negative DBS Disclosures (no convictions found)**

Only the applicant will be sent a copy of the disclosure certificate direct from the DBS. The statutory guidance states that applicants must show the original DBS certificate to their potential employer before they take up post or as soon as practical afterwards.

The eDBS Service online system is updated electronically and the school will obtain the result confirmation online and print out the result summary to retain for the personal file. The disclosure number and issue date will appear on the eDBS system. This can be printed out and retained on the personal file as evidence of the check. The date of the check (and optionally the disclosure number and who evidenced the check) should be recorded on the Single Central Record.

## **11.10 Positive DBS Disclosures (convictions found)**

Only the applicant will be sent a copy of the disclosure certificate direct from the DBS. The school will be notified via the eDBS system that a certificate has been issued to the individual (the school will receive a notification which says "contact applicant to view hard copy") and the school will need to ask the individual to produce their original DBS certificate, as soon as possible after receipt.

At the time that the preferred candidate / volunteer is applying for a DBS check, schools should have signed a DBS consent form (see Appendix 8 and 11.6 above).

Schools should set a timeframe within which the individual should produce their certificate, normally within 5 working days following receipt, to ensure the recruitment process can be completed without undue delay. The conditional offer letter wording has been amended to include the requirement to produce a DBS certificate within this timescale.

If the positive DBS certificate is not produced by the individual within the required timeframe, the school should contact the individual (in writing where possible) and ask them to produce it. Individuals should be reminded that failure to do so will mean the employer cannot proceed with their appointment/engagement. Note that if an individual wishes to challenge the information on the Certificate with the DBS this may delay the process.

If the positive DBS certificate is not produced within a reasonable timeframe the employer will need to withdraw the conditional offer of employment/engagement (where this has not commenced) or will need to terminate the appointment where it has started. Please contact your link HR consultant for advice.

***Positive DBS Certificates may contain extremely confidential and sensitive information and should be received by the Headteacher or a nominated person only. Certificates must be handled at all times such that no unauthorised person has sight of, or access, to them.***

The headteacher should read the DBS Certificate carefully, checking all pages/sides for information.

Headteachers will need to make a reasoned judgement as to the authenticity of the DBS certificate presented to them – that is that it appears to be an original and relates to the identity of the person presenting it (i.e. name, date of birth etc. matches other documents they provided e.g. application form).

A copy of the certificate should be taken (and stored securely) and the original certificate should be returned to the individual.

NB: If a DBS consent form (Appendix 8) has not been signed, the employer must take steps to obtain a signed form immediately and should not copy the form until a signed consent form is provided by the individual.

The headteacher should then assess the positive DBS certificate as set out below to arrive at a fair and balanced decision.

A risk assessment form is at appendix 10.

Please contact the HR Manager Nicki Harris on 033301 36763 for advice as necessary.

To avoid claims of unfair discrimination, positive disclosures must be managed in line with the DBS Code of Practice and assessed on a case by case basis taking into account the nature, seriousness and relevance to the role.

Employers are required to have a policy regarding the employment of ex-offenders. This requirement is met if the Essex HR Model Recruitment Policy has been adopted. This contains a Recruitment & Selection Policy Statement which includes the commitment to dealing with positive Disclosures in accordance with the DBS Code of Practice.

In accordance with this, all criminal records must be assessed on an individual basis, following discussion with the individual.

The following factors must be considered in each case:

- The seriousness/level of the disclosed information e.g. was it a caution or a conviction.
- How long ago did the incident(s) occur.
- Whether it was a one-off incident or part of a repeat history/pattern.
- The circumstances of the offence(s) being committed and any changes in the applicant's personal circumstances since then.
- The country where the offence/caution occurred.
- Whether the individual shows or has shown genuine remorse.
- Whether the offences were self-disclosed on the SD2 form. Non-disclosure could, in itself, result in non-confirmation of employment on the grounds of trust, honesty and openness. However, legitimate discrepancies may occur due to recent changes whereby the DBS filter certain historic information – see separate guidance on self-disclosures.

Serious child related offences are unlikely to be considered against the above and usually result in automatic exclusion from employment.

The employer should discuss the positive DBS certificate with the individual to inform their evaluation of these factors – particularly in relation to the circumstances and remorse. See Appendix 8(i) for further guidance on this discussion.

Once the positive DBS certificate and SD2 have been reviewed and the disclosure discussed with the individual, a decision will need to be made about whether or not to proceed with the appointment/engagement.

#### If decision is to appoint

If the headteacher is satisfied that the offences do not render the applicant unsuitable to carry out the role, the individual can be informed that the DBS certificate is satisfactory and the contract/engagement can be confirmed.

The date the DBS check is seen by the school (and ideally the initials of the person who carried out the check) should be recorded on the Single Central Record (SCR) (optionally the DBS certificate number can also be recorded) and the copy of the certificate destroyed as confidential waste. You must not keep any sort of record of any of the information contained on the DBS Certificate.

#### If decision not to confirm employment/engagement

If the headteacher decides that the positive DBS certificate, in their opinion, renders the person unsuitable for employment/engagement, the headteacher will have to either not proceed with the appointment, withdraw the offer or, where the employee has commenced

work terminate employment. **In these circumstances please contact your HR consultant for advice on the process.**

### **11.11 Record Keeping**

All Disclosure information (including copies) must be stored securely (in a locked cabinet) and processed and destroyed in accordance with the DBS Code of Practice and the eDBS security policy. Access to such information will be given to those entitled to see it as part of their duties.

The Statutory Guidance states that schools do not have to keep copies of DBS certificates in order to fulfil the duty of maintaining the Single Central Record. Where a school chooses to retain copies of DBS certificates they should only do so where a DBS consent form has been signed and should not retain them for longer than 6 months from the date of receipt. It is recommended best practice that all copies of DBS certificates are destroyed once the employment/engagement decision has been made.

The date the DBS check is seen by the school should be recorded on the Single Central Record (and it is recommended the name of the person carrying out the check is also recorded) if employment/engagement is confirmed. Schools may also wish to record details of the DBS certificate number on the Single Central Record but are not required to do so. In the event of a positive Disclosure schools may make a note that a positive Disclosure was received, assessed and a decision to employ made, but schools must not make any note of the information contained on the Certificate.

Where a new DBS check has been carried out using the eDBS system a print-out can be obtained by clicking on “manage applications” and entering the individuals name and searching for the name. Once their name is shown, click on “view result summary” and this summary can be printed and held on their personal file.

### **11.12 Appeals against Disclosure Information**

Individuals have the right to query the accuracy of disclosure information through the DBS appeals procedure. An individual may not be prepared to produce their DBS certificate if they are in the process of an appeal and this may cause delay in the recruitment process. Where an employee registers such an appeal, a decision will need to be made about whether interim action needs to be taken. Where the individual has produced their certificate and it indicates offences which may lead to the withdrawal of an offer of employment or disciplinary action/dismissal or where the individual is not prepared to produce their certificate pending the appeal, consideration will be given to temporarily suspending the appointment process/employee until the appeal has been processed

## 12. Section 128 direction checks for individuals taking part in the management of an independent school (required in academies only)

<b>Who:</b>	<ul style="list-style-type: none"> <li>In a single academy, all governors.</li> <li>In a multi academy trust, the members of the Trust Board and any governors on a local governing board where that board retains or has been delegated any management responsibilities.</li> <li>Headteacher and any teaching positions on the senior leadership team and any teaching position which carry a departmental headship (no other teaching posts with additional responsibilities).</li> <li>Non- teaching posts which are part of the senior management team.</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Prior to appointment to relevant role.</li> </ul>
<b>How:</b>	<p>Checks are carried out through the DBS service and /or NCTL Teachers' Services System.</p> <ul style="list-style-type: none"> <li><b>Where you are applying for an enhanced DBS check with Children's Barred List</b> for a relevant management post (all employed school staff are regarded as being in Regulated Activity for the purposes of s128 checks) using the eDBS system select "children" in job role selection and then "independent school" as the job title (this will ensure that both the Children's Barred List and the S128 checks are completed). Do not select "Headteacher" or "Deputy Headteacher" or any other job title when requesting a DBS check for relevant management post <i>For any teacher in a relevant management role you will also be, separately, checking via the NCTL Teachers' Services System that they are not prohibited from teaching and this check will also show any s128 directions.</i></li> <li><b>Where accepting a portable DBS check</b> the stand-alone Children's Barred List check that you will be requesting via the eDBS system will not include an s128 check and so the NCTL Teachers' Services system route should be used (<a href="https://teacherservices.education.gov.uk/">https://teacherservices.education.gov.uk/</a>). For the purpose of this check schools only need to access the "prohibited" list on the NCTL website. Although this list is primarily designed to be for those prohibited from teaching it will also show s128 directions including those for non-teachers (support staff on the senior leadership team and governors / trustees). A teacher reference number is not needed.</li> <li><b>Governor/trustee not in Regulated Activity</b> – use NCTL route only.</li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>Education And Skills Act 2008, Keeping Children Safe in Education 5 September 2016</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>Third parties are required to undertake the same checks as academies/free schools and provide written confirmation to the academy/free school that these checks have been completed.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Should be recorded on SCR</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>Checks made online via DBS and NCTL systems</li> </ul>

### 12.1 Background

From 5 January 2015 a revised set of independent school standards came into force. These standards apply in part, to academies and free schools.



The further revisions, together with all previous amendments, have been brought together into a single set of regulations made under s94 of the Education and Skills Act 2008. <http://www.legislation.gov.uk/ukxi/2014/3283/contents/made>.

The changes in Part 4 bring the requirements for barred list checks into line with those set in place by the Protection of Freedoms Act 2012, and make it a requirement that no member of staff or proprietor works at the school in contravention of a prohibition order issued by the Secretary of State, or occupies a management position when subject to a direction barring that person from such a post (this part applies to academies and free schools).

A mechanism for carrying out checks for the existence of directions made by the Secretary of State under s.128 of the Education and Skills Act 2008 barring individuals from taking part in the management of an independent school (which includes academies and free schools) was not immediately available but the DfE has now agreed procedures with the Disclosure and Barring Service (DBS) and the NCTL so that any s.128 directions made by the Secretary of State will show up on checks made on individuals with those bodies (see “How” section above).

## **12.2 Existing Managers**

It is not necessary to check existing staff, members of Trust Board, governors for the existence of a s.128 direction even if they are in future promoted internally to a post for which a check is needed. If an individual already at a school is the subject of a direction made from now onwards, that would be taken up by the department with the school concerned.

## **12.3 What to do if a s128 direction barring the candidate from taking part in management is shown**

The letter from the DfE team Independent Education and Boarding team in August 2015 detailing the requirement for the check indicated that up to that point no direction under s.128 had been made by the Secretary of State. If a future check reveals a direction for a candidate you should not allow the candidate to take up a management position and you should contact your HR consultant to discuss the situation.

### 13. Individuals who have lived or worked outside the UK

<b>Who:</b>	<ul style="list-style-type: none"> <li>Individuals who have lived or worked outside the UK (where applicable).</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Prior to confirming offer of employment.</li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>The application process for criminal records checks or 'Certificates of Good Conduct' for someone from overseas varies from country to country. Schools will have to apply in the country or to the relevant embassy in the UK. Refer to the Home Office guidance at the link below which has the guidance for each country listed alphabetically.</li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>DfE Statutory Guidance Keeping Children Safe in Education, 5 September 2016.</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>Third parties are required to undertake the same checks as school/academies.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Required to be recorded on SCR.</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>N/A.</li> <li>For comprehensive guidance please refer to the following guidance published by the Home Office:  <a href="https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants">https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants</a>.</li> </ul>

#### 13.1. Obtaining details of the criminal history of 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 schools. In addition, schools must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered. Where an individual meets the DBS portability criteria (see section 11.4.1) there is no requirement to carry out checks for events that may have occurred outside the UK.

DBS checks should be undertaken on all individuals who have lived or worked outside the UK as soon as they have a UK address. If an individual provides an address outside the UK in the previous five years when applying for a DBS check the DBS may advise that a certificate of good conduct be obtained and the school should consider whether this further check is appropriate in the circumstances.

The Home Office has issued guidance on criminal records checks for overseas applicants available at: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>.

The application process for criminal records checks or 'Certificates of Good Conduct' for someone from overseas varies from country to country, as does the information that is provided as a result of such checks. Schools/individuals who decide to carry out overseas checks will need to apply in the country or to the relevant embassy in the UK. These checks may take a longer period of time and many incur additional charges (normally payable by the individual). If schools have decided that such additional checks are appropriate any offer of employment should be made conditional on satisfactory checks.

The DBS is not involved in the processing of applications made by individuals to overseas authorities and will not be responsible for the contents or the length of time taken for information to be returned.

### **13.2 Recording checks on the SCR**

Where an individual has lived or worked abroad and the school has decided to carry out additional checks, the date of such check (and optionally the name/initials of the person who carried out the additional checks) must be recorded on the SCR. If the school has decided not to pursue additional checks on an individual who has lived or worked abroad this column can record “not applicable” or “not required”.

Where an individual has not lived or worked abroad the SCR can be completed with “not applicable” or “not required”.

## 14. ECC Known to LADO safeguarding checks (formerly Essex List and Indices)

<b>Who:</b>	<ul style="list-style-type: none"> <li>New starters and volunteers who have a DBS Barred List Check – in Essex Maintained Schools (will shortly be available to Essex Academies)</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>Before starting work</li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>ECC Known to LADO safeguarding checks are automatically completed when a DBS application for a Regulated Activity position is submitted to eDBS by an Essex Maintained School (Soon any Essex Academy that buys the eDBS service will be able to indicate that they also wish to buy this additional service).</li> <li>They can be carried out independently if a new enhanced DBS is not requested (e.g. where portability criteria are met) by requesting <b>ECC known to LADO safeguarding checks on the eDBS system.</b></li> <li>Checks are free of charge for Essex Maintained Schools.</li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>ECC Policy</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>Third parties do not have access to the ECC LADO safeguarding checks (this includes Non-Essex schools and academies and for the time being Essex academies).</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Not required to be recorded on SCR</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>All ECC LADO safeguarding checks are carried out online.</li> </ul>

### 14.1. ECC LADO safeguarding checks

From 2<sup>nd</sup> November 2015, relevant safeguarding information previously held on the Essex List and Indices has been held by the Local Authority Designated Officer for children’s safeguarding (“LADO”) team as part of their statutory safeguarding duty.

An additional pre-employment check against the “Known to LADO” records identifies those that have met the threshold for a DBS referral (individuals who have been dismissed or resigned in advance of a dismissal or have been charged or convicted of an offence). This is not a banning process but provides pre-employment intelligence. We consider this to be an important addition to safer recruitment checks. Relatively few of those referred to DBS are barred, and while a DBS check will pick up criminal matters, other issues may fall through the net.

This check was previously only available to Essex Maintained Schools but access is being extended to Essex academies who wish to buy this additional service.

### 14.2. Dealing with positive checks

Where it is indicated that an individual is known to the LADO team, this will be flagged on the system and the school will then need to email the children’s safeguard team [Childrens.Safeguarding@essex.gov.uk](mailto:Childrens.Safeguarding@essex.gov.uk) who will contact the school to give further information. The school should take HR advice about not proceeding with the recruitment as necessary.

## 15. Childcare Disqualification Regulation Checks

<b>Who:</b>	<ul style="list-style-type: none"> <li>All shortlisted candidates applying for a role providing early years childcare provision (for nursery and reception aged children) or later years childcare provision (for children who have not attained the age of 8 namely before school settings, such as breakfast clubs, and after school provision such as homework clubs) in a school setting covered by the Regulations (see 15.2 and 15.3).</li> <li>All shortlisted candidates applying for a role in a school setting covered by the Regulations which directly concerns the management of such early or later years childcare provision (see 15.2 and 15.3).</li> <li>Any existing employees directly employed by the school whose role has changed to a role covered by the Regulations.</li> <li>All volunteers engaging in work on a regular basis in relevant early or later years childcare provision in a school setting covered by the Regulations (see 15.3.4).</li> </ul>
<b>When:</b>	<ul style="list-style-type: none"> <li>All shortlisted candidates/volunteers applying for a relevant role in a school setting covered by the regulations (as set out in 13.2 and 13.3) should be asked to complete a Disqualification Declaration Form.</li> <li>Any existing employees who have changed role and their new role is covered by the Regulations should be asked to complete a Disqualification Declaration Form.</li> </ul>
<b>How:</b>	<ul style="list-style-type: none"> <li>Shortlisted candidates/employees/volunteers covered by the Regulations should complete a Disqualification declaration form (see Appendix 13).</li> </ul>
<b>Source:</b>	<ul style="list-style-type: none"> <li>DfE Statutory Guidance (“Disqualification under the Childcare Act 2006”) issued February 2015</li> <li>Childcare (Disqualification) Regulations 2009 (“the Regulations”)</li> </ul>
<b>Third Parties:</b>	<ul style="list-style-type: none"> <li>The school should request written confirmation from third parties that the relevant checks have been completed.</li> </ul>
<b>SCR:</b>	<ul style="list-style-type: none"> <li>Not required to be recorded on SCR by the DfE Statutory Guidance or the Regulations, however, our best practice advice is that schools record that a check has been satisfactorily completed and the date of the check either on the SCR or in a separate record (see 13.8 below).</li> </ul>
<b>Forms:</b>	<ul style="list-style-type: none"> <li>Disqualification declaration form(See Appendix 13)</li> <li>Risk Assessment Form (for use by employer where a Declaration is made (see 15.7.2 and Appendix 14)).</li> </ul>

### 15.1 The statutory requirements

The Department of Education has issued statutory guidance (Feb 2015) on the operation of the Childcare (Disqualification) Regulations 2009 (“the Regulations”).

The statutory guidance can be found at the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/407788/disqual\\_stat-guidance\\_Feb\\_15.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/407788/disqual_stat-guidance_Feb_15.pdf).

This statutory guidance replaces the previous supplementary advice issued by the Department in October 2014.

These checks arise from the Childcare (Disqualification) Regulations 2009, which in turn arose out of the Education Act 2006. Although these Regulations have been in force for some time it was clarified in October 2014 that they are applicable in the school sector. The Regulations prohibit anyone who is disqualified themselves under the Regulations, or who lives in the same household as a disqualified person, from working in relevant settings, including in schools.

In order to decide which individuals need to be checked, schools will need to consider:

- Whether their school setting is covered by the Regulations.
- If their setting is covered, which individuals need to be checked.

## 15.2 School settings covered by the Disqualification Regulations

The following school settings are covered by the Regulations:

- Any schools providing early years childcare.\* This means:
  - Schools with nursery and reception classes.
  - Schools providing (themselves or through a third party (see also Sections 2 and 5)) before, during and after school supervision/activities for nursery and reception age children, including breakfast clubs, lunchtime supervision, homework clubs and extra-curricular activities such as sports and other clubs.

\*Early year's childcare is any care for a child from birth to the 1 September following a child's 5<sup>th</sup> birthday and **includes education and any other supervised activity**.

- Any schools providing childcare in later years provision. This means
  - schools providing (themselves or through third party (see also Sections 2 and 5)) before and after school childcare including breakfast clubs and homework clubs but:
  - it does not include education or supervised activity for pupils above reception age which is provided by a school during school hours
  - it does not include extra-curricular activities such as sports and other clubs for those above reception age.

Infant, Nursery Schools and Primary – These schools settings are covered by the Regulations and therefore any shortlisted candidates applying for roles which will involve providing or managing childcare (see 15.3.1 below) should be asked to complete a Disqualification Declaration Form.

Junior/Secondary Schools – If these schools directly provide childcare in later years provision (see 15.3.1 below) (where under 8's may be in attendance e.g. childcare facilities, breakfast or homework clubs) outside the school day they will be covered by the Regulations. They should therefore check all shortlisted candidates/volunteers (including

relevant managers) where the role applied for involves providing/managing childcare in this before/after school provision.

**School settings which do not provide early year's childcare or later years childcare provision (as defined above) are not covered by the Regulations and should not apply these checks.**

### **15.3 Individuals who should be checked**

#### **15.3.1 Directly employed individuals covered by the Regulations**

Where the school setting is covered by the Regulations, all shortlisted candidates and volunteers (see section 15.2) should be checked if their role regularly\* involves:

- Providing early year's childcare (as defined at 15.2. above) both during and outside the school day.

This means-

- Teachers, LSAs, Nursery Nurses etc. working in nursery and reception classes;
- Midday Assistants supervising nursery/reception children;
- Any other staff providing any education/supervision/activities for nursery/reception children before, during or after school, including extra-curricular activities arranged by the school e.g. music tutors, sports coaches etc.

NB: this includes any supply/agency/third party organisation/LA/self-employed staff and trainee teachers/student teachers in any of these roles (who should be checked by their employer – see sections 15.3.2 – 15.3.7).

- Providing childcare in later year's provision for children who have not attained the age of 8.
- 

This means-

- Any staff working in before school settings, provided by the school, such as breakfast clubs and after school provision such as homework clubs (but not extra-curricular activities/clubs for this age group).

NB: this includes any third party organisation/self-employed staff engaged by the school (who should be checked by their employer – see sections 15.3.6)

- Being directly concerned in the management of either of these provisions.

This will include Headteachers in all cases and any other members of the school's leadership team/staff involved in the day-to-day management of these provisions.

\*Regularly is not defined in this legislation or guidance – we would include anyone who works in relevant roles other than very occasionally. For example: it may not be necessary to check an LSA in a Junior School who only covers the breakfast club very occasionally when the usual LSA is off sick.

Where deployment is flexible, relevant school settings may need to check a wider group of staff.

For example: In Infant and Primary schools, while an LSA or MDA might usually work in the Year 2 class or in the Junior Playground, they could be deployed to a reception class

or playground where nursery/reception children play at any time and so all LSA's and MDAs should be checked.

Schools may wish to speak to HR for further guidance if they are unclear about whether an individual needs to be checked.

### **15.3.2 Individuals NOT covered by the Regulations**

The following individuals /activities fall outside of the Regulations as they/the role does not involve the provision of childcare as defined by the Regulations. Schools should not ask individuals who are not in roles/settings covered by the Regulations to complete a Disqualification Declaration Form as they are not entitled to receive this sensitive personal information.

- Ancillary roles such as caretaking, cleaning, catering, drivers, escorts and office staff.
- Teachers, LSAs, MDAs etc. who do not work in nursery/reception classes and who do not provide any supervision during or outside the school day for nursery/reception children and who do not provide any childcare for under 8s outside the school day (see section 15.2 above for those occasionally undertaking these activities).

In addition, the following roles are specifically excluded from the legislation and staff should not be checked:

- Staff involved in health care provision such as school nurses.
- Local Authority staff such as speech and language therapists and educational psychologists.

Where schools wish to move employees from a role which is not covered by the Regulations to a role which is, they should carry out a check before doing so.

### **15.3.3 Governors**

The Regulations do not apply to Governors. Governors cannot therefore be prevented from holding office under these Regulations, although the School Governance (Constitution) (England) Regulations 2012 already set out the factors that may exclude a person from becoming a Governor, including being barred from any Regulated Activity relating to children and being disqualified from working with children or from registering for child-minding or providing day care.

Governors should not therefore routinely be required to sign a Disqualification Declaration Form in relation to the Regulations. The only exceptions are where a Governor specifically also works with children in school as a volunteer helper (see below) or is an employee or intended employee of the school or is directly involved in the day to day management of relevant childcare provision. As it is not generally a Governor's role to be involved in day to day management, this is unlikely to be commonplace.



### **15.3.4 Volunteers**

Volunteers are covered by the Regulations where they work on a regular basis in relevant settings and roles, whether or not they are supervised. All references to employees/workers in this procedure therefore includes volunteers. Schools are therefore required to ask existing or new volunteers working in relevant roles to complete a Disqualification Declaration Form

Any such information provided by volunteers or prospective volunteers should be assessed in line with the guidance issued in relation to employees (see 15.7.2 below). It is our understanding that Ofsted will not consider a waiver application in respect of a volunteer and schools will need to make a decision about whether to allow the individual to volunteer in school – this should involve a risk assessment (see 15.7.2 and Appendix 14) having regard to the information provided on the declaration, the nature of the activities they undertake and the level of supervision in place.

### **15.3.5 Local Authority Staff**

Relevant Local Authority Staff (e.g. peripatetic music teachers or special needs teachers) will be checked by the Local Authority and as with other checks, presentation of an LA ID badge should be taken as evidence that relevant checks have been carried out.

### **15.3.6 Contractors, agency workers and individuals supplied by a third party organisation (including training suppliers)**

Employers are responsible for ensuring that individuals working in relevant roles in early years or later years childcare provision (as defined in 15.2 above) are suitable to work with children and are not disqualified under the Regulations.

In the case of individuals that are supplied by an agency or third party organisation (including training suppliers placing trainees or students at the school), schools should ensure that the agency or organisation has carried out the relevant checks and should ask for written confirmation that the relevant check has been satisfactorily completed.

### **15.3.7 Self-employed individuals**

Where a school deploys a contractor who is self-employed to work in relevant childcare provision (see 15.2 and 15.3 above) the school must ensure they comply with the requirements of the Regulations. Schools should ensure such individuals are checked (i.e. by asking them to complete a Disqualification Declaration Form before allowing them to commence such work in school).

## **15.4 The disqualification criteria**

A person is disqualified if any of the following apply:

- They are on the DBS Children's Barred List.
- They have been cautioned for, or convicted of certain violent and sexual criminal offences against adults and any offences against children (see 15.5 below).

- They are the subject of an Order, direction or similar in respect of childcare, including orders made in respect of their own children.
- They have had registration refused or cancelled in relation to childcare or children’s homes or have been disqualified from private fostering.
- They live in the same household where another person who is disqualified lives or works (disqualification ‘by association’). It is accepted that staff may not necessarily know this information – the declaration requires them to answer “to the best of their knowledge”.
- Being found to have committed an offence overseas which would constitute an offence regarding disqualification under the 2009 Regulations if it had been done in any part of the UK.

Full details of what constitutes “disqualification” are in the Schedules to the Regulations <http://www.legislation.gov.uk/ukxi/2009/1547/contents/made>.

## 15.5 Which offences need to be disclosed?

A list of all the relevant offences and orders that lead to disqualification under the Regulations is set out in the DfE Guidance:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/407788/disqual\\_stat-guidance\\_Feb\\_15.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/407788/disqual_stat-guidance_Feb_15.pdf).

These can also be found in Schedules 2 and 3 of the Regulations and in a list published by Ofsted (see link below at section 5.1a from page 14 onwards:

<https://www.gov.uk/government/publications/compliance-investigation-and-enforcement-handbook-childcare>).

Under the Regulations, an individual is disqualified at the point that they are convicted of, or cautioned\* for, a criminal offence of a specified type or category, or where they meet other disqualification criteria set out in the Regulations.

\*any caution received prior to 6 April 2007 is exempt from these requirements.

Where a person is accused of, arrested for, or charged with, a relevant offence but has not been cautioned or convicted, they are not disqualified. However, schools will need to carry out a risk assessment and the employee must keep the employer up to date with developments (see section 15.7.2 and Risk Assessment Form at Appendix 14).

Individuals who work/are engaged by schools in roles covered by the Regulations are required to declare **spent and unspent** convictions/cautions, other than those offences which are protected. Protected offences are offences which have been filtered from the individual’s criminal record and will not therefore appear on a DBS certificate (see section 11.5 for information on filtering).

The majority of offences which would lead to disqualification are unlikely to be protected as they will never be filtered (see section 11.5 for link to the list of offences which will never be filtered).

If schools are in any doubt whether an offence is covered by the Regulations, they should seek advice from HR.

## 15.6 Disqualification by association

Individuals who are required to complete the Disqualification Declaration Form are asked to declare any information relating to themselves and any person living or working in the same household, to the best of their knowledge. There is no requirement on individuals to ask any person living or working in the same household if they are disqualified. There is also no requirement on schools to verify any of the information declared about a prospective employee's household members. Household members are under no obligation to disclose any information to the employee or the school.

If the individual lives in the same household as another person who is disqualified lives or works (disqualification 'by association') they are disqualified from working in a school setting covered by the Regulations and their application for employment cannot proceed, unless a disqualification waiver can be obtained or unless the school can offer an alternative role not covered by the Regulations (although there is no obligation to do so).

Under the Rehabilitation of Offenders Act 1974 (ROA) criminal cautions and convictions resulting in prison sentences of 30 months or less have a specified rehabilitation period.

Guidance on the rehabilitation of offenders is available from:

<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>).

Under the ROA, employees cannot be required to disclose **spent** cautions and convictions relating to individuals who live or work in the same household as them for the purposes of a disqualification check. **A school can only ask an employee to disclose the unspent cautions or convictions of a person who lives or works in their household.** Employees are entitled to respond to a question relating to the criminal record of a person in the employee's household as though it only relates to unspent offences.

## 15.7 Disqualification Declaration Form

Employers are not legally obliged to use a disclosure form but they must put in place some system to seek to obtain the required disclosures from the relevant employees. Our best practice advice is that use of the Disqualification Declaration Form (see Appendix 13) is an effective and consistent method of obtaining the relevant information required to ensure compliance with the Regulations.

All shortlisted applicants applying for a relevant post in a school setting covered by the Regulations (as defined at 15.2 and 15.3 above) should be asked to complete a Disqualification Declaration Form prior to commencing work.

The form should be completed by the shortlisted candidates prior to interview and held in a sealed envelope pending consideration by the Headteacher/Chair of the Selection Panel.

### **15.7.1 Failure to complete and return the Disqualification Declaration Form**

Individuals applying for roles covered by the Regulations should be asked to complete and return the Disqualification Declaration Form prior to their interview date. We therefore recommend that the form is provided at the same time as the interview date is notified.

Where a candidate fails or refuses to complete the form prior to interview without a satisfactory explanation, they should be informed that their application for employment will not proceed.

### **15.7.2 Assessing information declared on the Disqualification declaration form**

Any information declared on the form should be held securely and remain confidential to the Headteacher/Chair of the Selection Panel.

Where an individual declares information on a Disqualification Declaration Form the school will need to establish whether the information declared meets one of the disqualification criteria.

In addition, any information declared on the SD2 form (and DBS Certificate if available) should be checked with reference to the relevant offences in the Act (see 15.5 above).

Schools must be certain that the information provided is relevant to their enquiries and where information is provided in error, or is not relevant, it should be disregarded and destroyed

If the information does meet the disqualification criteria, the selection panel may decide:

- a) to discontinue the recruitment process in respect of that candidate (and notify the candidate that this is the case); or
- b) discuss the declaration with the individual at interview and decide whether the application can proceed by allowing the employee to apply for a waiver prior to any offer of employment; or
- c) Whether they can offer a position which is not covered by the Regulations (although there is no obligation to do so).

If b) applies and the individual is subsequently selected as the preferred candidate (following the interview process and consideration of the information declared on the Disqualification Declaration Form) a conditional offer can be made. It must be made clear that a firm offer of employment will not be made until satisfactory pre-employment checks (DBS, medical clearance and references) have been completed and a waiver obtained from Ofsted.

The individual should be advised that they can apply to Ofsted for a waiver and how to do this.

Ofsted have an information leaflet available at the following link:

<http://www.ofsted.gov.uk/resources/applying-waive-disqualification-early-years-and-childcare-providers>.

They should be given a short deadline to provide a copy of their disqualification waiver application and any associated documentation (ideally within 7 days of being notified they need to apply for a waiver).

Individuals must be asked to keep the school regularly updated with the progress of their disqualification waiver application.

Under no circumstances must be a disqualified individual be allowed to work in a role covered by the Regulations until a waiver is received from Ofsted. If the individual has applied for a waiver and this has not been granted by Ofsted any conditional offer must be withdrawn.

### **15.7.3 Verifying the information on the Disqualification Declaration Form**

There is no requirement to verify the information provided on the Disqualification Declaration Form as the check is solely based on self-declaration. For those individuals who will be subject to a DBS check prior to their employment being confirmed, schools may wish to check any declared information against the information provided on the DBS certificate. It is important to bear in mind that due to filtering rules (see section 10.1) the information contained on the DBS check may not include all the information provided by an individual on the Disqualification Declaration Form or on their SD2.

If a school subsequently becomes aware of information that should have been declared on the Disqualification Declaration Form this will need to be addressed with the individual and could potentially lead to disciplinary action if employment has been confirmed.

## **15.8 Single Central Record**

The statutory guidance requires that schools must keep a record of those staff employed to work in or manage relevant childcare in relevant settings, of the checks that have been made and when they were completed. It is best practice advice that this information is recorded on the Single Central Record, but may be in a separate record in an appropriate format if schools prefer. In any case, Ofsted will check this information is recorded as part of their inspection process.

## **15.9 Record retention**

Schools must ensure that they only ask for relevant information (see section 15.4) and handle all data provided by individuals (both in relation to themselves and any of their household members) in accordance with the Data Protection Act 1998 (DPA). To this end, any completed disqualification declaration forms which do **not** contain a positive declaration may be retained on the individual's personal file (although there is no obligation to do so).

If a positive declaration has been made the Disqualification Declaration Form should be destroyed (once the declared information has been considered and a decision made) as it contains sensitive personal data. If a risk assessment has been carried out in relation

to the individual this should be retained on their personal file. If a waiver has been applied for and granted by Ofsted a copy of the waiver must also be retained on the personal file.

Schools must be certain that any information/records are relevant to their enquiries and where information is provided in error, or is not relevant, it should be disregarded and destroyed.

Any Disqualification Declaration Forms for unsuccessful candidates should also be destroyed at the conclusion of the recruitment process.

### **15.10 Updating Childcare Disqualification checks**

The statutory guidance makes no reference to periodically updating checks for individuals who are working/volunteering in a role covered by the Regulations. However, relevant staff should be made aware of their continuing obligation to notify the school if their circumstances (or those of a household member) change and this may impact on their ability to continue in a role covered by the Regulations.

It is a term of all employment contracts that employees immediately notify their manager/headteacher in writing of any offence and the penalty if they are convicted of, or cautioned for, any offence during their employment. It is also expected that employees will notify their employer of any relevant pending matters. Failure to notify their employer of new convictions and cautions or pending matters may lead to disciplinary action, up to and including dismissal.

The declaration form includes a declaration to notify the school if anything affects an individual's suitability (including any cautions, warnings, convictions, orders or other determinations made in respect of the individual or a member of their household) that would render the individual disqualified from working with children.

If a candidate/volunteer/employee makes a new declaration to the school this should be assessed to ascertain whether the disqualification criteria are met (see section 13.4 above). Schools should contact HR for advice in these circumstances.

# Appendix 1 - Example Format for the Single Central Record

Identity				Qualification		Prohibition from teaching check	DBS	DBS Children’s Barred List (formerly ISA List and List 99)	Section 128 Direction (Academies and free schools only)	Checks on Individuals who have lived or worked outside the UK		Right to work in UK*	(Only for relevant school settings) Childcare Disqualification Regulations 2009**
Name	Address	DOB	Evidenced by & date	Qualification Required: Yes/No	Evidenced by & date	Date of check or N/A	Evidenced by & date	Evidenced by & date	Evidence by & date	Checks required? Yes/No	Evidenced by & date	Evidenced by & date	Evidenced by & date

\*This column must be completed for every individual (not volunteers or non-staff governors) – DO NOT mark as not applicable

\*\* **APPLICABLE SCHOOLS ONLY** Schools must keep a record, for relevant staff who work in relevant settings, of the checks that have been made and when they were made. We suggest that this information is recorded on the Single Central Record.

## Appendix 2 – Single Central Record evidence to be retained on personal files

Check	Evidence required or recommended on personal file?	Examples of evidence	Further information
Identity	Required by statutory guidance “Keeping Children Safe in Education” September 2016.	Evidence requirements for identity mirror evidence requirements for DBS checks. Refer to list of group 1, group 2a and 2b documents for acceptable documents.  At least 3 documents will be required e.g. current valid passport, together with current driving licence and bank statement issued in UK in last 3 months.	Identity checking guidelines can be found on the DBS website:  <a href="https://www.gov.uk/government/publications/dbs-identity-checking-guidelines/id-checking-guidelines-for-dbs-check-applications">https://www.gov.uk/government/publications/dbs-identity-checking-guidelines/id-checking-guidelines-for-dbs-check-applications</a>
Qualifications	Required by statutory guidance “Keeping Children Safe in Education” September 2016.  Those qualifications legally required for the job e.g. QTS must be evidenced on the personal file.	Original certificate or original letter from awarding body.  A print out from employer access online showing individual qualifications will also suffice (obtained by clicking on the individual’s teacher reference number).	Information is available from employer access online service  <a href="https://www.gov.uk/teacher-status-checks-information-for-employers">https://www.gov.uk/teacher-status-checks-information-for-employers</a>  See also section 8 of Pre-Employment Checks procedure
Prohibition from teaching check	Recommended	Print out of check from employer access online service showing individual not prohibited from teaching or subject to any restrictions.	<a href="https://www.gov.uk/teacher-status-checks-information-for-employers">https://www.gov.uk/teacher-status-checks-information-for-employers</a>  See also section 9 of Pre-Employment Checks procedure
Enhanced DBS check	Recommended	Where school has carried out new DBS check/online status check and wishes to hold evidence of DBS check on file a print out from eDBS/other umbrella body showing the date of the	See section 11 of Pre-Employment Checks procedure.  See para 113 of Part 3 “Keeping Children



		<p>check/online status check and the certificate number may be retained.</p> <p>Where individual has supplied DBS certificate meeting the portability requirements, the school may wish to record this in a file note.</p> <p>Enhanced disclosure certificates (original or complete copies) <b>MUST NOT</b> be retained on file for more than 6 months.</p> <p>Where a positive DBS check is received a risk assessment should be completed and this should be retained on the file.</p> <p>NB: For historic checks the top part of the DBS certificate showing the date and number may be retained.</p>	<p>Safe in Education” September 2016.</p> <p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435939/Keeping_children_safe_in_education.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435939/Keeping_children_safe_in_education.pdf</a></p>
DBS Children’s Barred List (formerly List 99)	Recommended	<p>Print out from eCRB showing check against DBS Children’s Barred List including date of check &amp; certificate number can be retained.</p> <p><b>Barred list check only:</b> <i>Print out from eCRB (via TP online) showing date satisfactory standalone check completed.</i></p>	
Section 128 checks for management positions ( <b>Academies and free schools only</b> )	Recommended	Print out from eCRB	
Checks on individuals who have lived or	Recommended	Appropriate certificate of good conduct/character or police certificate from the relevant embassy/authority.	This check will normally be required if/when applicant applying for a DBS

worked outside the UK		Where further checks are not obtained as not considered appropriate by the Headteacher a risk assessment /confirmation of this decision may be retained on file	<p>check provides an overseas address in the previous five years.</p> <p>See guidance on obtaining checks</p> <p><a href="https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants">https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants</a></p>
Right to work in the UK	Required by statutory guidance "Keeping Children Safe in Education" September 2016.	Original documents from either List A or List B.	<p>See Appendix 6 of pre-employment checks.</p> <p>Home office checklist is available at <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378926/employers_right_to_work_checklist_november_2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/378926/employers_right_to_work_checklist_november_2014.pdf</a></p> <p>Copies of the documents checked could be appended to the completed checklist for each individual.</p>

## Appendix 3 – Employer Reference

Date.....

Dear .....

**Re: <Candidates Name> – Applicant for post of: <Candidates job title> at <School Name>**

The above has given permission for us to write to you for a reference regarding their suitability for employment for the above post.

I understand that <Applicants title, surname> was employed by you as a  
.....between ..... and  
.....

We would be grateful if you could confirm the above details and give your views on their suitability for this post. I enclose details of the post to assist you with your reply.

It would be especially helpful if you would comment on the areas overleaf.

Please ensure that this reference is accurate and does not contain any material misstatement or omission. Relevant factual content of the reference may be discussed with the applicant.

The interviews are to be held on ..... and therefore an early response would be appreciated. I enclose a pre-paid envelope for your reply.

As you will be aware, under the Equality Act, information regarding absences cannot be exchanged on shortlisted candidates. To this end, we may contact you again for this information if your employee is selected as our preferred candidate. We understand that you will need the employees consent to release sickness absence information.

Thank you for completing this reference.

Yours sincerely

*Headteacher (or Manager responsible for recruitment)*

**Reference for: <Candidates Name> who is currently employed as –  
<Candidates job title> at <School Name>**

How long you have known the applicant and in what capacity?	
Are you satisfied that the applicant has the ability and is suitable to undertake the job in question? Please provide any specific comments about the applicant's suitability for the post, and how s/he has demonstrated that s/he meets the person specification	
Are you completely satisfied that the applicant is suitable to work with children? If not, please provide specific details of your concerns and the reasons why you feel he/she is unsuitable.	
Please provide details of the applicant's post, and salary;	<u>Post Title:</u>  <u>Salary:</u>
Please provide specific verifiable comments about the applicant's performance history, capability and conduct (continue on a separate sheet if necessary). Please confirm whether or not the applicant has been subject to the employer's capability procedures in the last 2 years – and if so please provide details of the concerns, the duration of the proceedings and the outcome. <i>(Please note this information is requested, and must be provided by schools, in accordance with the requirements of the Schools Staffing (Amendment) Regulations 2012/Academies Funding Agreement)</i>	
Please provide details of any disciplinary procedures the applicant has been subject to in which the disciplinary sanction is current.	
Please provide details of any disciplinary procedures the applicant has been subject to involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, and the outcome of those.	
Please provide details of any allegations or concerns related to the safety and welfare of children or young people or behaviour towards children or young people, except where they have been found to be unsubstantiated, unfounded or malicious.	
If you feel that there is any other relevant information please include this (continue on a separate sheet if necessary)	

Signed.....

Position.....Date.....

## **Appendix 4 – Letter to employer requesting further information relating to preferred candidate**

Date

Dear

### **Reference for [candidate name]**

Thank you for providing a reference in relation to the above named candidate.

We have now completed the interview process and have selected [name] as our preferred candidate.

In line with this school's Pre-Employment Checks procedure please provide the following additional information:

1. The number of periods of absence in the last 2 years
2. The number of days absence in the last 2 years
3. Any information that you are aware of relating to [name]'s health that may affect their capacity for doing the job of [insert role].

Any information provided by you will be held in accordance with the Data Protection Act 1998. Please note that under the Data Protection Act, any information relating to an individual's health is sensitive personal data and should not be released without the express (written) consent of the individual concerned.

We would be grateful if you would respond to this request as soon as possible so that we can complete the recruitment process.

Yours sincerely

## Appendix 5 - SD2 Form



### Disclosure of Criminal Convictions / Cautions / Reprimands / Bind overs (Spent and Unspent)

#### Self-Disclosure Form (SD2)

Please read carefully the accompanying notes and then enter any convictions and cautions below.

**Please enter NONE if applicable**

Offence	Date of conviction / caution / reprimand / bind over	Sentence
---------	---	----------

Please list below details of any pending prosecutions

**Please enter NONE if applicable**

Court to which summoned	Appearance date	Alleged offence
-------------------------	-----------------	--------------------

I certify that i) I have read and understood the attached guidance notes; ii) to the best of my belief, the information I have entered is true and I understand that any false information or failure to disclose criminal convictions will result, in the event of employment, in a disciplinary investigation by the County Council / Governing Board, and is likely to result in dismissal.

Name *(please use CAPITALS)*:

Signature:

Date:

Post applied for:

**PLEASE COMPLETE THE FORM AND RETURN IT TO THE SCHOOL IN A CONFIDENTIAL ENVELOPE.**

## SD2 Notes of Guidance

1. Under the Criminal Justice & Courts Services Act 2000 it is an offence for an individual who has been disqualified from working with children to knowingly apply for, offer to do, accept or do any work in a 'regulated position'.
  2. As the post for which you are applying is one that will give you substantial unsupervised access to children and young people it is covered by The Rehabilitation of Offenders Act 1974 (Exceptions) Orders from time to time enacted and in force. You are therefore required to disclose 'spent' as well as 'unspent' criminal convictions, cautions or reprimands or bind overs and any pending prosecutions against you in line with the requirements below.
  3. The rules as to when a conviction or caution will be filtered are set out in legislation. This states that a certificate must include the following:
    - Cautions relating to an offence from a list agreed by Parliament (see below)
    - Cautions given less than 6 years ago (where individual 18 or over at the time of caution)
    - Cautions given less than 2 years ago (where individual under 18 at the time of caution)
    - Convictions relating to an offence from a prescribed list (see below)
    - Where the individual has more than one conviction offence all convictions will be included on the certificate (no conviction will be filtered)
    - Convictions that resulted in a custodial sentence (regardless of whether served)
    - Convictions which did not result in a custodial sentence, given less than 11 years ago (where individual 18 or over at the time of conviction)
    - Convictions which did not result in a custodial sentence, given less than 5.5 years ago (where individual under 18 at the time of conviction)
- A [list of offences which will never be filtered from a criminal record check](#) has been taken from legislation.
4. The information you provide (by completing the form) will be treated as strictly confidential and will be considered only in relation to the post for which you are applying.
  5. Disclosure of a conviction, caution, reprimand, bind over or pending prosecution does not necessarily mean that you will not be appointed; a person's suitability will be looked at as a whole in the light of all the information available, and in accordance with the Governing Board's policy on the employment of ex-offenders, a copy of which can be obtained from the Governing Board. A main consideration will be whether the offence is one which would make a person unsuitable to work in the capacity of the post applied for. If you disclose information which you are not required to, this will be disregarded. Any information provided which is not relevant to employment will be disregarded
  6. A conviction includes:
    - a. A sentence of imprisonment, youth custody or in a young offenders institution;
    - b. An absolute discharge, conditional discharge, bind over;
    - c. A fit person order, a supervision or care order, a probation order or community punishment order or an approved school order arising from a criminal conviction;
    - d. Simple dismissal from the Armed Forces, cashiering, discharge with ignominy, dismissal with disgrace or detention by the Armed Forces.
    - e. Detention by direction of the Home Secretary;
    - f. Remand centres, secure training centres or in secure accommodation;
    - g. A suspended sentence;
    - h. A fine or any other sentence not mentioned above.
  7. A caution is a formal warning about future conduct given by a Senior Police Officer, usually in a Police Station, after a person has admitted an offence. It is used as an alternative to a charge and Positive Prosecution.
  8. A Reprimand has replaced a Caution for young people under 15. A young person given a second formal warning about future conduct is then given a formal warning.
  9. A Bind over is an order which requires the defendant to return to Court on an unspecified date for sentence.
  10. Driving offences must be declared unless excluded by the criteria in 3. above.
  11. Failure to disclose convictions, cautions, reprimands or bind overs and any pending prosecutions may, in the event of employment result in dismissal or disciplinary action by the governing board.
- As the post for which you are applying falls within the category for which a criminal record disclosure is required, if you are selected for appointment, you will be required to apply for an enhanced Disclosure & Barring Service (DBS) disclosure. A refusal to make such an application could prevent your employment.

## Appendix 6 – Right to Work in the UK

This information is current as of September 2016.

Please refer to Home Office website for the most up to date information.

Schools should ask all prospective employees to present their documents before they begin working for you. You should not make presumptions about a person's right to work in the UK on the basis of their background, appearance or accent.

The table below provides you with the only acceptable evidence that may be provided as evidence of right to work in the UK:

<b>List A – continuous – before employment starts only</b>	
Acceptable documents to establish a continuous statutory excuse	
1	A passport* showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2	A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3	A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4	A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
5	A <b>current</b> Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6	A <b>current</b> passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7	A <b>current</b> Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, <b>together with</b> an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
8	A <b>full</b> birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, <b>together with</b> an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
9	A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or previous employer.
10	A certificate of registration or naturalisation as a British Citizen, <b>together with</b> an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

\*An expired UK passport or passport issued by a member state of the EEA is acceptable for this check only (not for DBS or identity checks). Expired passports issued by any other country are NOT acceptable.



## List B

Group 1 documents provide a time-limited statutory excuse which expires when the person's permission to work expires. This means that you should carry out a follow-up check when the document which proves their permission to work expires.

Group 2 documents provide a time-limit statutory excuse which expires 6 months from the date specified in your Positive Verification Notice. This means that you should carry out a follow-up check when this notice expires.

List B	
Group 1 – Documents where a time-limited statutory excuse lasts until the expiry date of leave	
1	A <b>current</b> passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2	A <b>current</b> Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3	A <b>current</b> Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
4	A <b>current</b> Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
Group 2 – Documents where a time-limited statutory excuse lasts for 6 months	
1	A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is <b>less than 6 months old together with a Positive Verification Notice</b> from the Home Office Employer Checking Service.
2	An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, <b>together with a Positive Verification Notice</b> from the Home Office Employer Checking Service.
3	A <b>Positive Verification Notice</b> issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

You must check the validity of these Documents. You can find out more about these documents in lists A & B and how to check them by visiting either:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/276790/full-guide.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/276790/full-guide.pdf) for the full guide for employers on preventing illegal working in the UK, or

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/503927/gov\\_uk\\_guide\\_-\\_including\\_impostors\\_270216.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/503927/gov_uk_guide_-_including_impostors_270216.pdf) for guidance on examining identity documents.

## Appendix 7 – DBS Requirements

This appendix provides general guidance on DBS check requirements for a number of roles. However, headteachers and governing bodies are responsible for determining which specific roles at their establishment fall within the definition of Regulated Activity (as set out in section 10.1) and which do not.

### Applicants from overseas

Overseas candidates must undergo the same checks as for all other applicants in Schools. Once the applicant has an address in the UK, a DBS check must be carried out for employees in Regulated Activity.

DBS Disclosures will not generally show offences committed by individuals whilst living abroad. Therefore, in addition to an enhanced DBS Disclosure, the school must make any additional checks (such as obtaining certificates of good conduct from relevant embassies or police forces) that they consider appropriate so that any relevant events that occurred outside the UK can be considered necessary. See Section 11.

### Foreign Language Assistants (FLAs)

FLAs will be undertaking Regulated Activity. The British Council have an agreement between a number of countries that allows Foreign Language Assistants to work in UK Schools on a temporary basis. The individual will have to provide with their application a police clearance certificate/s from their country of origin. Foreign Language Assistants should undergo the same checks that all other staff in Schools undergo. Once the applicant has an address in the UK a DBS should be carried out.

### Volunteers

The DBS definition of a volunteer is “a person who is engaged in any activity which involves spending time, unpaid (except for travelling and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives”.

Whether a volunteer is in Regulated Activity or not depends on the degree of Supervision they are under. It is for the school to determine whether the supervision meets the statutory regulation definition (see 10.1.3) and if not whether their activity meets the definition of Regulated Activity by virtue of the role (see 10.1.1) and regularity (see 10.1.2).

For new volunteers, Schools must obtain an enhanced DBS disclosure with a Children’s barred list check, where the volunteering is in Regulated Activity. Schools may obtain a DBS check (without a Children’s barred list check) on other volunteers who are not engaged in Regulated Activity.

### Contractors (e.g. construction)

It is unlikely that most of these contractors will meet the definition of Regulated Activity as they will be occasional or temporary contractors (see 10.1.4) In any case, children should not be allowed in areas where contractors are working, not least for health and safety reasons.

In any case, all contractors should sign in and sign out when visiting the premises and identity checks must be carried out by the school on the first day. This may be recorded on the single central record.

## **PFI & other service contractors**

Most PFI contract staff (for example caretakers & catering staff) are likely to fall within the definition of Regulated Activity and must be checked by their employer (the Contractor) in the same way as school employees and such requirements form part of the service contract. The school must receive written confirmation from the employer that the appropriate checks have been carried out and the date that this confirmation was received should be recorded on the Single Central Record. The contractor is also responsible for ensuring that the same procedures are followed by any sub-contractor. The contractor must provide the school with a list of its employees and those of any sub-contractor before they start work on site.

## **Supply Staff**

Supply teachers are in Regulated Activity. Before accepting an individual provided by the supply agency, the school will need written confirmation from the Agency that it has satisfactorily completed the relevant checks. The school does not need to carry out or see the checks itself except where there is information contained in the DBS Disclosure. However, identity checks must be carried by the school to confirm that the individual arriving at the site is the individual that the agency has referred to them. An official ID badge from the provider /agency would be sufficient ID evidence.

Where supply staff are employed directly, the school must complete all relevant checks as for other employed staff in Regulated Activity. If a member of supply staff is subsequently recruited to a permanent position within the school a new DBS check will not be required if portability criteria are met (see 11.4.1).

## **Governors**

All Governors as part of their selection/election process are required to sign a declaration confirming their suitability to fulfil the role.

All Governors (except Governors on local governing boards in academies which are part of a multi academy trust) must have an enhanced DBS check. The application must be submitted within 21 days of their appointment/election. Existing governors not holding an enhanced DBS check should have been checked by 1<sup>st</sup> September 2016.

Governors as office holders are not considered to be in 'Regulated Activity' and therefore an enhanced DBS check without a check against the DBS children's barred list should be carried out. However, if their duties include the 'specific activities' and specific safeguarding responsibility for children which bring them within the definition of 'Regulated Activity' (see 11.2 above) the enhanced DBS check should be requested including a check against the DBS Children's Barred List.

Where DBS checks are carried out we recommend they are recorded on the Single Central Record.

## **SCITT**

SCITT is a practical course for graduates who want to develop a teaching career and is Regulated Activity. The ITT Partnership will carry out all the appropriate checks for individuals on the SCITT programme. Schools should obtain written confirmation from the ITT Partnership that it has satisfactorily completed the relevant checks.

### **School Direct (tuition fees) Trainees**

If a school cannot get confirmation that the ITT provider has completed the appropriate checks for a trainee they should undertake, the school should carry out the checks.

### **School Direct (salaried) Trainees**

This employment based route to QTS for high quality graduates with at least three years' work experience replaces the Graduate Teacher programme. It is the responsibility of the employing school to carry out the appropriate checks for individuals employed on School Direct (salaried).

### **Work Experience (under 16 years)**

DBS checks cannot be obtained for people under the age of 16. It is good practice to ensure that a pupil on work experience signs in and out and is escorted whilst on the premises by an appropriately vetted member of staff, or volunteer.

### **Work Placement (16 years of age and over)**

Individuals on work placements in a school or academy must undergo the same checks as for all other staff in Schools according to the role they are carrying out. If the placement is organised through a college or university, it is their responsibility to carry out the checks and the school should obtain written confirmation that those checks have been carried out. If the individual is offered a placement directly, the school must undertake the relevant checks.

### **Staff from other Schools**

If a member of staff from one school is attending another school, it is sufficient for the host establishment to receive reassurance from the substantive one that the relevant checks have been carried out. The host establishment does not need to see or verify the DBS. The host establishment should still carry out identity checks on the individual arriving at the premises and they should sign in and out.

### **Exam Invigilators**

Exam invigilators employed in a school or academy must undergo the same checks as for all other staff according to the role they are carrying out. If they are engaging in Regulated Activity the school should obtain an enhanced DBS check which must include a DBS Children's barred list check.

Due to the nature of their role there may be breaks in the periods invigilators are working for the school. If these breaks in employment exceed three months a new DBS check will need to be completed as the portability criteria will not be met (see 10.3.1). Invigilators may therefore benefit from joining the DBS online update service so that the school using them can carry out an online status check (free of charge) where there has been a break exceeding three months (see 10.3.2. for further information on using the online update service). The school and invigilator will need to consider who will be responsible for paying the annual charge of £13 for using this service.

### **Local Authority staff and Public Sector staff**

Individuals such as psychologists, nurses, dentists, centrally employed teachers and other public sector staff coming in to work with children, will have had appropriate checks undertaken by their employing organisation, whether Local Authority, Primary Care Trust or Strategy Health Authority. It is, therefore, not necessary for Schools to see evidence of the checks or to receive written confirmation that they have been undertaken.

Schools should see the individual's official ID badge (or other ID) and record on their Single Central Record that the person is a public sector employee and that ID has been seen.

## **Sport Coaches / Music Tutors etc. (also known as Adults Supporting Learning previously Adults other than Teachers - AOTTs)**

These staff are likely to be engaged in Regulated Activity.

### LA Staff

If ASLs are employed through the LA (i.e. Music Services) please refer to the Local Authority staff section above.

### Third Party Providers

If ASLs are employed through a third party provider (e.g. a football club), it should be the third party that carries out the relevant checks and the school will need written confirmation from the third party that all relevant checks have been carried out.

It is important that Schools ascertain that the types & levels of checks that these providers undertake are the checks that are required by the school (i.e. an enhanced DBS check including a DBS Children Barred List check).

### Self employed

If the person is engaged in Regulated Activity, it is the responsibility of the self-employed person to ensure all relevant checks have been carried out. The school should check the DBS certificate, which must include a DBS Barred list check, and verify identity.

The school should only carry out the DBS check out if the individual genuinely cannot get one any other way. Self-employed individuals may benefit from joining the DBS online update service so that any organisation using their services can carry out a status check. Where a self-employed individual is not registered with the online update service the school will need to make a judgement as to whether to accept the DBS provided (see section 10 for further guidance on DBS checks).

## **Visitors**

Visitors are defined as those individuals that come into school on an occasional basis and who do not undertake work on a voluntary or paid basis. This would include parents/carers and those who are meeting with adults only in school e.g. HR Advisors, sales reps etc. It is not necessary to obtain a DBS Disclosure for visitors or to record them on the SCR.

All visitors should sign in and out and be escorted whilst on the premises by a member of staff, or appropriately vetted volunteer.

## Appendix 8 – DBS Consent Form

(TO BE COMPLETED BY PREFERRED CANDIDATES/VOLUNTEERS)

### Applicant Name:

I acknowledge that in order to process my application to be employed / engaged by the school that an enhanced DBS check will be undertaken or I will be required to produce an acceptable enhanced DBS certificate, including a Children's Barred list check where this is required for the post I am applying for.

I confirm that I will produce an original DBS certificate to the school within a reasonable timeframe in order for the school to proceed with my application/engagement. If a new DBS check has been carried out by the school, I understand I am required to produce the original DBS certificate within 5 working days following my receipt of it. I acknowledge that if I fail to produce my original DBS certificate within a reasonable timeframe, the school may not proceed with my application.

I understand that if I commence work before I receive my DBS certificate and/or produce it to the school that this will be on a conditional basis as set out in my conditional offer letter/conditional contract/volunteer agreement. If my DBS check is unsatisfactory to the school I acknowledge that my employment/engagement will not be confirmed/will not continue.

I confirm that I give my consent for the school to take a copy or image of my original DBS certificate and hold the copy/image for as long as is necessary to complete the recruitment process. In any event the school will not hold the copy for longer than 6 months. At the end of this period I acknowledge that the school will remove the copy from their records and destroy it.

I further acknowledge that the school may share the information contained on the DBS certificate with a third party for the purposes of seeking guidance on the recruitment decision, where appropriate.

The school confirms that it will comply with the DBS Code of Practice at all times. A copy of the school's policy on the recruitment of ex-offenders can found in the Recruitment Policy which is available [from the school office/on the intranet].

Signed.....

Print name.....

Date.....

### Additional section to be completed by applicants who have a subscription to the DBS online update service:

By signing this section of the form you confirm that you are registered with the DBS online update service and you give permission for the school to carry out a status check with the DBS online update service.

You confirm you will produce to the school your current DBS certificate and any further information required to carry out a DBS status check.

You acknowledge that the school may require a new DBS check to be obtained if the certificate you have presented is not at an appropriate level or for an equivalent role. A new DBS check may also be required if the online status check indicates that your certificate is no longer current.

Signed.....

Print name.....

Date.....

## Appendix 9(i) – Sample meeting framework for positive DBS checks/self-disclosures

The Disclosure Code of Practice requires that employers discuss any matters revealed on a disclosure with the person. A similar process should be conducted for declarations on SD2s. This template provides a framework for that meeting.

### **Interview:**

Explain that the role involves actual or potential unsupervised access to children and, because a positive declaration/DBS certificate has been received, an assessment must be undertaken before a decision is made to proceed with employment or not. In these circumstances the candidate is interviewed as part of that assessment process.

### **Suggested questions:**

- 1) [In the case of DBS certificate], do you dispute the accuracy of the information disclosed?  
*If yes they need to be advised to contact the DBS*
- 2) Can you tell me about the Disclosure(s)
- 3) How did you feel about them at the time?
- 4) How do you feel about them now?
- 5) How can I be sure that you do not present a future risk?
- 6) How is your life different now?

### **Assessing the risk:**

#### **Relevance**

Whether the conviction or other matter revealed is relevant to for the position they are being considered. (Any child related issues are likely to be highly relevant. However there could be other relevant matters e.g. fraud, where an individual has applied to be a Bursar.)

#### **Seriousness**

The seriousness of any offence or other matter revealed (i.e. the level of disposals e.g. caution, conviction, imprisonment)

#### **Age of offences**

The length of time since the offence or other matter revealed and/or the age of the applicant at the time (i.e. did it happen in the individual's youth?)

#### **Pattern of offending**

Whether the applicant has a pattern of offending behaviour or other relevant matters

#### **Changed circumstances**

The circumstances surrounding the incidents and the explanation(s) offered by the person. Whether the applicant's circumstances have changed since the incidents.

#### **Degree of remorse**

Does the individual feel genuine remorse for their actions?

#### **Honesty**

[In the case of DBS check] whether the conviction or other matter was declared and the information provided in advance on the SD2 is accurate.

### **Employee/Volunteer name**

### **Person conducting meeting**

### **Date of meeting**

### **Employment decision**

**NB you may not record or retain details of the Disclosures on this or any other form**

**Appendix 9(ii) – CONFIDENTIAL: RISK ASSESSMENT** for appointment prior to DBS disclosure being received on [employee] \_\_\_\_\_ appointed to the post of/engaged in the position of \_\_\_\_\_

An individual may begin work pending receipt of the DBS Disclosure (except for residential workers) but the headteacher must ensure that the individual is appropriately supervised and that all other checks have been completed. Similarly, not all volunteers will require a DBS check. In both of these cases a Risk Assessment should be undertaken.

1) Has an appropriate, full recruitment process been undertaken with application form and interview (staff) or appropriate engagement process (volunteer)?	YES / NO
2) Have appropriate references been received?	YES / NO
3) Has an ECC Known to LADO safeguarding check been completed? ( <b>Essex Maintained Schools</b> only).	YES / NO
4) Has a DBS application been submitted online by the school and completed by the individual (where applicable)?	YES / NO
5) <i>Has an SD2 self-declaration been completed?</i>	YES / NO
6) <i>Have any declarations been discussed with the individual?</i>	YES / NO
7) <i>Is the person subject to Supervision as defined in Regulations?</i>	YES / NO
8) <i>What safeguarding risks have been identified?</i>	e.g. unsupervised access to children <i>(if other particular risks then detail also)</i>
9) <i>What measures will be undertaken to manage the risk?</i>	e.g. <ul style="list-style-type: none"> <li>• They will not be left alone with children.</li> <li>• Describe the Supervision in place <i>(give appropriate details)</i></li> </ul>

SIGNED HEADTEACHER: \_\_\_\_\_ DATE: \_\_\_\_\_

**To be kept on the personal file.**



## Appendix 10 – CONFIDENTIAL: RISK ASSESSMENT

This risk assessment is to assist the Headteacher/Appointing Officer in deciding whether to appoint a preferred candidate following receipt of a positive DBS disclosure.

### Important notes:

- A positive disclosure is not necessarily a bar to employment in a school. Any such disclosures must be managed in line with the DBS Code of Practice and assessed on a case by case basis. **(Serious child related offences will usually result in automatic exclusion from employment)**
- **Prior to any decision being taken to appoint, the Headteacher must meet with the preferred candidate and discuss the information on the DBS certificate.** A sample meeting framework is available at [Appendix 7(i)].
- This Risk Assessment should be completed by the Headteacher/ Appointing Officer prior to any offer of employment being confirmed.

**Candidate Name:**.....**Position applied for:**.....

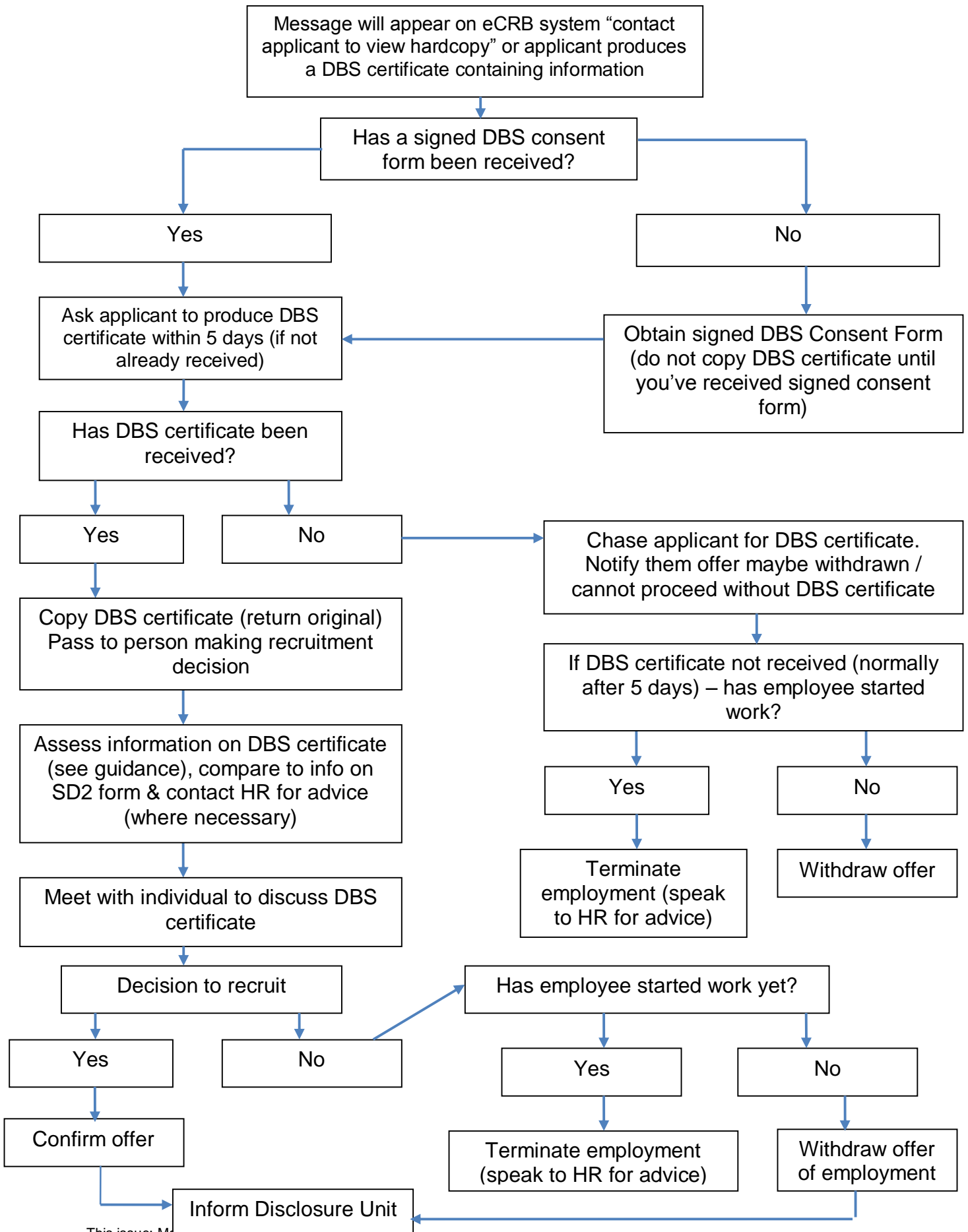
Is the conviction or other matter revealed relevant to the position applied for?	
Will the preferred candidate be engaging in Regulated Activity in the position applied for?	
What was the level of sanction/other matter? (e.g. caution/conviction/imprisonment/fine)	
How long ago did the conviction or other matter revealed occur?  How old was the preferred candidate when it occurred?	
Was this a one-off incident or does the DBS certificate show a pattern of offending/other relevant behaviour?	
Was the conviction/other related matter declared on the SD2?  Was all information on the DBS certificate declared on the SD2?	
<i>(Essex Maintained Schools only/academies buying this check)</i> Has a “Known to LADO” check been completed? Was any additional information received from this check?	
When discussed, what explanation of the circumstances surrounding the incidents(s)/ conviction/other relevant information did the preferred candidate give?	

Did the preferred candidate show genuine remorse for their actions?	
Have their circumstances changed since the incident(s) occurred?	
What safeguarding/other risks have been identified and what measures can/will be undertaken to manage the risk if the offer of employment is confirmed?	
Are you satisfied that any risks identified can be managed by the school?	
Are you satisfied the information disclosed does not render the preferred candidate unsuitable to carry out the position applied for?	
Has advice been sought from Education HR? If yes, what advice was offered and by whom?	
Will the offer of employment be confirmed?	

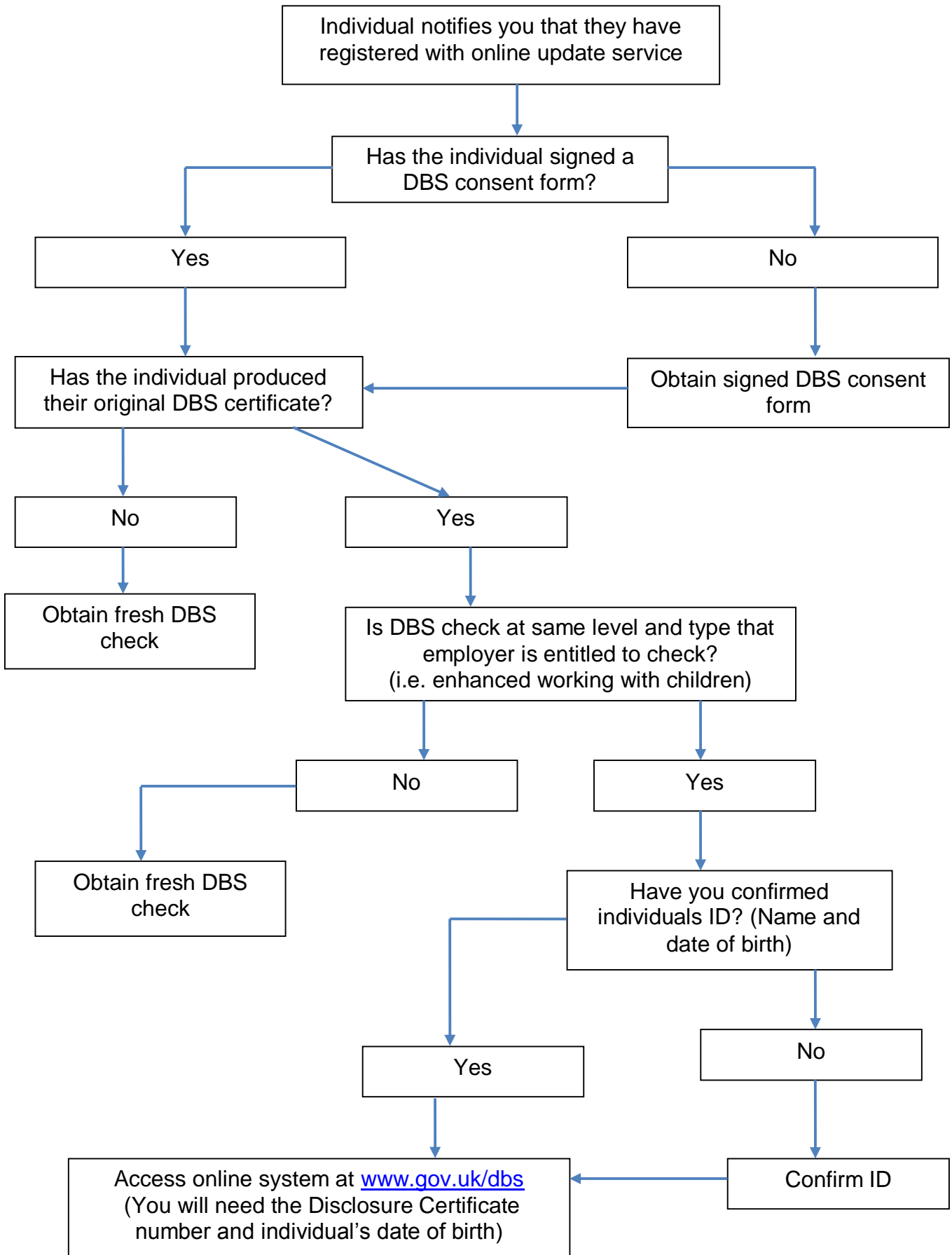
- Once a decision has been reached in relation to whether to confirm the offer of employment the DBS certificate must be destroyed.
- This form contains highly sensitive personal information and must be kept securely in a sealed envelope and retained on the personal file.
- If a decision is made to confirm the offer of employment the school should inform the Disclosure Unit to enable an audit trail to be kept.

**SIGNED HEADTEACHER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

## Appendix 11 – Process on receipt of Positive DBS Disclosures



## Appendix 12 – Process for using online update service



## Appendix 13 – Disqualification Declaration Form

<b>School</b>	
<p>As we are a school setting providing childcare as defined in the Childcare (Disqualification) Regulations 2009 (“the Regulations”) we are required to check that individuals working in relevant roles are not disqualified under the Regulations.</p> <p>A person may be disqualified through</p> <ol style="list-style-type: none"> <li>1. having certain orders or other restrictions placed upon them</li> <li>2. having committed certain offences</li> <li>3. living in the same household as someone who is disqualified by virtue of 1 or 2 above (this is known as “disqualification by association”)</li> </ol> <p><b>Please read this form carefully and then answer the questions below. You must sign the declaration confirming that you are not disqualified under those Regulations, or disqualified by association, from working in this school.</b></p> <p>A disqualified person is not permitted to work in a childcare setting although Ofsted may in some circumstances issue a waiver. The school will determine whether or not it is prepared to proceed with your application in the light of the information declared on this form.</p>	
Have you previously applied for a waiver from Ofsted?	YES / NO
If yes, please indicate whether the waiver was granted and the date of the waiver.	
<p>If you fail to complete, sign and return this form, we will be unable to proceed with your application for employment. If you complete the form and are offered employment at the school and it later transpires that you are disqualified from working at the school under the Regulations this will be regarded as a disciplinary matter, which may result in dismissal.</p>	
<b>Name</b>	<b>Post</b>
Please circle one option for every question	
<b>Section 1 – Orders or other restrictions</b>	
Have any orders or other determinations related to childcare been made in respect of you?	YES / NO
Have any orders or other determinations related to childcare been made in respect of a child in your care?	YES / NO
Have any orders or other determinations been made which prevents you from being registered in relation to child care, children’s homes or fostering?	YES / NO
Are there any other relevant orders, restrictions or prohibitions in respect of you as set out in the Schedule 1 of the Regulations? Available from the school office or at the link below: <a href="http://www.legislation.gov.uk/uksi/2009/1547/schedule/1/made">http://www.legislation.gov.uk/uksi/2009/1547/schedule/1/made</a>	YES / NO
Are you on the DBS Children’s barred list?	YES / NO
Are you prohibited from Teaching?	YES / NO

<b>Section 2 – Specified and Statutory Offences</b>	
Have you been cautioned (including a reprimand or warning) since 6 April 2007 or have you ever been convicted of:	
<ul style="list-style-type: none"> <li>Any offence against or involving a child? (A child is a person under the age of 18)?</li> </ul>	YES / NO
<ul style="list-style-type: none"> <li>Any violent* or sexual offence against an adult? *a violent offence in this context is murder, manslaughter, kidnapping, false imprisonment, ABH, GBH</li> </ul>	YES / NO
<ul style="list-style-type: none"> <li>Any offence under the Sexual Offences Act?</li> </ul>	YES / NO
Any other relevant offence? Information on the relevant offences is available from the school office or at the links below: <a href="http://www.legislation.gov.uk/ukxi/2009/1547/schedule/2/made">http://www.legislation.gov.uk/ukxi/2009/1547/schedule/2/made</a> <a href="http://www.legislation.gov.uk/ukxi/2009/1547/schedule/3/made">http://www.legislation.gov.uk/ukxi/2009/1547/schedule/3/made</a>	YES / NO
Have you ever been cautioned, reprimanded, given a warning for or convicted of any similar offence in another country?	YES / NO
<b>Section 3 – Disqualification by association (see guidance notes)</b>	
To the best of your knowledge, is anyone in your household* disqualified from working with children under the Regulations? *– anyone living or working in the same household This means does anyone in your household have an Order or Restriction against them as set out in Section 1 or have they been cautioned, reprimanded, given a warning for or convicted of any offence in Section 2 (Only <b>unspent</b> convictions should be disclosed – see guidance on the Rehabilitation of Offenders Act 1974 <a href="https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974">https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974</a> ).	YES / NO
<b>Section 4 – Provision of Information</b>	
If you have answered YES to any of the questions above you should provide details the below in respect of yourself, or where relevant the member of your household. You may supply this information separately if you so wish, but you must do so without delay.	
Details of the order, restriction, conviction, caution etc.	
The date(s) of these	
The relevant court(s) or body(ies)	
You should also provide a copy of the relevant order, caution, conviction etc. In relation to cautions/convictions a DBS Certificate may be provided.	
<b>Section 4 - Declaration</b>	
By signing this form, I confirm that the information provided is true to the best of my knowledge and that:	
<ul style="list-style-type: none"> <li>I understand my responsibilities to safeguard children.</li> <li>I understand that I must notify my headteacher immediately of anything that affects my suitability including any cautions, warnings, convictions, orders or other determinations made</li> </ul>	

in respect of me or a member of my household that would render me disqualified from working with children

Signed

Print Name

Date

## Appendix 14 – Disqualification Risk Assessment

### Childcare Disqualification – Risk Assessment

To be completed for individuals who make a declaration under the Childcare Disqualification Regulations 2009. Where an individual is disqualified, their deployment must be restricted either permanently or pending the granting of a Waiver from OFSTED.

<b>School</b>		<b>Name</b>	
<b>Post</b>		<b>Date</b>	
<b>Context</b>			
The above named individual completed a Childcare Disqualification declaration form on _____ (Date).			
A Disqualified person may not be involved in:			
<ul style="list-style-type: none"> <li>• Providing childcare (which includes education and supervision) to Reception and Nursery children during, before or after school, or be</li> <li>• Providing before or after school childcare for children under the age of 8; or be</li> <li>• Directly concerned in the management of these activities</li> </ul>			
			Tick relevant box
The individual is not disqualified at this stage as the declaration relates to a charge/allegation, but would be disqualified should a caution or conviction occur.			
<b>OR</b> The individual is disqualified by virtue of:			
1. Their own position			
2. By association (because of someone who lives/works in their household)			
<b>The individual's post involves</b>	<b>Regularly</b>	<b>Occasionally</b>	<b>Never*</b>
Supervising, or providing education to Reception and Nursery children before, during or after the school day			
Providing before or after school childcare for children under the age of 8.			
Involvement in the management of these activities			
*If the individual's role never involves working in any of the relevant activities above, they are not Disqualified. However, their position should be monitored and the measures set out below will apply. If the employee's role changes this risk assessment must be updated accordingly.			
<b>Risk Assessment</b>			
			Tick relevant box
The measures outlined below are temporary pending an outcome to the current police investigation/criminal process. If the individual is subsequently disqualified, a revised risk assessment will be carried out.			
The measures outlined below are temporary pending receipt of a Waiver from Ofsted. The employee applied for a Waiver on _____ (date). If a Waiver is not granted the risk assessment will be reviewed and where possible measures will be put in place permanently. Where this is not possible, consideration will need to be given to whether the employment can continue.			
The measures outlined below can be applied on a permanent basis (while the individual remains in post) and the individual is not required to apply for a Waiver.			



The individual does not wish to apply for a Waiver and the measures below cannot be guaranteed on a permanent basis. Consideration will need to be given to whether the employment can continue.	
--	--

**Measures (1) – all cases**

	Tick relevant box
The individual’s deployment is restricted, such that they will <u>not, at any time</u> : <ul style="list-style-type: none"> <li>• Work in reception or nursery classrooms</li> <li>• Teach or provide any other support for reception or nursery pupils</li> <li>• Supervise nursery or reception children before, during or after the school day e.g. playground duty, after school club</li> <li>• Have involvement in before or after school childcare (breakfast/homework clubs) for any child under the age of 8.</li> <li>• Have involvement in the management of any of the above activities</li> </ul>	
It is not possible to restrict the individual’s activities as set out above and the individual is therefore on leave of absence/suspended pending receipt of a Waiver. If a Waiver is not granted, consideration will need to be given to whether the employment can continue.	

**Measures (2) – where disqualification is “by association”**

The following restrictions are placed upon the individual for the duration of their employment. These measures apply even if the individual is granted a Waiver from OFSTED.	
	Tick relevant box
The Disqualified person is not permitted to enter the school premises without the express permission of, and subject to any conditions required by, the headteacher.	
The individual is not permitted to take any documentation or other material related to pupils to their home address	
The individual is not permitted to discuss any matters related to pupils at the school with the disqualified person.	
The individual must ensure that their IT links to school are secure: i.e. members of their household must not be allowed access to any school equipment, passwords must not be divulged etc.	
<i>Insert other relevant measures below:</i>	

**School Signature:**

Signed:		Print Name:	
Designation:		Date:	

**individual Signature:**

I agree to comply with the measures set out in this document and to bring to the attention of the headteacher any changes in circumstances which are relevant to this risk assessment.			
Signed:		Print Name:	
Position:		Date:	

## Appendix 15 – Letter confirming 3rd party checks

### Email/letter to 3<sup>rd</sup> party completing pre-employment checks (Regulated Activity position)

Dear

Thank you for confirming [name] will be coming to work at this school on [date].

In line with safeguarding requirements and to enable us to record [name] on our Single Central Record we require confirmation from your organisation, on headed notepaper or by email (clearly showing your organisation name) that he/she has been subject to the required pre-employment checks.

Please provide the following information regarding the checks carried out on [name] in advance of their first day working at the school:

Check	Has check been satisfactorily completed? [yes/no/not required]	Date of check/further information
Enhanced DBS check (please include DBS certificate number in further information column and name of organisation who carried out the check)  <b>Supply Agencies only:</b> If information is contained on the DBS certificate please indicate this so that we can ask the individual to provide their certificate to the school for consideration in advance of their first working day.		
DBS Children's Barred List check		
For work in a management position in academy/free school only  Section 128 check.		
Right to Work in the UK		
Proof of Identity*		
Further checks on individuals who have lived or worked abroad		
Qualifications relevant to the post		

Prohibition from teaching check (teachers only)		
Childcare Disqualification check (where role is covered by the Disqualification regulations)		

\*the individual will be required to bring proof of their identity with them on their first day – ideally this should be photographic ID i.e. a passport or driving licence.

In the event that any of these checks have not been completed satisfactorily, we regret that we may not be in a position to allow the individual to work at the school.

If you have any queries, please contact [name] on [number].

Thank you for your co-operation.

Yours sincerely

## Appendix 16 – Risk Assessment where it has not been possible to obtain suitable references for preferred candidate

Please refer to pages 13-15 of the Pre-Employment Checks Procedure (May 2017).

Post.....Candidate.....

**Complete Section 1 or 2 and in all cases Section 3.**

### 1. Candidate has given details of 2 appropriate referees but they have not replied to request

	Reference 1	Reference 2
Reference sought from (name)		
On (date)		
Received (date)		
Chased <i>telephone/e-mail/letter</i> on (dates)		
Candidate asked to contact referee on (date)		

### 2. Candidate is unable to give details of 2 appropriate referees

Discussion with candidate regarding why they are unable to supply suitable trusted authoritative referee(s) (preferably last employer and other previous employer, at least one with knowledge of their working with children) held on (date).....

Details given as to why candidate cannot provide details of suitable referee(s)

### 3. Factors considered in making decision as to whether appointment can be confirmed

*Insert any other factors you considered*

Satisfied with explanation for being unable to give suitable referee	YES / NO / N/A
Attitude to working with children explored at interview and/ or separately and satisfied with outcome	YES / NO
Candidate known to school	YES / NO
All other pre-employment checks completed and satisfactory	YES / NO

<b>Decision as to whether appointment can be confirmed</b>	YES / NO
--	----------

**Signed .....** **Date .....** **(Headteacher)**

**This document is issued by:**

EES for Schools, Education HR service

You can contact us in the following ways:

**By telephone:**

033301 39810

**By email:**

[educationHR@essex.gov.uk](mailto:educationHR@essex.gov.uk)

**By post:**

EES for schools,  
Education HR,  
Seax House,  
Victoria Road South,  
Chelmsford,  
CM1 1QH

**Visit our website:**

[www.EESforschools.org](http://www.EESforschools.org)

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