



GATEWAY SCHOOL

— GREAT MISSENDEN —

Recruitment and Selection Checklist (August 2023)

This checklist, once completed, should be retained in the applicant's personnel file

The school should **not** retain copies of (or original) DBS certificates for longer than 6 months. The DBS number and the date the certificate was seen by the school should be recorded on the SCR. Otherwise, evidence of checks, consistent with this checklist and the SCR, should be retained in the appointed person's personnel file. **For clarity, every check in this checklist which should be supported by an evidence document in the personnel file is marked with an asterisk *.** It may not always be possible to produce written evidence of a prohibition from teaching check if the appointed person is not a UK qualified teacher.

Name of applicant: _____	Date of appointment: ____/____/____	
Pre-interview:	Initials	Date
Planning - Timetable decided: job specification and description and other documents to be provided to applicants, reviewed and updated as necessary. Application form seeks all relevant information and includes relevant statements about references etc.		
Vacancy advertised (where appropriate) Advertisement includes reference to safeguarding policy, that is, statement of commitment to safeguarding and promoting welfare of children and need for successful applicant to be DBS checked. Advert should be placed on school's website and on Staffroom noticeboard		
*Applications on receipt - Scrutinised - any discrepancies/anomalies/gaps in employment noted to explore if candidate considered for short-listing.		
Short-list prepared		
<p>*References (professional and character) – seeking</p> <p>Sought directly from referee on short-listed candidates, before interview unless there is a good reason not to. References should always be obtained from the current employer; if there is no current employer, verification of the most recent period of employment and reasons for leaving should be obtained. Where the proposed employment involves working with children, if the current employment does not involve working with children, a reference should be sought from the candidates previous employment with children. References should be from a senior person with 'appropriate authority'. Information provided directly by the candidate should be verified.</p> <p>The request for a reference should seek confirmation of dates of employment and ask the recommended specific questions, including on suitability and include statement about liability for accuracy. Further advice on references can be found on the ACAS website here: http://www.acas.org.uk/index.aspx?articleid=5072</p> <p>* If a candidate requests that a referee is not contacted prior to interview, the school should give consideration to accepting this request and also evaluate whether the reasons for such a request are positive.</p>		
On-line Search if a candidate is shortlisted an online search should be carried out, the candidate must be informed this is taking place		
<p>*References - on receipt - Checked against information on application; scrutinised; any discrepancy/issue of concern noted to take up with referee and/or applicant (at interview if possible). References must have been obtained before work starts. However, if a reference is delayed, a telephone reference can bridge the gap. The school must obtain the name and position of the person giving the reference, make notes on the call and follow it up by receiving written confirmation. This is important. If the candidate did not want a reference given before interview this stage must be followed assiduously. The school should verify that electronic references originate from a legitimate source, usually by telephone check of authenticity.</p>	1. 2.	1. 2.
Invitation to interview - Includes all relevant information and instructions		
Interview arrangements - At least two interviewers; panel members have authority to appoint; have met and agreed issues and questions/assessment criteria/standards. At least one person involved in the interviews holds a current safer recruitment qualification.		
Face to Face Interview - Explores applicants' suitability for work with children as well as for the post.		

<p>Note: identity and qualifications of successful applicant verified on day of interview by scrutiny of appropriate original documents; copies of documents taken and placed on file; where appropriate applicant completed application for DBS disclosure.</p>		
<p>*Conditional offer of appointment: Pre-appointment checks. Offer of appointment is made conditional on satisfactory completion of the following pre- appointment checks pre-appointment checks and, if relevant, a probationary period.</p>		
<p>*Identity: this typically includes official documents such as a passport, a driving licence, or a birth certificate, photographic identity, together with evidence of address (for example, a utility bill, bank statement or similar). KCSIE provides a link to the full guidance which also covers how to check the identity of those lacking the usual official documentation. New in 2021 is the provision that, in verifying a candidate’s identity, ‘best practice is checking the name on their birth certificate, where this is available.’</p>		
<p>*Qualifications (if not verified on the day of interview) The qualifications to be verified are:</p> <ul style="list-style-type: none"> ● all qualifications required by the post (eg in the job spec) ● all relevant qualifications declared by the candidate. ● New for 2021: the Teaching Regulation Agency’s (TRA) Employer Access Service should be used to verify any award of Qualified Teacher Status (QTS), and the completion of teacher induction or probation 		
<p>*Right to work in UK Obtain a copy of the applicant’s passport (or birth/adoption certificate if the applicant does not have a passport) and add to personnel file.</p>		
<p>DBS certificate - where appropriate satisfactory DBS certificate received</p>		
<p>*DBS Barred list - person is not prohibited from taking up the post. See guidance notes relating to circumstances when this check needs to be obtained separately from the DBS check. Note: The school is entitled to undertake a barred list check only if the appointed person will be engaged in regulated activity.</p>		
<p>*Overseas Check - see note above and Home Office website for more information</p>		
<p>*Health - the candidate is physically and medically fit for the post as described in the specification. There is provision for candidates to make this declaration on the Bellevue template for a job application form.</p>		
<p>*Prohibition from teaching - (for posts involving teaching work) the teacher has not been included in the prohibition list or interim prohibition list</p>		
<p>*Prohibition from Management Check - (applicable for SLT - including non-teaching members - and teaching heads of department roles and, at Head Office level, those involved in school governance) Since May 2018 this is also required for internal promotions to management.</p>		
<p>*Childcare Disqualification Regulations Self Declaration - to obtain for those required.</p>		
<p>*Qualified Teacher Status (QTS) - (for teaching posts in maintained schools) the teacher has obtained QTS or is exempt from the requirement to hold QTS (for teaching posts in FE colleges) the teacher has obtained a Post Graduate Certificate of Education (PGCE) or Certificate of Education (Cert. Ed) awarded by a higher education institution, or the FE Teaching Certificate conferred by an awarding body</p>		
<p>*Statutory ECT induction (for teachers who obtained QTS after 7 May 1999)</p>		
<p>*School Induction (refer to the Bellevue Induction Policy and Checklist and annotate here when the induction checklist is complete). To cover all induction requirements stipulated by ISSRs, EYFS requirements, NMS and KCSIE, including Child Protection training, Health and Safety, first aid and fire procedures, Safe Working Practice, staff code of conduct, whistleblowing, the role of the DSL, evacuation routines and the reading and understanding of required policies etc.</p>		
<p>FINAL CONFIRMATIONS</p>		
<p>I confirm that all the required appointment checks have been completed and have been entered in the single central register.</p>		
<p>Signed _____ Head Teacher Date ____/____/____</p>		
<p>I confirm that the initial stage of induction (prior to starting work) has been completed and this member of staff has signed to confirm that he/she has read and understands all the policies, as required at induction.</p>		
<p>Signed _____ Head Teacher Date ____/____/____</p>		
<p>No person may start work or volunteering with the school until the Head Teacher has signed this form to confirm that all the required recruitment checks and procedures have been successfully completed.</p>		

Paragraph 18 – Appointment of staff

- (1) The standard in this paragraph relates to the suitability of persons appointed as **members of staff** at the school, other than the proprietor and supply staff.
- (2) The standard in this paragraph is met if—
 - (a) no such person is **barred** from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that person is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act;
 - (b) no such person carries out work, or intends to carry out work, at the school in contravention of a **prohibition order**, an interim prohibition order, or any **direction made under section 128** of the 2008 Act or section 142 of the 2002 Act, or any disqualification, prohibition or restriction which takes effect as if contained in either such direction;
 - (c) the proprietor carries out appropriate checks to confirm in respect of each such person—
 - (i) the person’s **identity**;
 - (ii) the person’s **medical fitness**;
 - (iii) the person’s **right to work** in the United Kingdom; and
 - (iv) where appropriate, the person’s **qualifications**;
 - (d) the proprietor ensures that, where relevant to any such person, an enhanced criminal record check is made in respect of that person and an enhanced criminal record certificate is obtained before or as soon as practicable after that person’s appointment;
 - (e) in the case of any person for whom, by reason of that person living or having lived outside the United Kingdom, obtaining such a certificate is not sufficient to establish the person’s suitability to work in a school, such further checks are made as the proprietor considers appropriate, having regard to any guidance issued by the Secretary of State; and
 - (f) in the case of staff who care for, train, supervise or are in charge of boarders, in addition to the matters specified in paragraphs (a) to (e), the proprietor checks that standard 14 of the National Minimum Standards for Boarding Schools or, where applicable, standard 14 of the National Minimum Standards for Residential Special Schools, is complied with, and in the light of the information from the checks referred to in paragraphs (c) to (f) the proprietor considers that the person is suitable for the position to which the person is appointed.
- (3) The checks referred to in sub-paragraphs (2)(c) and (except where sub-paragraph (4) applies) (2)(e) must be completed before a person’s appointment.
- (4) The checks specified in sub-paragraphs (2)(d), (e) and (f) do not need to be carried out where the new member of staff (‘M’) has worked in—
 - (a) a school or a maintained school in England in a position which brought M regularly into contact with children or young persons;
 - (b) a maintained school in England in a position to which M was appointed on or after 12th May 2006 and which did not bring M regularly into contact with children or young persons; or
 - (c) an institution within the further education sector in England or in a 16 to 19 Academy in a position which involved the provision of education or which brought M regularly into contact with children or young persons, during a period which ended not more than three months before M’s appointment.

463. The regulations provide a detailed list of the checks which are required for each new member of staff. The definition of staff is: Any person working at the school whether under a contract of employment, under a contract for services or otherwise than under a contract, but does not include supply staff or a volunteer.

464. The three strands of the definition of staff can be applied as follows. Any person working at the school whether:

- under a contract of employment [this covers every employee, no matter what sort of work they do];
- under a contract for services [this covers self-employed people arranged and/or paid direct by the school; it does not include those in a contract for services with others, subject to the exception immediately below];
- or otherwise than under a contract [this covers self-employed people who are arranged by the school for the purposes of the school but, for example, paid direct by parents, such as some peripatetic teachers and therapists; it does not include, for example, private employees of parents permitted to enter school by agreement];
- but does not include supply staff or a volunteer.

465. In relation to the second and third strands, the DfE permits schools to exercise professional discretion as to when self-employed people should be treated as 'staff' or as 'contractors' (see later). The inspection expectation is that, as a rule of thumb, if the person is in regulated activity in the school they should normally be treated as 'staff'. This could have the effect that an invigilator who works for a week is treated as 'staff' but a self-employed plumber who does likewise is treated as a contractor. For this grey area of worker definition, inspectors should respect the DfE policy intention to allow discretion to professionals in schools and probe, if necessary, whether a school has made a reasonable decision in context. Contemporaneous evidence of a risk-based decision by the school (eg, a brief note on the SCR) which recognises regulated activity as a key risk factor, can be indicative of a reasonable approach, though individual written risk-assessments should not be considered a regulatory requirement.

466. In the light of the above, the following are included in 'staff': teachers, peripatetic teachers and coaches, part-time staff, students, administrative staff, caretakers and other ancillary staff, staff appointed from overseas, pupils paid to work at the school (for example as after-school carers).

467. There has been some change over time and the table below sets out the requirements for each change in regulations. This is to enable inspectors to check that staff were properly vetted according to the requirements which were in force at the time of their appointment.

Staff recruitment checks over time

Staff recruitment checks over time

Date of appointment	Pre 1.9.03	1.9.03 to 30.4.07	1.5.07 to 31.8.10	1.9.10 to 2.4.14	3.4.14 to 4.1.15	5.1.15 to 12.8.15	12.8.15 to 5.9.16	5.9.16 to date	Pre-appointment?
Barred list /List 99 check	Yes	Yes	Yes	Yes	Yes	Yes (Regulated activity only)	Yes (Regulated activity only)	Yes (Regulated activity only)	Yes Checked separately if the person is to be in regulated activity and DBS disclosure not received in time.
Enhanced criminal record check	(Note 1)	Yes	Yes	Yes	Yes	Yes If in regulated activity (past or current definition)	Yes If in regulated activity (past or current definition)	Yes If in regulated activity (past or current definition)	Applied for (Note 5)
Identity		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Medical fitness		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes (Note 3)
Previous employment history/CV		Yes	Yes	Yes	Yes (Note 2)	Yes (Note 2)	Yes (Note 2)	Yes (Note 2)	Yes
References					Yes (Notes 2 and 6)	Yes (Notes 2 and 6)	Yes (Notes 2 and 6)	Yes (Notes 2 and 6)	Yes (Notes 2 and 6)
Character references		Yes	Yes	Yes					
Professional references, where appropriate		Yes	Yes	Yes					
Qualifications, where appropriate		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Overseas checks, where appropriate			Yes	Yes	Yes	Yes	Yes	Yes	Yes But see fuller notes

Right to work in the UK			Yes	Yes	Yes	Yes	Yes	Yes	Yes
Prohibition from teaching orders – for those who carry out teaching work					Yes (Note 4)	Yes (Note 4)	Yes	Yes	Yes
Disqualification from childcare						Yes From 27.2.15	Yes (Note 7)	Yes (Note 7)	Yes (Note 7)
Prohibition from management directions (section 128 directions)							Yes (Note 8)	Yes (Note 8)	(Note 8)

- Note 1 Boarding staff have needed an enhanced disclosure since April 2002 under the NMS applicable at the time.
- Note 2 Required in having regard to KCSIE. Gaps in checking are reported under regulation 7(a) & (b).
- Note 3 see note 425 for information about implications of the Equality Act (but note that compliance with this equality duty towards prospective employees is outside the remit of school inspection).
- Note 4 Introduced in April 2014 as part of having regard to KCSIE and from January 2015 by the ISSR. In late January 2015 the DfE asked schools to do this check on teaching staff appointed since 1 April 2012.
- Note 5 For those not in regulated activity, on past or current definitions, gaps in checking are reported under regulation 7(a) & (b). For those in regulated activity, on past or present definitions, gaps in checking are reported under regulation 18(2)(d).
- Note 6 From the introduction of KCSIE in April 2014, the requirement for references does not distinguish between professional and character references.
- Note 7 Required in having regard to Disqualification under the Childcare Act 2006. See note 310 above for an explanation of the scope of these checks for existing and new staff. Gaps in checking are reported under regulation 7(a) & (b).
- Note 8 Required for proprietors and staff appointed to management positions from 12 August 2015, but not including those starting in September 2015 for whom vetting checks had already been completed before 12 August 2015. See note 539 below for more.

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FURTHER GUIDANCE

Barred list/List 99 check

468. Barring information is usually obtained as part of an enhanced criminal record check via the DBS. To do this, the employer must indicate on the application form that barring information is requested. Separate barred list checks may also be obtained. Separate barred list checks used to be available from the Teachers' Pensions online service. From 1 April 2021, the Department for Education took over the responsibility for hosting the Barred List Checking Service: the replacement system is now administered by the Teaching Regulation Agency (TRA) and is free to use. The TRA has published the following guide for users: Employer Access – schools web service and information is also available from the TRA's teacher services webpage. The Employer Access link is [here](#)

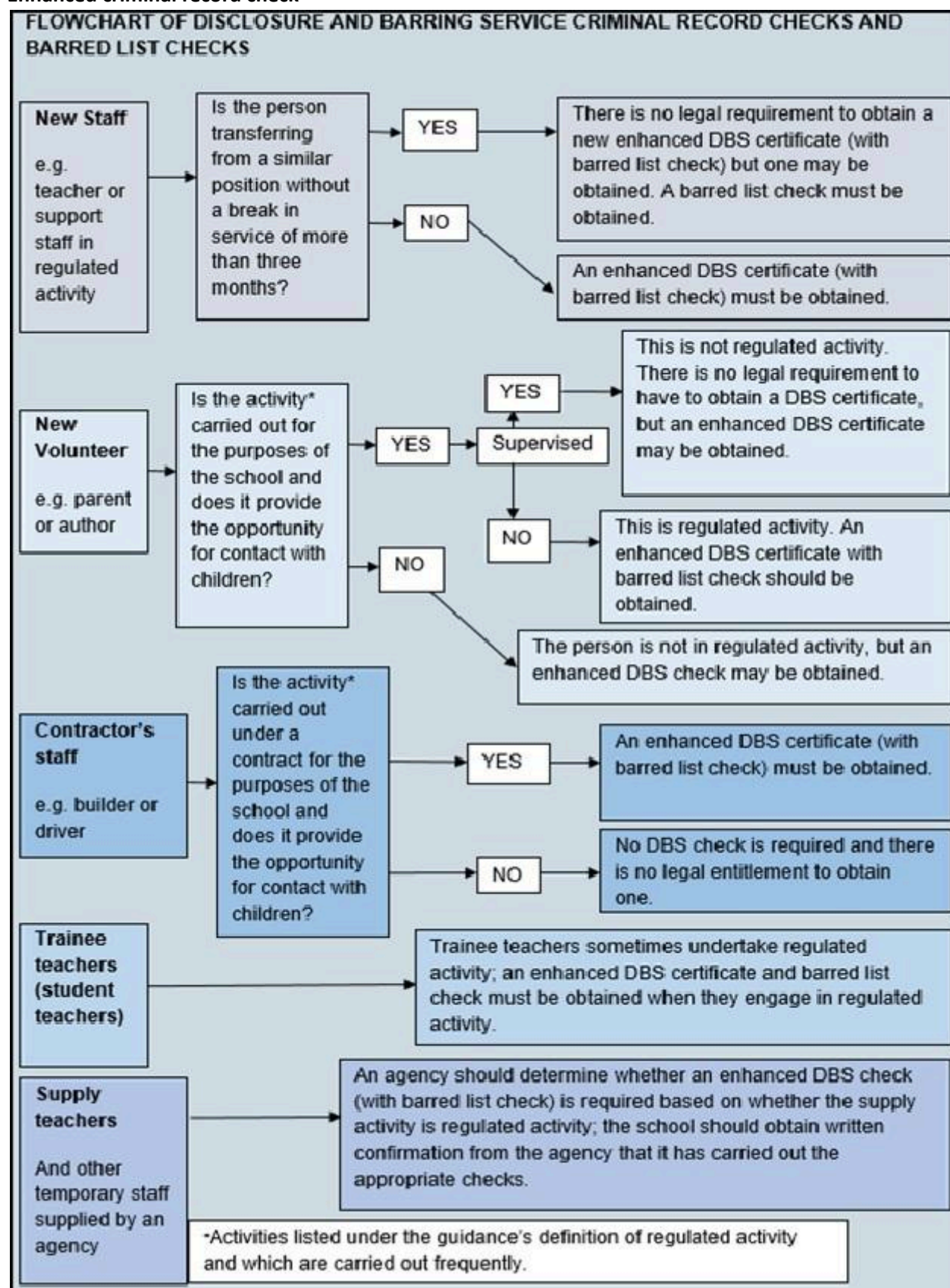
469. From September 2016, failure to make barred list checks when required, where checks subsequently made during inspection show that no person was barred, is to be reported under Part 3, paragraphs 7(a) and (b) of the standards (failure to have regard to KCSIE), and also potentially under Part 8, paragraphs 34(b) and (c) if the failure is considered material.

470. Schools should note that a separate barred list check must be undertaken in the event that:

- a new enhanced disclosure with barring information is required but is not received in advance of a member of staff starting work in regulated activity; or
- a pre-existing enhanced DBS check is accepted under the three-month rule (for which see below) for a member of staff starting work in regulated activity; or
- a pre-existing enhanced DBS check without barring information is accepted from a candidate who has subscribed to the DBS update service – this last is not specified in KCSIE, but follows from its requirements;

In each of these three situations, the checks set out in KCSIE, paragraph 229 must have been carried out, ie: identity, mental and physical fitness, right to work in the UK, appropriate further checks if the person has lived or worked outside the UK, professional qualifications (as appropriate), prohibition from management (where appropriate), prohibition from teaching (where appropriate), and disqualification from childcare (where appropriate).

Enhanced criminal record check



471. Criminal record checks are carried out via the Disclosure and Barring Service (DBS) and are known colloquially as DBS checks.

472. Three main types of criminal record checks are available from the DBS: Standard, Enhanced and Enhanced with barring information (for those in regulated activity – see more above). The results are recorded in a certificate. Only an employer can apply for a certificate; the applicant cannot apply on their own account.

- All three types of check include spent and unspent convictions, cautions, reprimands and warnings held on the Police National Computer.

- An enhanced disclosure would also contain other information held on local police records which the police consider to be relevant to the workforce in which the person is applying to work. (For this purpose, the workforce is categorised as ‘the children’s workforce’, ‘the vulnerable adults workforce’ or both.)
- For those working in schools with access to children, criminal record checks must be at the enhanced level, usually with barring information. (Barring information is only available for those in regulated activity. See above for detailed information about regulated activity).

473. From January 2018, a further check called a ‘basic’ check which contains only unspent convictions and cautions has now become available through the DBS for those living or working in England, through Disclosure Scotland for those living or working in Scotland and through AccessNI for those who live and work in Northern Ireland. Anyone can apply for a basic criminal record check for themselves or an employer can request it with consent. They are most likely to be relevant to or presented to schools by ad hoc workmen who will not have contact with children. The ‘basic’ check is not mentioned as a requirement in KCSIE or the standards but may be taken into account by schools in their own risk-based decisions when more stringent checks are not required.

474. KCSIE is clear that schools are not required to retain copies of DBS certificates. If they choose to do so, for reasons connected with the Data Protection Act they should not keep them for longer than around six months. (ISI does not inspect DPA compliance except for the reference to it in the EYFS.) The Police Act 1997 makes unauthorised disclosure of any information in a DBS certificate a criminal offence. Consequently, inspectors should not expect to find DBS certificates on file or ask to read any which have been retained.

475. The three-month rule – Members of staff in schools must be subject to an enhanced criminal record check on entry to the school’s workforce and, thereafter, may move between schools without requirement on subsequent employer schools to carry out further DBS checks unless they leave the school’s workforce for three months or more. However, if a new school accepts a pre-existing check under this rule, they must carry out a separate barred list check, subject to the note below concerning use of the DBS Update Service.

476. Obtaining criminal record checks – The table below indicates the various ways in which the requirements for an enhanced criminal records check can be met for a person ‘P’.

Situation	Actions for the school
<p>Within three months of an appointment, P has been working in a school or college and meets the requirements of 18(4) above.</p>	<p>The school may apply for a criminal record certificate but is not required to do so. A new, separate barred list check must be obtained.</p>
<p>P has a criminal record certificate from a previous employer but does not fall within the three- month rule, above, and has not subscribed to the DBS Update service.</p>	<p>The school must apply for a new criminal record certificate, including a barred list check. If the DBS certificate is delayed, a separate barred list check must be obtained in advance of P starting work.</p>

<p>P has a criminal record certificate from a previous employer at the enhanced level (including children's barred list) and has subscribed to the Update service (see note 478 below) and gives permission to the school to check the status.</p>	<p>The school should examine the original certificate, check it matches the individual's identity and run an online Update check, which will provide information about any changes since the certificate was issued. If the check indicates that there has been a change then the individual must apply for a new certificate.</p> <p>If the original check did not include barring information for the children's workforce, a separate barred list check must be obtained.</p>
<p>P has a criminal record certificate from a previous employer at the standard level and has subscribed to the Update service.</p>	<p>The school should apply for a new disclosure, including a new barred list check, because the previous disclosure is not at the correct level.</p>

477. Since 17 June 2013 criminal record certificates are only supplied by the DBS direct to the applicant, not to the employer. Until the school has had sight of the original disclosure certificate, the applicant should be treated as unchecked and subject to the safeguards set out below. This requirement arises from both the DBS Employer Guidance and KCSIE. However, if the school has received official advance information from the DBS or a registered umbrella body that the DBS certificate has been issued and contains no information, it will be reasonable for a school to take this into account when assessing the safeguards which are appropriate.

478. Also, from 17 June 2013, the applicant may subscribe to the DBS Update service. This enables other employers to check instantly on-line that there have not been changes since the issue of a DBS certificate. The DBS Update service updates all the information which was included in the initial certificate. So, if an initial certificate included barring information, a change would be indicated during an update check if the certificate-holder's barred status were to change. A new full check would then be required to access more information about the nature of the change. See table above for more information.

479. When a DBS check is required, schools may apply once an appointment is made, even if that is more than three months before the applicant will start work. However, it would be seen as best practice to undertake the check closer to appointment.

What does the school need to do if a disclosure is delayed?

480. If an enhanced criminal record check is required but the DBS certificate is not available before a person starts work in regulated activity, a head may allow the member of staff to commence work:

- after a satisfactory check of the barred list if the person will be working in regulated activity;
- and all other relevant checks have been completed satisfactorily;
- provided that the DBS application has been made in advance;
- with appropriate safeguards taken (for example, loose supervision). The safeguards should be determined through risk assessment.

481. KCSIE does not cover the situation should the Barred List Checking Service not be available for technical reasons when a DBS barred list check is required. Schools cannot simply employ the individual concerned in these circumstances. They should either wait for resumption of the service and receipt of the relevant confirmation or supervise the individual at all times and record this and the accompanying risk assessment on the SCR. Those 'porting' their DBS for whom a

barred list check is required will, in similar circumstances, also need either to wait to begin work or require full-time supervision until the problem is resolved and the barred list check obtained. In all cases, the situation should be regularly reviewed and attempts regularly made to obtain the barred list check (and dates of both reviews and attempted checks noted on the SCR) until the full DBS/barred list check has been received. In such circumstances, schools should keep trying until they have obtained the full DBS or barred list check: alternative arrangements with the individual concerned remaining under full supervision will not suffice in the longer term.

482. Previous additional advice to:

- avoid confirming the appointment;
- review safeguards at least every two weeks;
- ensure the person in question is informed of the safeguards in place;
- add a note to the single central register and keep evidence of the measures put in place;

does not appear in KCSIE. These points should now be considered good practice advice and/or evidential of safeguards.

483. Applicants who are residing overseas when applying for a criminal record check should refer to the DBS guidance for applicants with unusual addresses. It may be possible for a registered body such as a school or its umbrella organisation to submit a disclosure application form whilst an applicant is still overseas, depending on the identity documents being provided. This is lawful where the employment decision is being made in the UK. The registered body needs assurances of the applicant's identity from a reputable source overseas, for example the overseas school where the individual is currently employed or studying. For staff taking up residence and duties in a boarding house it is advisable to start the process well in advance of the proposed date of starting work so that the check is complete beforehand. Where the DBS certificate is not received in advance of employment commencing, the usual process for all staff where this is the situation outlined in the notes above must be followed, with supervision arrangements reflecting the potential for access to children.

Identity

484. COVID-19 - See the COVID update at note 449 for temporary changes.

485. An application for a criminal record (DBS) check will always include an identity check and in this context, the methodology for identity checking is subject to detailed guidance from the DBS. In summary, this typically includes official documents such as a passport, a driving licence, or a birth certificate, photographic identity, together with evidence of address (for example, a utility bill, bank statement or similar). KCSIE provides a link to the full guidance which also covers how to check the identity of those lacking the usual official documentation.

486. New in 2021 is the provision that, in verifying a candidate's identity, 'best practice is checking the name on their birth certificate, where this is available.'

487. In other contexts, such as staff who are not in regulated activity or the arrival on-site of staff who have been checked by an agency or other employers, schools are permitted discretion in their approach to identity checking, acting reasonably in accordance with the risks inherent in the particular context (e.g., the role the person is to perform, the level of contact with children, supervision and so forth). Typical processes entail requesting an official document which verifies identity and address, and photographic identification.

Medical fitness

488. Schools must verify a candidate's mental and physical fitness to carry out their work responsibilities. The KCSIE footnote to this provision cites a fitness to teach circular, the link to which is corrupted. A job applicant can be asked relevant questions about disability and health in order to establish whether they have the physical and mental capacity for the specific role. No particular methodology is prescribed. Common means are through asking prospective employees to declare their fitness for the role, or to complete a medical questionnaire. This could be followed up with a request for medical advice, with the consent of the applicant.

489. Where a self-declaration is used, the regulations do not set out a particular format for this. Such declarations should be duly signed by the applicant and should contain, as a minimum, a simple statement that the applicant knows of no reasons, on grounds of mental or physical health, why they should not be able to discharge the responsibilities required by the post in question.

490. Inspectors should be aware that, under part of the Equality Act 2010 which ISI does not inspect (section 60), employers may only ask health-related questions of applicants before the appointment is offered if the questions are specifically related to an intrinsic function of the work. The DfE advises that this would not include asking for information about previous sickness absences. Further guidance for employers on this issue has been published by the Equality and Human Rights Commission. Typical compliant approaches which reconcile the duty under the standards with that under the Equality Act include ensuring that any health-related questions posed prior to offering a post are necessary and relevant to the post applied for, or not asking health-related questions until after the appointment has been offered. Inspectors' role is to ensure that medical fitness has been checked before new employees start work.

Qualifications, where appropriate

491. It will be 'appropriate' to check qualifications where the school stipulates or an individual claims qualifications as part of the recruitment process. Such qualifications should be checked in advance of appointment. For compliance purposes, this applies to any qualifications taken into account in making the appointment.

492. New for 2021: the Teaching Regulation Agency's (TRA) Employer Access Service should be used to verify any award of Qualified Teacher Status (QTS), and the completion of teacher induction or probation.

Advertising, Application forms, Shortlisting, Previous employment history, CV, References and Selection

493. These matters and checks are not or are no longer specified in the regulations but are required as part of having regard to KCSIE. Deficiencies would, therefore, be reported under Part 3, paragraphs 7(a) and (b). The legal difference is that the duty to 'have regard' permits some flexibility where exceptional circumstances arise. By contrast, in principle, flexibility is not permitted in relation to the checks required by the regulations except to any extent described therein, though even in the latter instance, public reporting is now subject to considerations of materiality (for which, see the introduction to this Commentary).

494. It is now clarified that, 'Governing bodies and proprietors should ensure that those involved with the recruitment and employment of staff to work with children have received appropriate safer recruitment training...'

Advert

495. KCSIE 2020 sets out what should be included in adverts and has new provisions on what schools should 'think about' providing when defining the role.

Application Forms

496. KCSIE 2020 states that employers should always take up written information about full employment history but does not prescribe the method by which this is done, thereby leaving schools some discretion. Although the previous statutory guidance recommended the use of application forms as best practice because they support the presentation of information in a standardised and logical way, and disapproved the use of CVs, this guidance was not carried over into KCSIE. Inspectors can, therefore, advise schools of good practice, but the use of an application form cannot yet be considered a specific standalone compliance requirement. Checks of previous employment history should ascertain satisfactory reasons for any gaps in employment. The information provided by the candidate should be checked against references subsequently received, and any discrepancies taken up with the candidate.

497. This new section in KCSIE provides that, where a role involves engaging in regulated activity, schools should include a statement in the application form or elsewhere in the information provided to applicants that it is an offence to apply for the role if the applicant is barred from engaging in regulated activity relevant to children.

498. Schools should also provide a copy of the school's child protection policy and practices and policy on employment of ex-offenders in the application pack or refer to a link on its website.

499. Previously, it was largely up to the school as employer to ensure various checks were made. In addition to the requirements on schools having been tightened up (for example with regard to the contents of adverts, and the obtaining and checking of references, as explained above and below), there is now more of an onus on the applicant both to provide specified information and to make certain declarations. For example, schools should now require applicants to provide:

- personal details;
- current and former names, current address and national insurance number;
- details of their present (or last) employment and reason for leaving;
- full employment history, (since leaving school, including education, employment and voluntary work) including reasons for any gaps in employment;
- qualifications, the awarding body and date of award;
- details of referees/references (see below);
- a statement of the personal qualities and experience that the applicant believes are relevant to their suitability for the post advertised and how they meet the person specification.

500. Schools should not accept copies of curriculum vitae in place of an application form, where there is one.

Shortlisting

501. New for 2021 are various provisions on shortlisting: see KCSIE for full details.

502. Shortlisted candidates (not those who do not make the short list) should be asked to complete a self- declaration of their criminal record or information that would make them unsuitable to work with children. (For full details, see KCSIE).

503. Self-declaration is subject to Ministry of Justice guidance on the disclosure of criminal records: see the Ministry of Justice's Pre-employment screening for applicants. The purpose of the self-declaration is to enable candidates to share relevant information and allow this to be discussed and considered at interview before the DBS certificate is received.

504. Applicants should also be asked to sign a declaration confirming the information they have provided is true. Where there is an electronic signature, the shortlisted candidate should physically sign a hard copy of the application at point of interview.

Employment history, CV and References

505. The former distinction between professional and character references was removed in 2010. Referees should be asked as a minimum whether they are aware of any reason or have any concern that the applicant may be not suitable to work with children. Schools will wish to seek further information relevant and proportionate to the prominence of the role applied for.

506. New to KCSIE is the requirement that, 'schools should obtain references before interview' as this allows 'any concerns raised to be explored further with the referee and taken up with the candidate at interview.' Suitability references should also be sought for internal candidates. Internal references are permissible where appropriate. Inspectors may accept that it may sometimes be more instructive, where appropriate, to enquire of current colleagues (senior – see below) whether they have any suitability concerns, particularly where colleagues from former employers are un-contactable due to passage of time.

507. KCSIE does not specify a number of references but implies that there will be more than one. For inspection purposes, the usual expectation is, therefore, that for suitability purposes there will be a minimum of two, 'unless there is a good reason not to'. If a reference is taken over the telephone, for evidential purposes detailed notes must be taken, dated and signed, and make clear who was spoken to. References should be reviewed on receipt to check that all specific questions have been answered satisfactorily, with appropriate follow-up where required. Inspectors may advise that, as a matter of good practice, references not received in good time before appointment should be chased by telephone and alternative referees approached if needed.

508. Previously, schools were required not to 'rely' on open references. From September 2021, they 'should not accept' open references. An open reference ('to whom it may concern') is, therefore, no longer acceptable at all.

509. Schools should not now rely on applicants to obtain their reference.

510. Another new requirement is that any reference from the candidate's current employer has 'been completed by a senior person with appropriate authority.' This has moved from being best practice to being obligatory.

511. In addition, if the referee is school or college based, the reference should be 'confirmed by the headteacher/principal as accurate in respect to disciplinary investigations.'

512. References should always be sought from the candidate's current employer. Where there is no current employer, verification of the most recent period of employment and reasons for leaving should be obtained. (This recognises, in effect, that not all employers will provide a substantive reference.)

513. Another new provision is that schools 'should secure a reference from the relevant employer from the last time the applicant worked with children (if not currently working with children)' and, 'if the applicant has never worked with children, then ensure a reference from their current employer.'

514. Any information should always be verified with the person who provided the reference.

515. Schools should verify that electronic references originate from a legitimate source.

516. Questions are often asked about the value of references which confirm only that a person worked for a certain company between certain dates. Inspectors may recognise that these do confirm an element of an applicant's employment history and their whereabouts for a period, although such references should be supplemented by one or more others to address the suitability question.

517. Schools should continue to:

- contact referees to clarify content where information is vague or insufficient information is provided;
- compare the information on the application form with that in the reference and take up any discrepancies with candidates;
- establish the reason for the candidate leaving their current or most recent post.

518. Schools should now, additionally, ensure any concerns are resolved satisfactorily before appointment is confirmed.

519. With regard to the provision of references by schools, also new to KCSIE is the provision that, 'when asked to provide references schools and colleges should ensure the information confirms whether they are satisfied with the applicant's suitability to work with children and provide the facts (not opinions) of any substantiated safeguarding allegations but should not include information about allegations which are unsubstantiated, unfounded, false, or malicious. References are an important part of the recruitment process and should be provided in a timely manner and not hold up proceedings.'

520. See later (notes 635 and 636) for the impact of historic deficiencies.

Selection

521. There is a new section on selection, which concerns the range of selection techniques that schools should use to identify the best candidate for the post and specifies that interviewers should agree structured questions and explore potential areas of concern. It also covers the involvement of pupils/students in the recruitment process. As always, full records should be kept of decisions made and all information considered.

Overseas checks, where appropriate, including checking for EEA professional sanctions

522. If, because of a person 'living or having lived' outside of the UK, a DBS check is not considered sufficient to establish suitability to work in a school (because a UK check would not cover offences committed abroad, but only those on the UK Police National Computer), schools must carry out 'any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered.' Following Brexit, the TRA Teacher Services system no longer maintains a list of those teachers who have been sanctioned in EEA member states, so schools should apply the same approach for any individuals who have lived or worked outside the UK regardless of whether or not it was in an EEA country or the rest of the world. Such checks must be completed before the person starts work. This standard applies where relevant both to foreign nationals and UK nationals returning from overseas.

523. Examples of what the checks might include are now set out in KCSIE.

524. No period of time is prescribed to differentiate between 'living' in a country and an extended holiday, so schools are permitted discretion to set their own policies within reasonable limits. The duration of a tourist visa may act as a useful rule of thumb, often around three months. Previously, the NSPCC advised that checks should be obtained when a person has lived overseas for three months or more in the last five years. ISI has adopted this advice as a starting point for compliance but observes that many schools now adopt a more stringent approach such as checking those who have lived or worked overseas for more than three months in the last ten years. Inspectors may allow that time spent overseas under the age of 16 is of less significance as, even in England, it is not possible to obtain checks for those aged under 16. These are rules of thumb only, and there may be situations where it is not appropriate to limit the checks carried out.

525. Schools should be mindful that the criteria for disclosing offences in other countries often have a different threshold to those in the UK.

526. Some overseas qualified teachers can apply to the TRA for the award of qualified teacher status (QTS) in England: see here. Schools should also bear in mind that holding a teaching qualification is not assurance that an individual has not been found guilty of any wrongdoing or misconduct, and/or is suitable to work with children.

527. Although the standard allows schools some professional discretion as to the nature of the 'further checks' they seek, schools are also required to have regard to the government's guidance. The Home Office has published guides on criminal records checks for overseas applicants and recruiting teachers from overseas. For compliance purposes, schools can be taken to have 'had regard' to this guidance if they have made the relevant application (or ensured the applicant did so, if it must come from them direct), before the person starts work, whether or not any response is received. In the absence of a response from official sources overseas before the person starts work, or if the country in question does not have a suitable system in place, schools should 'seek alternative methods of checking suitability and/or undertake a risk assessment' to inform the decision on whether to appoint. Additional references (beyond the two normally expected), would be acceptable, for example.

528. Where a member of staff has worked in a school in the UK since moving from overseas, without going back overseas, it is not necessary to repeat the overseas checks for subsequent appointments.

Right to work in the UK

529. See also COVID-19 note above. The rules for employing migrant workers changed from February 2008, so that any employer who employs someone who is subject to immigration control, aged over 15, who is not entitled to undertake the work, could face a fine of up to £10,000 per illegal worker. The Home Office has issued guidance on right to work checks and how to carry them out.

Prohibition from teaching orders

530. Schools must check that anyone employed or engaged to carry out teaching work in school is not subject to a prohibition order issued by the Secretary of State. It is irrelevant whether the person carrying out teaching work has Qualified Teacher Status (QTS) or a Teacher Reference Number (TRN) or is peripatetic or is charged by the school to the parents. The check is free and is completed using The Teaching Regulation Agency's (TRA) Employer Access Service (formerly Teacher Services/Employer Access Online). Further information on using this service to run various teacher status checks (including verification of QTS and the completion of induction or probation) is available here.

531. This check applies to those appointed to teach on or after 1 April 2012, but inspectors should bear in mind that it only became available in April 2014, and in January 2015 the DfE advised that it should effectively be backdated. So, checks for those appointed between April 2012–14 will not have been carried out pre-appointment through no fault of the school and schools are not to be found non-compliant on that account.

532. From September 2016, failure to make checks for prohibition from teaching, where required, where checks are subsequently made during inspection but show that no person was prohibited from teaching, is reported under Part 3, paragraphs 7(a) and (b) of the standards (failure to have regard to KCSIE) and potentially also Part 8, paragraphs 34(b) and (c) if the failure is considered material.

533. 'Teaching work' is defined in The Teachers' Disciplinary (England) Regulations 2012 to encompass:

- planning and preparing lessons and courses for pupils;
- delivering and preparing lessons to pupils;
- assessing the development, progress and attainment of pupils;
- reporting on the development, progress and attainment of pupils.

'Delivering' includes delivering lessons through distance learning or computer-aided techniques.

534. However, none of these activities is 'teaching work' if the person carrying out the activity does so ('other than for the purposes of induction') subject to the direction and supervision of a qualified teacher or other person nominated by the headteacher. There is no official definition in this context as to what constitutes 'direction and supervision', so some discretion is allowed to schools, but clearly the discretion has to be exercised reasonably and the 'direction and supervision' must be genuine and realistic in context not merely notional.

535. Teaching assistants are unlikely to need prohibition checks as it is likely that their work is carried out under direction and supervision, but schools vary in how they deploy their teaching assistants and in the amount of responsibility and autonomy they allow them. Schools should, therefore, decide on a case-by-case basis, in the light of their own practice relating to teaching assistants, whether these assistants require prohibition checks. Similar reasoning would also apply to those employed as sports coaches and similar posts.

536. To check whether there are disciplinary sanctions imposed by the GTCE (pre-2012) still in force against an individual, check the TRA Secure Access system.

537. Application to Early Years – In the context of the Early Years, as a matter of best practice advice, inspectors should encourage schools to make use of the prohibition from teaching check as part of their suitability checks so that they have full information about candidates before making appointments. However:

- Under three – the check is not a compliance requirement for those working with children under the age of three, though information received that a person is prohibited from teaching would call into question their ‘suitability’;
- Three to fives – In relation to those carrying out teaching work with children aged 3 to 5, the check is a compliance requirement, subject to the usual considerations, where children are ‘pupils’ of the main school (ie the check is available but not a requirement in institutions which are legally stand-alone independent nurseries and not registered as part of an all-through school).

538. ‘Nursery nurses’ may or may not require the check depending on the considerations above: whether the work of the particular individual amounts to ‘teaching work’; and if so whether it is under ‘direction and supervision’; the age of the children they work with; whether the children are ‘pupils’ of an independent school. Inspectors can contact the ISI office for support if required.

Prohibition from management of independent schools directions

539. From 12 August 2015, schools must check whether staff appointed to management positions after that date are subject to a section 128 direction. The DfE reversed previous advice: this check now applies to staff promoted internally and ISI has been inspecting on this basis from September 2018.

540. There is no exhaustive list, but the following staff are considered to be in management positions for the purpose of this check:

- headteachers;
- all staff on the senior leadership team (including non-teaching staff);
- teaching positions with departmental headship;
- governors and trustees
- proprietors – refer also to note 569 for more information about this check as it applies to proprietors.

Questions arise as to what amounts to ‘departmental headship’. There is no specific definition available. Inspectors should check that the school takes a reasonable approach in the context. The determining factor is not the job title: whether teachers with additional responsibilities could be considered to be ‘taking part in management’ will depend on the facts in each case: see the relevant Regulations.

541. There are two ways to do the check.

- For people who are not in regulated activity (not eligible for a children’s barred list check), it can only be done via the TRA’s Employer Access service.
- For people in regulated activity, the check can be done either as above or via the DBS as part of checking the barred list. To do the latter, schools must include on the DBS application form, within box 61, Position Applied for: ‘Child Workforce Independent School’. This allows the DBS to confirm if a section 128 direction has been made.

542. See the letter of the DfE to all schools dated May 2018 for more. ‘Appointment’ is not defined in this context. Where, as at 12 August 2015, staff due to start work in management positions in September 2015 had already been subject to vetting checks, schools were not required to re-open the vetting process to run this new check, as it was known that no section 128 directions had yet been made at that time.

543. From September 2016, failure to check for prohibition from management, where required, is to be reported under Part 3, paragraphs 7(a) and (b) of the standards and potentially also Part 8, paragraphs 34(b) and (c) if the failure is considered material, where checks are subsequently made during inspection but show that no person to whom it applies was prohibited from management.

Disqualification – early years and relevant later years provision

544. Pre-appointment checks in this regard (see note 310 above) may also be needed for relevant staff, leaders and managers as part of having regard to KCSIE, which incorporates Disqualification under the Childcare Act 2006. This check

should be undertaken from time to time, not only pre-appointment. No particular time has been set by the DfE for repeat checks, so schools can exercise reasonable discretion, but as an indication only, annually is sensible. Deficiencies are reportable under Part 3, paragraphs 7(a) and (b).