
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require certain conditions to be complied with in respect of persons providing education at further education institutions in England. The conditions relate to checks that must be carried out and a register that must be kept in respect of such persons.

The required checks are specified in regulations 5 and 6 (for persons appointed by a governing body) and regulations 11 – 19 (for persons supplied by an employment business).

The checks relate to the verification of the person's identity, his right to work in the United Kingdom, whether he has met the relevant qualification requirements and whether he is subject to a direction under section 142 of the Education Act 2002. Where the person will be regularly caring for, training, supervising or being solely in charge of persons under 18, there is a requirement for an enhanced criminal record check. In addition, if it is considered that by reason of the person having lived outside the United Kingdom, an enhanced criminal record check is not sufficient for the purposes of considering his suitability for a position working with under 18s, further checks as may be considered appropriate must be carried out, having regard to guidance issued by the Secretary of State.

A person is exempt from the requirement to have an enhanced criminal record check and, where applicable, further checks outside the United Kingdom, where he has worked with under 18s in a school or further education institution in England within the preceding three-month period.

Where a person is to be appointed by the governing body of the institution, the governing body is required to carry out the checks. Where a person is supplied by an employment business (including a local authority) to provide education at an institution, the governing body must not accept that person to work at the institution until written confirmation has been received from the employment business that all the relevant checks have been carried out. The governing body must also ensure that its contract or other arrangements with the employment business include provisions requiring the employment business to carry out the checks.

The governing body of an institution must also maintain a register of all persons providing education at the institution. The register must show whether the checks listed in the Schedule to these Regulations have been carried out or the relevant written confirmations received in respect of each person providing education and the dates that the checks were completed or confirmations received.

A full regulatory impact assessment of the effect that these Regulations will have on the costs of business is available from: Improvement Group, Department for Education and Skills, N3, Moorfoot, Sheffield S1 4PQ, and on the Department for Education and Skills website at www.dfes.gov.uk.