

SCHEDULE

PART 4

Suitability of staff, supply staff, and proprietors

17. The standards about the suitability of staff, supply staff, and proprietors are those contained in this Part.

18.—(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

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- (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.

19.—(1) This paragraph relates to the suitability of supply staff at the school.

(2) The standard in this paragraph is met if—

- (a) a person offered for supply by an employment business to the school only begins to work at the school if the proprietor has received—

- (i) written notification from the employment business in relation to that person—

- (aa) that the checks referred to in paragraph 21(3)(a)(i) to (iv), (vii) and (b) have been made to the extent relevant to that person;

- (bb) that, where relevant to that person, an enhanced criminal record check has been made and that it or another employment business has obtained an enhanced criminal record certificate in response to such a check; and

- (cc) if the employment business has obtained such a certificate before the person is due to begin work at the school, whether it disclosed any matter or information; and

- (ii) a copy of any enhanced criminal record certificate obtained by an employment business before the person is due to begin work at the school;

- (b) a person offered for supply by an employment business only begins work at the school if the proprietor considers that the person is suitable for the work for which the person is supplied;

- (c) before a person offered for supply by an employment business begins work at the school the person's identity is checked by the proprietor of the school (irrespective of any such check carried out by the employment business before the person was offered for supply);

- (d) the proprietor, in the contract or other arrangements which the proprietor makes with any employment business, requires the employment business to provide—

- (i) the notification referred to in paragraph (a)(i); and

- (ii) a copy of any enhanced criminal record certificate which the employment business obtains,

in respect of any person whom the employment business supplies to the school; and

- (e) except for those persons to whom sub-paragraph (4) applies, in the case of supply staff who care for, train, supervise or are in charge of boarders, the proprietor checks that the relevant parts of Standard 14 of the National Minimum Standards for Boarding Schools or where applicable, Standard 14 of the National Minimum Standards for Residential Special Schools are complied with.

(3) Except in the case of a person to whom sub-paragraph (4) applies, the certificate referred to in sub-paragraph (2)(a)(i)(bb) must have been obtained not more than 3 months before the date on which the person is due to begin work at the school.

(4) This sub-paragraph applies to a person ("P") who has worked in—

- (a) a school or a maintained school in England in a position which brought P regularly into contact with children or young persons;

- (b) a maintained school in England in a position to which P was appointed on or after 12th May 2006 and which did not bring P 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 P regularly into contact with children or young persons,
during a period which ended not more than three months before P is due to begin work at the school.

20.—(1) The standard in this paragraph relates to the suitability of the proprietor of the school.

(2) Sub-paragraph (3) relates to the suitability of the proprietor where the proprietor is an individual.

(3) The standard in this paragraph is met if—

(a) the individual—

- (i) is not barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and
- (ii) does not carry out work, or intend 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; and

(b) the Secretary of State makes the following checks relating to the individual before the school is entered in the register or, in the case of a registered school, before or as soon as practicable after the individual takes over as proprietor—

- (i) where relevant to the individual, an enhanced criminal record check, countersigned by the Secretary of State where an application for such a check is made under section 113B(1) of the 1997 Act;
- (ii) checks confirming the individual's identity and their right to work in the United Kingdom; and
- (iii) in the case of an individual for whom, by reason of that individual living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish the individual's suitability to work in a school, such further checks as the Secretary of State considers appropriate;

and, where an enhanced criminal record check is made, the Secretary of State obtains an enhanced criminal record certificate relating to the individual.

(4) Sub-paragraphs (5) to (8) relate to the suitability of the proprietor where the proprietor is a body of persons corporate or unincorporate.

(5) The standard in this paragraph is met in relation to an individual who is the Chair of the school if—

(a) the individual—

- (i) is not barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and
- (ii) does not carry out work, or intend 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; and

(b) subject to sub-paragraphs (7) and (8), the Secretary of State makes the following checks relating to the individual—

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- (i) where relevant to the individual, an enhanced criminal record check, countersigned by the Secretary of State where an application for such a check is made under section 113B(1) of the 1997 Act;
- (ii) checks confirming the individual's identity and their right to work in the United Kingdom; and
- (iii) in the case of an individual for whom, by reason of the individual living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish the individual's suitability to work in a school, such further checks as the Secretary of State considers appropriate;

and, where an enhanced criminal record check is made, the Secretary of State obtains an enhanced criminal record certificate relating to the individual.

(6) The standard in this paragraph is met in relation to an individual ("MB"), not being the Chair of the school, who is a member of a body of persons corporate or unincorporate named as the proprietor of the school in the register or in an application to enter the school in the register, if—

(a) MB—

- (i) is not barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and
- (ii) does not carry out work, or intend 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;

(b) subject to sub-paragraphs (7) to (8), the Chair of the school makes the following checks relating to MB—

- (i) where relevant to the individual, an enhanced criminal record check;
- (ii) checks confirming MB's identity and MB's right to work in the United Kingdom; and
- (iii) where, by reason of MB's living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish MB's suitability to work in a school, such further checks as the Chair of the school considers appropriate, having regard to any guidance issued by the Secretary of State;

and, where an enhanced criminal record check is made, the Chair obtains an enhanced criminal record certificate relating to the individual; and

(c) subject to sub-paragraph (8), where the Secretary of State makes a request for an enhanced criminal record check relating to MB countersigned by the Secretary of State to be made, such a check is made.

(7) In a case where—

- (a) the suitability of the proprietor is being considered in response to an application by the governing body of a maintained school to enter the school on the register, and
- (b) the local authority maintaining the school has made one or more of the checks referred to in sub-paragraph (5)(b) or (6)(b) in relation to the Chair of the school or MB,

sub-paragraph (5)(b) or (6)(b) (as the case may be) is treated as complied with so far as relating to that check.

(8) In the case of a registered school—

- (a) sub-paragraph (5)(b) is met where the checks referred to in that sub-paragraph are completed before or as soon as practicable after the Chair of the school starts acting as such;

- (b) sub-paragraph (6)(b) is met where the checks referred to in paragraph (b)(i) and (iii) are completed before or as soon as practicable after MB starts acting as a member of the body of persons corporate or unincorporate named in the register as the proprietor of the school; and
- (c) sub-paragraph (6)(c) is met where the enhanced criminal record check is made as soon as practicable after the Secretary of State's request.

(9) In this paragraph a reference to the Chair of the school is a reference to an individual who is the Chair of a body of persons corporate or unincorporate named as the proprietor of the school in the register or in an application to enter the school in the register and includes a reference to a similar officer.

21.—(1) The standard in this paragraph is met if the proprietor keeps a register which shows such of the information referred to in sub-paragraphs (3) to (7) as is applicable to the school in question.

(2) The register referred to in sub-paragraph (1) may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form.

(3) The information referred to in this sub-paragraph is—

- (a) in relation to each member of staff (“S”) appointed on or after 1st May 2007, whether—
 - (i) S's identity was checked;
 - (ii) a check was made to establish whether S is barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act;
 - (iii) a check was made to establish whether S is subject to 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 such a direction;
 - (iv) checks were made to ensure, where appropriate, that S had the relevant qualifications;
 - (v) an enhanced criminal record certificate was obtained in respect of S;
 - (vi) checks were made pursuant to paragraph 18(2)(d);
 - (vii) a check of S's right to work in the United Kingdom was made; and
 - (viii) checks were made pursuant to paragraph 18(2)(e),

including the date on which each such check was completed or the certificate obtained; and

- (b) in relation to each member of staff (“S”), whether a check was made to establish whether S is subject to a prohibition order or an interim prohibition order, including the date on which such check was completed.

(4) The information referred to in this sub-paragraph is, in relation to each member of staff in post on 1st August 2007 who was appointed at any time before 1st May 2007, whether each check referred to in sub-paragraph (3) was made and whether an enhanced criminal record certificate was obtained, together with the date on which any check was completed or certificate obtained.

(5) The information referred to in this sub-paragraph is, in relation to supply staff—

- (a) whether written notification has been received from the employment business that—
 - (i) checks corresponding to those referred to in sub-paragraph (3)(a)(i) to (iv), (vi) and (vii) have been made to the extent relevant to any such person; and
 - (ii) an enhanced criminal record check has been made and that it or another employment business has obtained an enhanced criminal record certificate in response to such a check,

together with the date the written notification that each such check was made, or certificate obtained, was received;

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- (b) whether a check has been made in accordance with paragraph 19(2)(e) together with the date the check was completed; and
- (c) where written notification has been received from the employment business in accordance with a contract or other arrangements referred to in paragraph 19(2)(d) that it has obtained an enhanced criminal record certificate, whether the employment business supplied a copy of the certificate to the school.

(6) The information referred to in this sub-paragraph is, in relation each member (“MB”) of a body of persons named as the proprietor appointed on or after 1st May 2007, whether the checks referred to in paragraph 20(6)(b) were made, the date they were made and the date on which the resulting certificate was obtained.

(7) The information referred to in this sub-paragraph is, in relation to each member of a body of persons named as the proprietor in post on 1st August 2007 who was appointed at any time before 1st May 2007—

- (a) whether each check referred to in sub-paragraph (6) was made; and
- (b) whether an enhanced criminal record certificate was obtained, together with the date on which any check was completed or certificate obtained.

(8) It is immaterial for the purposes of sub-paragraphs (3), (4), (5)(a) and (b), (6) and (7) whether the check was made or certificate obtained pursuant to a legal obligation.