**Recruitment and Selection**

**Guidance for Schools**

**September 2016**

**Recruitment and Selection Guidance**

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**1. General Advice**

**There are two sides to the recruitment process:**

**• The school needs to sell itself as a good employer, and provide an opportunity for prospective employees to assess whether it is a place where they want to work.**

**• The candidate needs to sell themself as a potential employee, and the school must ensure that it gathers sufficient and relevant information to assess their suitability for the post.**

This guide contains advice, guidance and best practice on the recruitment and selection process. The guide:

* Emphasises good employment practice.
* Will help schools to ensure that equal opportunities in employment are offered to all potential applicants.
* Ensuresthat recruitment and selection processes and practices are compliant with equality legislation under The Equality Act and other relevant employment and education legislation.
* Ensures that the processes comply with the latest guidelines on Safeguarding within recruitment.

It is important to plan the recruitment process from the outset, to ensure sufficient time is left between each stage to enable a professional and thorough approach to be applied.

In making decisions to shortlist, interview and appoint applicants schools must not directly or indirectly discriminate on the grounds of:

* race (which includes colour and ethnic origin)
* sex
* marital status
* pregnancy and maternity
* sexual orientation
* disability
* religion and belief
* age
* gender reassignment

Direct discrimination is when someone is treated less favourably than others because of their protected or perceived protected characteristic.

Indirect discrimination is when something which is applied to everyone, has an adverse impact on one group without there being objective justification.

Discrimination legislation is a complex area and those involved in recruitment and selection should be properly trained in this area and have an up to date understanding of the topic.

At least one interview panel member should have been trained in safer recruitment for staff working in schools. Schools should keep a central record of trained staff and governors and when the training was undertaken.

This advice stems from Section 175 of the Education Act 2002, the Education (Independent School Standards) (England) Regulations 2010 as amended by SI 2012/2962 and the Education (Non-Maintained Special Schools) (England) Regulations 2011. It is also contained within The School Staffing (England) Regulations 2009, and The School Staffing (England) (Amendment) Regulations 2014.

Schools and colleges must have regard to these statutes when carrying out their duties to safeguard and promote the welfare of children.

Safer recruitment practices are an essential component of keeping children safe. Further information is contained in this guidance and the DfE publication: ‘*Keeping children safe in education’* (September 2016) via the link: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/526153/Keeping_children_safe_in_education_guidance_from_5_September_2016.pdf>

**When a vacancy occurs and before advertising, consider:**

Consider whether, in the light of future requirements:

* is the job is still needed?
* should it continue in its present form
* can it be revised or deleted, so releasing funds for some other purpose in the school?

Consider the process for selecting the best individual including the method for choosing those for the short list and the successful candidate. The process should be documented fully and adhered to unless there is good reason not to (which would also need to be agreed and documented).

Produce (or review the existing) **job description** for the post – your HR provider can assist with this. This should give a clear description of the main purpose of the job and clearly set out the key tasks and responsibilities involved.

For **teaching staff**, the job description will need to be built around the duties and responsibilities defined in the latest Teachers’ Standards document (updated 2013). The latest version can be found at:

<https://www.gov.uk/government/publications/teachers-standards>

Ensure that the job description makes reference to the responsibility for safeguarding and promoting the welfare of children. The following wording could be used:

*‘having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions’.*

Determine within current national and local agreements the job conditions e.g. working environment, hours of work, extent of evening/weekend work, etc.

**Specify the salary/grade to apply to the post**. Generic job descriptions with grades for support roles are available on the Young Southampton website under the Schools Guidance then Schools HR section.

It is strongly recommended that schools use these job descriptions and associated grades in order to maintain the integrity of the Council’s job evaluation scheme and ensure equal pay across the City.

Detail the **person specification** i.e. the qualities and characteristics to be looked for in applicants based upon information within the job description and the job conditions.

Ensure that the person specification includes specific references to suitability to work with children. The following wording could be used:

*Displays commitment to the protection and safeguarding of children and young people and values and respects their views and needs.*

*Ensure the safeguarding of children and young people is followed, promoted and developed.*

Incorporate the job description, person specification and conditions within the information pack to be supplied to applicants.

Include a copy of the Safeguarding Policy.

Make sure that the information pack tells applicants what the process for the appointment will be, such as:

* whether receipt of application will be acknowledged,
* how the selection process will be conducted,
* giving details of how they can find out more about the school – school website, or to arrange a visit,
* suggest potential applicants are welcome to contact the school to discuss any adjustments to the process they would require for reasons linked to their health/disability (this is permitted under the Equality Act 2010 as long as any information regarding health and/or disability is not taken into account when deciding which applicant to appoint).

Consider whether there are any other school or City Council staff in a **redeployment** situation who should first be considered for the vacancy. Schools are emailed the redeployment register on a fortnightly basis which contains details of employees who are currently at risk of redundancy.

Contact the HR Professional Support team to discuss whether a redeployee may be suitable for your vacancy.

Make certain that your planning arrangements allow candidates to be well informed about the post and have good opportunity to assess whether they are interested in it.

**The time and effort spent in this stage of the process should help minimise the risk of making an unsuitable appointment.**

The outcomes of making an unsuitable appointment:

* the effect on the children and colleagues at school
* wasted time, effort and money
* extra expense if have to get agency staff to cover the role
* cost of managing poor performance
* impact on the School’s reputation
* possible risks of claims against the school
* potentially unsafe recruitment practices

**2. Advertising and Responding to Enquiries**

In the interest of fair and open recruitment, consider where to advertise the post and how best to bring it to candidates’ attentions.

For guidance on advertising Headteacher or Deputy Headteacher posts please refer to the DfE document: *‘Managing staff employment in schools’* (2013) <https://www.gov.uk/government/publications/managing-staff-employment-in-schools>

Consider whether the post should be advertised internally in the first instance.

If you have the appropriate skills already in school, advertising internally initially gives existing employees development opportunities and can save the school the substantial costs of advertising.

If you require employees to work additional hours it is good practice to initially advertise these hours to all individuals that are employed in the same job i.e. LSA. However, there will be some circumstances where this is not appropriate e.g. an LSA who is employed to work with a statemented child whose hours in school have increased.

Contact HR Pay on the best way to advertise the post (023 8091 7771 or via email hr.payschools@southampton.gov.uk).

Advice has also been issued to schools separately by the Council’s Advertising Agency:

Five by Five UK,

4 - 5 Grosvenor Square,

Southampton, SO15 2BE.

Tel: 023 8082 8500,

E-mail: team@fivebyfiveuk.com

Jobs are published in Council specific bulletins and to the web via a Hampshire Recruitment Portal which has been created for 12 Local Authorities in Hampshire to advertise their jobs:

<http://www3.hants.gov.uk/hampshire-jobs>

Consider national advertising such as TES and think through which is the best day of the week or the time of the year to advertise to get the best return on your investment.

With some media e.g. TES you can choose whether to pay a lower rate just to advertise online or a higher rate and have the advert appear in print as well.

**Writing a recruitment advert**

The less you say the better – no one will read your advert as much as you.

An effective advert attracts, interests, filters, persuades and inspires action. See the guidance and examples in the School Advert Sheet template in the forms section of the Young Southampton website (F89).

The Golden Rules:

* Be friendly and informal.
* Avoid repetition – it is boring.
* Keep it short and snappy.
* It’s not me. It’s you. Avoid using ‘the successful applicant’ instead say ‘you will’.

There are five key areas to writing a job advertisement. Ensure you are clear about:

1. What the organisation and what it does.
2. What the job entails.
3. What skills, qualities or experience are required to do the job?
4. Pay.
5. How to apply.

By completing the advert template, you will quickly cover points 1, 4 and 5, so any job advert needs to concentrate on points 2 and 3.

Please ensure you state your commitment to safeguarding and/or the need for DBS disclosures in adverts, by using the statement:

*“This school is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment.”*

Ensure that all applicants complete the appropriate application form so that the following requirements are met:

* Data Protection
* Police Check procedure (DBS), and
* Rehabilitation of Offenders Act.

*(See the application forms on the Young Southampton website)*

**How to submit a job advert**

You must submit your advert using the School Advert sheet on the Young Southampton website in the form section: <http://www.youngsouthampton.org/working-with-children/schools-guidance/schoolshr/forms.aspx> as this assists you to provide all the relevant information needed in order to place your advert.

Remember to always sell the job, provide relevant information, avoid repetition and bullet points, and use no more than 50 - 100 words (as per template guidance). Pay particular attention to closing dates.

SCC has a corporate standard of allowing **two clear weeks** for concurrent recruitment advertising and the job closing date is always a Friday. This allows the candidate enough time to see your job, decide to apply, request an application pack and submit it by the closing date.

So, if a job was advertised on Wednesday 01/06/16, it would close on Friday 17/06/15.

Submit your job to HR Pay (hr.payschools@southampton.gov.uk) by email by the end of the day the Friday before the week you want it to be advertised.  This is the latest the job advert can be submitted so remember to allow enough time when planning your recruitment process. Once your advert has been received it will be published the following Wednesday.

Any advert received after the deadline will be placed the following week, so please bear this in mind when looking at closing dates. Contact will be made with you if there are any queries and/or the dates will require changing.

The applicant can use the application forms available online in the forms section of the Young Southampton website:

<http://www.youngsouthampton.org/working-with-children/schools-guidance/schoolshr/forms.aspx>

**3. Shortlisting and Before Interview**

**Shortlisting**

There is a Shortlist Grid template available on the Young Southampton website in the forms section at <http://www.youngsouthampton.org/working-with-children/schools-guidance/schoolshr/forms.aspx>. Seek professional advice and support where appropriate.

Produce shortlisting criteria based on the job description and person specification which are capable of assessment through the application documents.

Provide copies of the applications and shortlisting criteria to the shortlisting panel members in advance of the shortlisting session.

Avoid generalised assumptions about age or the ability of men or women, married people, or people with disabilities to do the job.

Scrutinise the application forms and check for any gaps in employment history, check that the evidence in the supporting statement, relates to the employment history. If you identify any anomalies, this will not affect your shortlisting decision but you must ask the candidate to tell you at interview the reason for the gap or difference etc.

If the individual has declared previous criminal convictions, cautions, reprimands, final warnings or bind-over, these need to be discussed at interview, declaring these does not automatically bar the person from being shortlisted or working with children. Information listed on the previous criminal convictions page should have no bearing on the shortlisting process. Further advice can be sought from your HR Provider.

Do not seek a quota of male / female candidates.

**Shortlisting panels**

Shortlisting panels should have at least two people and be of an appropriate level. Mixed sex panels are desirable but not essential.

Members of panel should have the necessary authority to make decisions about appointments.

The Governing Body **must** ensure that at least one panel member has completed the appropriate safer recruitment training.

Keep a note of the shortlisting criteria and retain in a secure place all applications (including those from applicants not interviewed) for **six months**.

We suggest you set up a file for each job you carry out recruitment for. This will ensure that any query about shortlisting decisions, whether or not this is based on a claim of discrimination, can be responded to properly.

Next steps:

* Decline any unsuccessful candidates (consider whether to offer feedback)
* Confirm interview details in writing (more information below) and let shortlisted applicants know what checks you will undertake prior to interview
* Start the process of collecting the references
* Review the application form to check fully completed and note areas to probe further at the interview
* Review CV (if included) and any other supporting documents provided to highlight areas for discussion

**Before interview**

Invite to Interview***:***

The candidates should ideally have 10 working days’ notice of an interview.

If timescales are shorter (e.g. around notice periods), you can agree the interview date and state this in the advert, but, even when doing this, you must leave enough notice to advise the candidate that you wish to see them.

To assist, you can make initial telephone contact, and/or email the “invite to interview” letter.

There is a model invite to interview letter on the Young Southampton site in the forms section at <http://www.youngsouthampton.org/working-with-children/schools-guidance/schoolshr/forms.aspx>

Make sure candidates know the format of the interview, where and when to report and who will be interviewing them.

Be prepared to make necessary adjustments to allow an applicant to take part in the process who has a disability.

Ensure that the following information from the Asylum and Immigration Act is included in “call for interview” letters:

*“Under the Asylum and Immigration Act, we must require all candidates for employment to produce a document to prove that they are entitled to live and work in the UK.*

 *Please bring with you to the interview:*

*A documented national insurance number (e.g. P45, P60 tax, previous pay slips), along with one of the following depending on your personal circumstances:*

* *a valid passport from any European Economic Area state (or Switzerland) and or a certificate of registration proving your right to work;*
* *a certificate of naturalisation as a British citizen;*
* *a full version of your British birth certificate;*
* *a British passport.*

*All to be original documents.”*

If qualifications are a requirement of the job the “invite for interview” letters should also ask candidates to bring in the appropriate original certificates, (or certified copies), in particular **this is a requirement for all teaching posts**. In these cases do not forget to copy and return the documents to the candidate.

To ensure adherence to safer recruitment principles, please send information about your safeguarding policy and practices to candidates.

(See also the **pre-employment checks** section)

Take Up References

Take up two references on short-listed candidates, **always** including the previous employer. If the applicant has not listed the previous/current employer, contact them to discuss this. Ensure references are received prior to the interview to discuss any issues raised.

Assessment Preparation

It is good practice to supplement the interview with other means of assessing candidates e.g. an informal discussion with candidates either in groups or individually, in-tray exercise, brief presentation, submission of paper, comment on a video, etc.

- Involving pupils in the recruitment and selection process in some way, or observing short-listed candidates’ interaction with them is common, and recognised as good practice.

- Agree criteria against which candidates will be assessed, usually based against the person specification.

- Ensure that your assessment methods are checking each criteria at least once.

Interview questions:

* Avoid hypothetical questions because they allow theoretical answers – everyone knows what they *should* do. It is better to ask competence based questions that ask a candidate to relate how s/he has responded to, or dealt with, an actual situation, or questions that test a candidate’s attitude and understanding of issues.
* Avoid closed questions as these will only generate a ‘Yes’ or ‘No’ answer. Think about what type of answers you would expect to get and consider this from both the positive and negative perspective. This will help you with your assessment and decision making.
* Avoid questions based on assumptions about gender, marital status, children and domestic obligations.
* Questions relating to age, disability, pregnancy/maternity, race, religion or belief and sexual orientation should also be avoided in order to comply with the Equality legislation.

**For example:**

A question could be: *‘Tell me about a time in the classroom when your authority was challenged.*

* *What happened?*
* *How did you react?*
* *What did you do to bring things back on course?’*

***Positive indicators:***

* Consistent under pressure.
* Has control over emotions.
* Knows when to seek help.

***Negative indicators:***

* Inappropriate responses under pressure or when in charge of others.
* Handles conflict badly.
* Doesn’t seek help when needed.

**For example:**

A question to link into safeguarding could be: *‘What do you feel are the main drivers that led you to want to work with children?’*

***Positive indicators:***

* Convincing answers based on a balanced understanding of self and circumstance.
* Has a realistic knowledge of personal strengths and weaknesses.
* Examples of having considered/tried other options and alternatives.

***Negative indicators:***

* Unconvincing responses based on whimsical examples. Not self-aware, don’t see themselves as others do.
* Driven by personal needs not needs of others.
* Not realistic about personal strengths and weaknesses.

**For example:**

*‘Tell me about a time you have planned and taught a topic to pupils of differing abilities and needs. How did it go and what were the learnings?’*

***Positive indicators:***

* Good description of planning skills and taking into account different abilities and learning styles
* Has a good understanding of personal strengths and weaknesses

***Negative indicators:***

* Doesn’t listen or answer the question fully
* Is inconsiderate of others’ abilities
* Was unclear of any learnings – set in their ways?

**Safeguarding essentials:**

In addition to assessing and evaluating the applicant’s suitability for the particular post, the interview panel should also be prepared to explore:

* the candidate’s attitude toward children and young people;
* his or her ability to support the authority or establishment’s agenda for safeguarding and promoting the welfare of children;
* gaps in the candidate’s employment history; and
* concerns or discrepancies arising from the information provided by the

candidate and/or a referee.

Panel preparation

Arrange a pre-interview briefing with all members of the interview panel including any governors involved.

Ensure all members of the panel have the correct job description and person specification documents.

It is good practice for copies of the application forms for shortlisted applicants to be provided to the interview panel at least two days before the interviews, to allow them time to familiarise themselves with each candidate.

Decide which panel member will ask which question in the interview to avoid confusion – and looking unprofessional on the day.

**4. School Referencing Guidelines**

Seeking references is an important element of the pre-employment process and will provide further evidence of a person’s suitability to a role. Obtaining references is essential to meet the safeguarding requirements that are designed to protect children. As part of the application process applicants will be requested to supply the details for two referees and will indicate whether or not these referees can be contacted before a job offer has been made.

**Requirements**

* Two references should be requested for all people that are joining the school, one of which should include the individual’s current or previous employer. If they have worked in a school previously then a reference should be taken up from that school.
* When requesting references these should be submitted with a copy of the Job Description and Person Specification.
* References should only be sought at the point at which the applicant has given their permission to contact the referee.
* It is not permissible to seek references from people other than those the applicant has identified as referees.
* In line with the Equality Act 2010 it is not permissible to ask questions about an individual’s health or attendance levels at work before an offer of employment has been made.
* References should be sought using the schools’ reference request form, which can be found on the Young Southampton website in the forms section. [http://www.youngsouthampton.org/Images/(F75)%20Schools%20Reference%20Request.doc](http://www.youngsouthampton.org/Images/%28F75%29%20Schools%20Reference%20Request.doc)
* Under safeguarding best practice, the references should be taken up before the interview to ensure that any areas can be clarified in the interview
* In circumstances where there is difficulty in obtaining references then this should be discussed with your HR provider. Any discrepancy within the reference needs to be followed up with the referee and can also be clarified with the candidate.
* On receipt, references should be checked to ensure that all specific questions have been satisfactory. If all questions have not been answered or the reference is vague or unspecific, the referee should be contacted and asked to provide written answers or amplification as appropriate.
* The information given should also be compared with the application form to ensure that the information provided about the candidate and his or her previous employment by the referee is consistent. Any discrepancy in the information should be taken up with the applicant.
* ‘Open ended’ references i.e. references which are presented directly by the applicant and have a generic salutation e.g. ‘to whom it may concern’ are not acceptable.
* References which are received and deemed to be ‘adverse’ should be discussed with your HR provider.
* If no, or only one, reference is received this needs to be followed up by initially chasing the referee. If this fails to elicit a reference then the applicant must be contacted so that they can chase their referee themselves and failing this the applicant needs to supply an alternative referee. Applicants should not be appointed until satisfactory references are received.
* All references should be placed on an individual’s personal file.

**Specific safeguarding requirements**

* References must be validated though a telephone call to the referee to confirm that they were the individual that completed the reference. Where possible confirmation of identity should be via a formal employer telephone number rather than a personal telephone number. The validation of these references should then be recorded on the individual’s personal file.
* Where possible one of the references should relate to employment where the individual has had contact with children as part of the role.
* Schools are also reminded that within references required as part of the recruitment process, the new school should seek details of any allegation or concerns that have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, and the outcome of those concerns e.g. whether the allegations or concerns were investigated the conclusion reached, and how the matter was resolved.
* The previous school would usually extract summary information from the child protection file note in order to provide this.
* Within the statutory guidance from the DfE in 2011 the unsuitability of an employee has a new definition to include ‘behaved towards a child or children in a way that indicates that they would pose a risk of harm if they work regularly or closely with children.’
* In the event that you are asked to provide an employment reference for an employee who has been the subject of disciplinary processes, schools are strongly advised to discuss this with their HR Provider and the LADO.

**Guidance**

* If there is confusion about the content of a reference then a follow up telephone call to the referee may be appropriate. If this is the case then limit the conversation to the areas that require clarification only, the completion of references is time consuming and it is unreasonable to cover the whole content of the reference again with the referee.
* Increasingly more and more employers will only provide details on the role and length of time an individual has worked for them, whilst this information is not overly helpful, there is no legal requirement for an employer to expand on what they have provided. You may wish to ask for an additional reference in this circumstance.
* If the reference is provided by another education establishment it would be reasonable to expect a detailed return in accordance with safer recruitment guidance.

**5. Interviewing**

**On the day:**

Arrange a courteous, helpful reception of candidates for the day of interview.

Offer the candidates a drink and a few moments to freshen up and collect their thoughts so that they give their best performance.

Arrange a brief tour around the school or the prospective working area for any candidates who haven’t previously visited – be very clear whether the tour **does/does** **not** form any part of the interview/selection process.

**Interviewing:**

The selection process should always include a face-to-face interview even if there is only one candidate.

* Interview panels should have at least two people.
* Mixed sex panels are desirable but not essential.
* Panel members should have the necessary authority to make decisions about appointments.
* At least one member of the panel **must** have gone through Safer Recruitment training
* Make certain that the interview panel meets at least half an hour before the formal interviews are scheduled to begin so that the structure of the interview, role of interviewers can be planned and agreed.
* Agree when to see the candidate’s documents that haven’t already been checked e.g. qualifications, proof of identity and Right to Work and arrangements for copying.
* Agree when to ask any questions relating to any gaps in employment, queries on the application form or criminal self disclosure, any concerns regarding the reference etc.
* Agree criteria against which candidates will be assessed and use standard assessment sheet. This does not mean that everyone has to use the same system of assessment but it is important that each interviewer should be assessing candidates against the same job criteria.

**During the interview:**

* Try to create a relaxed, informal atmosphere for interview
* Introduce the panel
* Follow your question plan, but depending on answers, do have follow up probing questions to allow you to gather the information needed to assist with your assessment and decision making.
* Watch out for ‘we’ not ‘I’ answers – probe where necessary to clarify what the interviewee actually did.
* Beware of your own body language and any signals you may be giving out
* Take sufficient and legible notes
* Ask the candidate if they have any questions
* Ask the candidate if they wish to declare anything in light of the requirement for a DBS Check.
* Verify and copy the documents the candidate brings with them – check their photographic ID and check their teacher status etc.
* Close by thanking the candidate and letting them know what will happen next try to let all candidates know the outcome of the selection process, at the end of the day.
* Complete an interview checklist for each candidate (see Young Southampton website). [http://www.youngsouthampton.org/Images/(S192)%20Interview%20Checklist%20for%20Schools\_Dec13.doc](http://www.youngsouthampton.org/Images/%28S192%29%20Interview%20Checklist%20for%20Schools_Dec13.doc)

**Decision making**

* Members should review their notes and score independently – then discuss at the wash up.
* Panel should discuss individual results and come to a consensus as to which candidate should be offered the post
* Base final selection decision on criteria previously defined
* If no consensus or clear candidate – consider skill and attitude – skills can be developed, it is harder to alter an attitude. It may be that the best result is not to appoint, rather than appointing and then having to deal with a costly and lengthy issue subsequently.
* Produce brief written assessment of each interviewed candidate and retain for six months from date of offer of appointment, in the recruitment file. This will ensure that any query about an interviewing decision, especially if this is based on an allegation of discrimination, can be dealt with in an informed way.

Check that the successful candidate (if being employed as a teacher) is not subject to a prohibition order issued by the Secretary of State, using the online Teachers’ Services system. For more details see p20. <https://sa.education.gov.uk/idp/Authn/UserPassword>

Verify the candidate’s mental and physical fitness to carry out their work responsibilities. A job applicant can be asked relevant questions about disability and health in order to establish whether they have the physical and mental capacity for the specific role (see p22).

1. **After Interview**
* Offer the job to the successful candidate on a conditional basis (see below) and advise other candidates of decision.
* Arrange for pre-employment assessment to be done by your Occupational Health Provider.
* Commence DBS check
* Ensure that the correct contract is selected and set up and that pay details checked and actioned.

**Conditional offer of employment**

An offer of appointment to the successful candidate should be conditional upon:

* the receipt of at least two satisfactory references (if those have not already been received)
* verification of the candidate’s identity (if that could not be verified straight after the interview);
* a satisfactory Enhanced DBS Check and barred list check where appropriate;
* a satisfactory Overseas check where appropriate
* verification of candidate’s status under the Asylum & Immigration Act where appropriate <https://www.gov.uk/legal-right-work-uk>;
* verification of the candidate’s medical fitness;
* verification of qualifications (if not verified after the interview);
* verification of professional status where required e.g. QTS status (unless properly exempted), National Professional Qualification for Headship (NPQH);
* for teaching posts - verification of successful completion of statutory induction period (applies to those who obtained QTS after 7 May 1999); and
* for support posts - satisfactory completion of the probationary period.
* a Teacher not being subject to a prohibition order

**Errors to avoid in the recruitment and selection process**

* Making assumptions without evidence
* Not using a defined process consistently
* Over relying on personal judgements
* Focusing solely on academic qualifications / practical skills
* Being swayed by the applicant’s personality
* Appointing the best of a bad bunch
* Appointing someone because there is no-one else
* Not allowing sufficient time for the recruitment process
* Delaying the process & potentially losing good applicants

**7. Pre-Appointment Checks Guidance**

This guidance details the recruitment and vetting checks to be carried out on teachers and other workers, paid and unpaid, and the records that must be kept of these checks. The checks are essential to ensure effective safeguarding in recruitment.

Where the check is a statutory requirement this guidance makes it clear that it **must** be carried out and in other circumstances where the check is strongly recommended that it **should** be carried out, unless there are compelling reasons not to do so.

You **must** carry out the following checks:

* **Identity**

It is important to be sure that the person is who he or she claims to be. You **must** ask to see proof of identity such as a birth certificate, driving licence, or passport combined with evidence of address, before an appointment is made. Some form of photographic identity should be seen except where for exceptional reasons none is available. Please note that proof of identity is required in connection with an application for a DBS check. In summary the proof should include name, date of birth, address and photographic identity.

If a teacher or worker is provided by a third party, such as an employment agency you **must** check that the person who comes to you is the person referred by the employment agency by carrying out the identity checks as detailed above.

* **Disclosure & Barring Service Barred List**

The Barred Lists are confidential documents, maintained by the DfE, which contain details of people whose employment in relevant employment has been barred or restricted by the Secretary of State.

There is a Children’s Barred List (maintained by the Disclosure & Barring Service (DBS) which lists individuals who are barred from, or subject to restrictions, working with children.

A Children’s Barred List check **must** be undertaken for all school staff before they begin work. These checks are usually completed as part of the Enhanced DBS check. It is important when completing a DBS request that the relevant statement is ticked on the Disclosure form confirming that employment involves working with children.

**If a school or college knows or has reason to believe that an individual is barred, it commits an offence if it allows the individual to carry out any form of regulated activity (i.e. work in a school). There are penalties of up to five years in prison if a barred individual is convicted of attempting to engage or engaging in such work.**

* **DBS Checks**

There are certain positions which are exempted from the provisions of the Rehabilitation of Offenders Act 1974, and individuals **must** be asked by employers to declare any convictions, cautions or reprimands, warnings or bind-over which they have incurred, including any that would be regarded as ‘spent’ under the Act in other circumstances.

It is mandatory for an Enhanced DBS Check to be obtained on all newly appointed school staff. This ***includes*** those who do not work directly with children, for example administrative staff, caretakers and other ancillary staff.

If a person is subsequently selected for appointment to a position that may be exempt from the provisions of the Rehabilitation of Offenders Act 1974, the employer **must** ask them to apply to the DBS for an Enhanced DBS Check to verify their declaration.

* any work in a school; or
* any position involving unsupervised contact with a child under arrangements made by the child’s parents or guardian, the child’s school or a registered day care provider; or
* a position as a governor of a school, FE college, including sixth form college, which involves regular work in the presence of, or care for, children, or training, supervising or being in sole charge of children; or
* any position which involves regularly caring for, training, supervising or being in sole charge of children or young people under the age of 18 in an FE college including sixth form colleges.

**Starting Work Pending a DBS check**

Ideally, where a DBS is required, it should be obtained before an individual begins work. It must in any case be obtained as soon as practicable after the individual’s appointment and the request for a DBS check should be submitted in advance of the individual starting work. Headteachers have discretion to allow an individual to begin work within their school pending receipt of the DBS check but should ensure that the individual is appropriately supervised and that all other checks, including barred list, have been completed.

Appropriate supervision for individuals who start work prior to the result of a DBS check 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 the level of supervision required 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. For all staff without completed DBS check it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision spelt out. The arrangements should be reviewed regularly, at least every two weeks until the DBS check is received.

**DBS checks with content**

It is very unusual to receive applications from someone who has been barred from working with children. Sometimes an applicant may have a criminal record but this does not automatically bar them from working with children. If a DBS with content is received, we strongly advise that you complete the Positive Disclosure form. This form can be found in the Forms Section on the Young Southampton website. [http://www.youngsouthampton.org/Images/(S197)%20Positive%20Disclosure%20Decision%20Sheet\_July11.doc](http://www.youngsouthampton.org/Images/%28S197%29%20Positive%20Disclosure%20Decision%20Sheet_July11.doc)

If an individual has a criminal record, their offence/s should be discussed with them and a decision made taking the following into account:

* Nature, seriousness and relevance
* How long ago it occurred
* At what age the offence(s) were committed and the current age of the applicant
* If it was a one off or part of a history
* Circumstances of it being committed and applicant’s explanation
* Changes in an applicant’s circumstances
* Whether the applicant disclosed the information on their application form
* The level of supervision of the post applied for
* Country where the offence occurred.

The Schools Disclosure & Barring Service Policy is available on Young Southampton**:** *Guidance for schools > Schools HR > Policies, procedures and guidance > A-D > DBS Policy and Procedure*

* **Childcare Disqualification Requirements**

This check is independent of and in addition to DBS checks.

Under the Childcare (Disqualification) Regulations 2009 and related obligations under the Childcare Act 2006, individuals providing certain categories of childcare will be disqualified from doing so should they meet the criteria set out in the Regulations.

For detailed information schools should refer to the DfE Statutory Guidance [*Disqualification under the Childcare Act 2006 – June 2016*](https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006)*,* and the [*Childcare Disqualification Requirements (Guidance for Schools)*](http://www.youngsouthampton.org/working-with-children/schools-guidance/schoolshr/policies/atod/childcare_disqualification_requirements.aspx)on Young Southampton.

The Regulations apply to contracted staff, agency staff, contractors and volunteers who work with year R pupils in the classroom or in the provision of childcare out of school hours; or those who provide childcare out of school hours for children who are above reception age but under the age of 8. It also applies to those responsible for the management of such provision.

As part of the pre-employment checks, new appointments to roles covered by the disqualification Regulations must be given a letter (Appendix A to the guidance for schools) making them aware of the Regulations and their duty to disclose any relevant disqualification information to the School.

* **Qualification Requirements**

Employers **must** always verify that the candidate has actually obtained any qualifications legally required for the job and claimed in their application by asking to see the relevant certificate or diploma, or a letter of confirmation from the awarding institution. If original documents are not available, employers must see a properly certified copy. Contacting the awarding body to confirm the person’s qualification entitlement is also an option.

* **Teacher Prohibition Orders (Teacher Services’ system)**

Teacher prohibition orders prevent a person from teaching in schools, sixth form colleagues and 16-19 academies in England. A person who is prohibited from teaching must not be appointed to work as a teacher in such a setting. The Teachers Services’ system (formally known as Employer Access Online) is a free service schools can use, accessed via the Department for Education’s Secure Access portal. <https://sa.education.gov.uk/idp/Authn/UserPassword>

Teacher Services should be used before appointing a teacher to check for:

* The award of QTS
* Completion of teacher induction
* Prohibitions, sanctions and restrictions that might prevent the individual from taking part in certain activities or working in specific positions.

It includes details of any:

* trainee, newly qualified or fully qualified teacher – with the exception of teachers who have achieved QTS through holding qualified teacher learning and skills (QTLS)
* teacher with an active restriction (including any teacher with QTLS to whom this applies)
* 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.
* restrictions/sanctions that have been imposed by regulators of the teaching profession in other EEA member states determined after 18 January 2016. EEA regulator restrictions do not prevent an individual from taking up teaching positions in England, however, employers should consider the circumstances leading to the restriction when assessing a candidate's suitability to be employed.

Teacher status checks: information for employers (GOV.UK website):
<https://www.gov.uk/guidance/teacher-status-checks-information-for-employers>

* **Right to Work in the UK**

You **must** confirm foreign nationals have permission to work in the UK. You must complete the ‘*Preventing Illegal Working Checklist – Schools specific’* document which can be found on the Young Southampton website in the policy section.

Nationals of Gibraltar and of countries within the European Economic Area (EEA) and Switzerland do not need permission to take employment here and can be employed on the same basis as UK nationals.

The European Economic Area (EEA) consists of Austria, Belgium, Bulgaria, Croatia, the Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK. Switzerland is not an EEA member but Swiss nationals have the same rights to live and work in the UK as other EEA members.

For further information for employers on preventing illegal working please go to the Home Office website.

**Overseas Trained Teachers**

The Education (Specified Work) (England) Regulations 2012 allow teachers trained in a country outside of the UK to teach in state maintained schools and non-maintained special schools in England for up to four years.

Teachers who qualified in Canada, Australia, New Zealand and the United States of America (USA) may apply to the National College for Teaching and Leadership (NCTL) (previously the Teaching Agency) for qualified teacher status without further training or assessment in England.

**Teachers from overseas may be subject to UK Border Agency requirements.**

Further information can be found on the [www.gov.uk](http://www.gov.uk) at the page:<https://www.gov.uk/government/publications/employing-overseas-trained-teachers-from-outside-the-eea>

When teachers claim to be overseas trained, either within the European Economic Area (and Switzerland) or elsewhere, employers should ask for proof of their qualifications (originals if possible, or certified copies).

**Staff who have lived outside the UK**

Newly appointed staff who have lived outside the United Kingdom must undergo the same checks as for all other staff. This includes a DBS check and the barred lists. In addition, you must make such further checks as you consider appropriate due to the person having lived outside the United Kingdom.

In addition all staff who have lived outside the United Kingdom and were recruited since March 2002 should have DBS checks undertaken.

**Why is a DBS check not always sufficient for those who have lived abroad?**

DBS checks will not generally show offences committed by individuals whilst living abroad. Therefore, in addition to an enhanced DBS check, additional checks such as obtaining certificates of good conduct from relevant embassies or police forces are necessary. The level of information contained in these certificates varies from country to country: some are complete extracts from the criminal record; others are partial.

In the case of staff who have lived abroad, if, the DBS check is unlikely to provide sufficient information, based on how long the individual has been in the UK, then other checks, including obtaining certificates of good conduct from relevant embassies or police forces as appropriate, must be completed prior to the individual starting work or volunteering activity. More detail is provided on the Young Southampton website and the Government’s website.

Where an applicant is from or has lived in a country where DBS checks cannot be made for child protection purposes, or is a refugee with leave to remain in the UK, and has no means of obtaining relevant information, employers must take extra care in taking up references and carrying out other background checks. For example, additional references should be sought, and references followed up by phone as well as letter. Following up references with telephone calls is good practice for all recruits.

* **Health**

Anyone appointed to a post involving regular contact with children or young people **must** be medically fit. It is the statutory responsibility of employers to satisfy themselves that individuals have the appropriate level of physical and mental fitness **before** an appointment offer is confirmed.

However, when determining whether an individual is fit to teach the employer is also under a duty not to discriminate against people with a disability for a reason connected to their disability — unless this treatment can be justified.

**In addition to the above mandatory checks it is essential that you complete the following checks on intended new appointees:**

* **Professional and Character References**

References should always be taken up, and should be obtained directly from the referee. It is not good practice to rely solely on references or testimonials provided by the candidate. We strongly advise that a reference should be obtained from the current or most recent employer. (See section 4 above for further information).

* **Previous Employment History**

You shouldalways ask for information about previous employment and obtain satisfactory explanations for any gaps in employment. If a candidate for a teaching post is not currently employed as a teacher, it is also advisable to check with the school or local authority at which they were most recently employed, to confirm details of their employment and their reasons for leaving.

**Additional checks on those applying for teaching posts**

* **Qualified Teacher Status**

No person may teach in a maintained school, maintained special school or a non-maintained special school unless s/he;

* has qualified teacher status, otherwise known as a “qualified teacher”; or
* falls within one of the special categories specified in The Education (Specified Work)) (England) Regulations 2012.

Teachers who trained in either Scotland or Northern Ireland must obtain QTS to take up a teaching post in a maintained school or non-maintained special school in England.

Overseas trained teachers (OTTs) who qualified outside of the European Economic Area (EEA) who have gained recognition as a teacher in either Scotland or Northern Ireland can also apply for QTS in England.

If an EEA member state recognises the person as a qualified school teacher they can apply for QTS in England under the terms of Council Directive 2005/36/EC.

If trained outside the EEA, they can also apply for QTS in England. An EEA member state needs to recognise your qualifications and you will need 3 years of experience as a teacher in that state.

Swiss nationals are also eligible to apply for QTS in England.

Teachers qualified in Australia, Canada, New Zealand and the USA must apply to NCTL for the award of QTS before they can be recognised as qualified teachers. The NCTL will then verify that the individual is a fully qualified teacher in Australia, Canada, New Zealand or the USA and has not been barred from teaching. Subject to satisfactory completion of these checks, the teacher will be issued with a letter confirming the award of QTS. Details of fully qualified teachers from Australia, Canada, New Zealand and the USA will be held by the NCTL on the database of qualified teachers in England.

If the person trained in a country outside of the EEA, other than Australia, Canada, New Zealand or the USA, they need to complete an accredited training programme in England to obtain QTS and take up a permanent teaching post.

If the person is from the independent sector, they need QTS to teach in the maintained sector. There are a number of routes which assess previous teaching experience, further details are available on the ‘Get into Teaching’ website.

Support staff (such as Higher Level Teaching Assistants and Teaching Assistants) may also teach provided:

1. the person carries out such work in order to assist or support the work of a qualified teacher or a nominated teacher in the school;

(b) the person is subject to the direction and supervision of a qualified teacher or nominated teacher in accordance with arrangements made by the head teacher of the school; and

(c) the head teacher is satisfied that the person has the skills, expertise and experience required to carry out specified work.

* **Provision of information regarding a teacher’s capability**

The School Staffing (Amendment) Regulations 2012 provide for a school to ask a referee whether a teacher has been subject to formal capability procedure in the preceding two years and provide written details of the concerns which gave rise to this, the duration of the procedures and their outcome.

**What should a school do if a candidate’s application is found to be fraudulent or contain false information?**

Serious, deliberate fraud or deception in connection with an application for employment may amount to a criminal offence (Obtaining Pecuniary Advantage by Deception). Contact your HR provider for advice.

* **Single Central Record of Recruitment and Vetting Checks**

In addition to individual employee records relating to recruitment and pre-employment checks, schools **must** also keep and maintain a single central record of recruitment and vetting checks carried out for staff, supply staff, volunteers and governors, detailing the dates checks were conducted. Refer to separate guidance on Young Southampton under HR Administration Guidance for Schools/Recruitment & Selection.

**8.** **Checks on Volunteers, Contractors, Governors and Supply Staff**

**Volunteers**

Volunteers are also seen by children as safe and trustworthy adults, and if a school is actively seeking volunteers, it should adopt the same recruitment measures as it would for paid staff.

The Safeguarding Guidelines remind us that volunteers who on an unsupervised basis teach or look after children regularly, or provide personal care on a one-off basis in schools and colleges will be in regulated activity. The school or college should obtain an enhanced DBS certificate (which should include barred list information) for all volunteers who are new to working in regulated activity. Existing volunteers in regulated activity do not have to be re-checked if they have already had a DBS check (which includes barred list information). However, schools and colleges may conduct a repeat DBS check (which should include barred list information) on any such volunteer should they have concerns.

Schools and colleges may obtain an enhanced DBS certificate (not including barred list information), for volunteers who are not engaging in regulated activity, but have the opportunity to come into contact with children on a regular basis, e.g. supervised volunteers.

The school or college should undertake a risk assessment and use their professional judgement and experience when deciding whether to seek an enhanced DBS check for any volunteer not engaging in regulated activity. In doing so they should consider:

* the nature of the work with children;
* what the establishment knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers;
* whether the volunteer has other employment or undertakes voluntary activities where referees can advise on suitability; and
* whether the role is eligible for an enhanced DBS check.

The Protection of Freedoms Act 2012 amended the Safeguarding Vulnerable Groups Act 2006, removing supervised volunteers from regulated activity and applying a duty on the Secretary of State to issue guidance to assist regulated activity providers such as schools and colleges, to decide what level of supervision is required so that this exclusion would apply.

The DBS cannot provide barred list information on any individual, including volunteers, who are not engaging in regulated activity.

Where checks are carried out on volunteers, schools should record this on the single central record.

Volunteers should be appropriately supervised. In a school or college, a **supervised** volunteer who regularly teaches or looks after children is not in regulated activity.

Under the Safeguarding Guidelines, ‘under no circumstances should a volunteer in respect of whom no checks have been obtained, be left unsupervised or allowed to work in regulated activity’.

Governing bodies and proprietors should ensure there is an effective child protection policy in place together with a staff behaviour policy (sometimes called the code of conduct) which should amongst other things include- staff/pupil relationships and communications including the use of social media. Both should be provided to all staff – including temporary staff and volunteers – on induction.

More information can be found at: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/280881/supervision_of_activity_with_children_which_is_regulated_activity_when_unsupervised.pdf>

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.

EXAMPLE: Volunteer, in a specified place

Mr Jones, a new volunteer, helps children with reading at a local school for two mornings a week. Mr Jones is generally based in the classroom, in sight of the teacher. Sometimes Mr Jones takes some of the children to a separate room to listen to them reading, where Mr Jones is supervised by a paid classroom assistant, who is in that room most of the time. The teacher and classroom assistant are in regulated activity. The head teacher decides whether their supervision is such that Mr Jones is not in regulated activity.

**Contractors**

The document ‘Keeping Children Safe in Education’ (Sept 2016) states:

‘Schools and colleges should ensure that any contractor, or any employee of the contractor, who is to work at the school or college has been subject to the appropriate level of DBS check. Contractors engaging in regulated activity will require an enhanced DBS certificate (including barred list information). For all other contractors who are not engaging in regulated activity, but whose work provides them with an opportunity for regular contact with children, an enhanced DBS check (not including barred list information) will be required. In considering whether the contact is regular, it is irrelevant whether the contractor works on a single site or across a number of sites.

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

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

Schools and colleges should always check the identity of contractors and their staff on arrival at the school or college.’

**Governors**

Governors who are volunteers should be treated on the same basis as other volunteers, that is, an enhanced DBS check (which will include a barred list check) should only be requested if the governor will be engaging in regulated activity. Governing bodies can request an enhanced DBS check without a barred list check on an individual as part of the appointment process for governors. Further advice on governors can be found on the Government’s website.

**Supply staff**

It is important that thorough checks are made on anybody who will be working in a school, both to prevent unsuitable people from gaining access to children and young people and to maintain the integrity of the teaching profession and confidence that schools are safe places for children and young people. The same range of checks which are required for school staff are also required for supply staff, including those employed via employment agencies.

Where supply staff are employed directly by the school, the school **must** complete all relevant checks as for other employed staff. Schools must record whether those checks have been carried out on the single central record.

Before taking on a member of supply staff provided by a supply agency, the school must obtain written confirmation from the agency that the checks the school is required to carry out for its own employees have been undertaken by the agency. In relation to DBS checks the written notification from the agency must confirm that relevant DBS checks have been requested for that individual, whether or not the Disclosure has been obtained and whether it included disclosed information. Where there is disclosed information, the school must discuss this further with the agency and determine whether it wishes to undertake its own DBS check.

The school must require the supply agency to provide the written notifications and the DBS check number where appropriate through the contract or other arrangements which it makes with the supply agency. Schools must record whether they received confirmation of relevant checks from the supply agency (and the details of the DBS checks where appropriate) on the single central record.

If the DBS Check refers to the existence of information additional to that on the Disclosure, the supply agency cannot provide the school a copy of that information. The school, if they want to engage the person, should carry out a repeat DBS check and not employ the person until they receive the new Disclosure. Where an individual is provided by an agency, the school must check that the person who comes to them is the person referred by the agency by carrying out the identity checks.

**9.** **Personnel Records**

It is important that a consistent approach should be adopted towards the maintenance of personnel records.

During the pre-employment processes a number of important documents will have been initiated and it is essential that these are retained in some readily accessible place (probably the personal file of the employee). They will include:

* the job description
* the person specification
* copy of the application form
* the interview assessment sheet
* the references
* copy of mandatory qualifications if appropriate
* copy of documents to prove the persons identity
* Preventing illegal working checklist and copies of ID
* the letter of appointment/contract of employment

To assist in the make up of the personal file the New Starter file checklist can be found in the forms section.

**Retention of personal files**

Schools are expected to retain personal files for 7 years after the employee has left. Systems should be put in place to ensure that regular review and disposal of records takes place.

Supply Teachers files must be kept for 2 years after you have stopped using them, even if you only use them for a very short period of time. If however, you re-engage the same supply teacher to provide periodic cover from one year to the next, you should treat their personal file the same as all other staff and retain for 7 years after they cease working for you.

Ensure that the records are kept confidentially and securely within the requirements of the Data Protection Act.

**10.** **Contracts of Employment**

Immediately before the appointment commences or very soon afterwards, a letter of appointment and statement of particulars will have been issued to all permanent employees in the school and those temporary employees who are not working in either a casual or supply capacity. This has the effect of formalising the terms under which a contract of employment has been agreed.

Many aspects of the formation of contracts of employment are routine, especially once standardised documents and systems have been established.

There are some areas, however, which can be potentially more complex than others. It is not practicable to cover all aspects of contracts of employment within this guidance and it is therefore recommended that HR advice should be sought where there is any doubt concerning the issuing of particular types of contract or specific terms and conditions of employment.

In English law, a contract of employment is formed only when there is an offer, acceptance and consideration. In broad terms consideration is the reward payable for the readiness and willingness to perform work. A contract may be entered into quite informally and the mere absence of a written document or term will not necessarily persuade the courts that a contract or contractual term does not exist. Therefore, extreme care must be exercised when conducting interviews or in informal discussions since verbal “promises” may be interpreted as forming express terms of the contract.

There is a statutory requirement for employers to issue employees with a “written statement of particulars” of certain terms and conditions of their employment within 8 weeks of the commencement of the employment. However, wherever possible, it is best practice to issue statements of particulars and other written provisions of the contract in advance of the date of commencement.

The main elements of the contract of employment are as follows:

 **express terms** - those that are expressly mentioned in the formal documentation i.e. rate of pay, holiday entitlement, place of work, hours of work, terms incorporated from collective agreements, etc.

 **implied terms** - those which are not prescribed in some specific way but which are nevertheless essential to the contract and its performance e.g.

* + the duty to provide a safe, healthy working environment
	+ entitlement to reasonable support from an employer
	+ establishment of relationship of trust and confidence
	+ duty of care owed by employee and employer

 **terms derived from custom and practice** - this is a rarely used area and depends on whether the term can be proved as a custom. This means showing that it is “reasonable (meaning fair), certain (meaning precise) and notorious (meaning that it is well known though not necessarily to a particular employee)”.

Once the terms and conditions of a contract employment have been agreed it is not possible to vary them unilaterally. Most contracts will contain an express reference to national or local agreements and, through this mechanism, changes to such things as pay rates and conditions of service are automatically incorporated within them. Otherwise, changes to terms and conditions must have the consent of the employee (unless the change is provided for by the terms agreed when the contract was originally formed).

Types of contracts that schools may wish to use are listed below:

1. **Permanent (open ended) contracts**

Permanent contracts should normally be used for positions in schools.

1. **Fixed term contracts**

Fixed term contracts should only be used where there is a definite reason for a specified end date when the contract is first formed. An example might be for a secondment or to cover a project with a limited lifespan.

The following are the most commonly used valid reasons when offering fixed-term contracts:

* To provide cover during absence owing to illness, maternity leave or a secondment.
* Pending the appointment of a permanent member of staff.
* Because of the anticipated fall in the number on roll which may result in a reduction in the school’s staffing requirement.
* Because a review of the school’s budget allocation and curriculum needs is pending which may result in a reduction in the school’s staffing requirements.
* To provide curriculum cover in a subject area where changes in the staffing requirement are anticipated.
* Because of a possible requirement to review the school’s staffing needs at the end of the present term.
* Because of a possible requirement to review the school’s staffing needs at the end of the academic year.
* Pending the cessation of the need to provide particular pupils with specialised help.

***If you are intending to renew or extend a fixed term contract it is imperative you ensure that the original reason given for the contract is still appropriate. Reasons connected to future budget considerations are likely to be challenged unless you can be specific about timescales.***

1. **Temporary contracts**

Temporary contracts should be issued when the length of employment is known to be finite but cannot be precisely fixed e.g. to cover long term sick leave or maternity leave. They **should not** be used as a form of probationary period, or to engage Newly Qualified Teachers (unless there is sound justification as to why the requirement for a teacher is of a temporary nature).

**Special Features of Teacher Contracts**

Dates of commencement and termination of teaching contracts should be set to take into account what is known as the “notional term”.

a. Notice periods for permanent teaching staff are set out in Conditions of Service for School teachers, and are as follows:

* 2 months (and 3 months in the Summer Term) for teachers (including deputy and assistant headteachers).
* 3 months (and 4 months in the Summer Term) for headteachers.

These are the minimum notice periods – the period of notice to which a Teacher is entitled is either as above, or the contractual notice due under their contract, whichever is the *greater.*

b. Employment should terminate at the end of a school term. For this purpose the school terms are defined as:

Autumn - 1 September - 31 December

Spring - 1 January - 30 April

Summer - 1 May - 31 August

c. These terms, which do not necessarily correspond with actual school terms, are known as notional terms. All teachers, whose employment with a school is terminating, should be paid salary to the end of the notional term (but see below) provided they have been employed for the full term.

d. In the case of a teacher taking up another teaching appointment, salary should be paid up to and including the day before the new school term starts, if this is earlier than the recognised “notional” term dates above.

e. The following example (where the Spring Term ends on a date other than 30 April) may help to clarify the position.

 Spring Term, ends 28 March

Summer Term, starts 15 April at new school.

i. Where a teacher is taking up employment in another school, paragraph (d) applies and the teacher should be paid up to and including 14 April.

ii. Where a teacher is leaving employment, is not joining another school but will otherwise be available to work within the school for the period 15-30 April, salary must be paid to 30 April whether or not he/she is required to work.

iii. Where a teacher is leaving employment, is not joining another school and will not be available to work within the school for the period 15-30 April, salary must be paid to 14 April (i.e. including the holiday period).

***Reference documents:***

Keeping Children Safe in Education – statutory guidance for schools and colleges – September 2016 (DfE)

Information sharing – Advice for practitioners providing safeguarding services to children, young people, parents and carers (March 2015)

Working Together to Safeguard Children – March 2015 (DfE)

Guidance on managing staff employment in schools – February 2014 (DfE)

Teachers’ Standards – guidance for schools leaders, school staff and governing bodies (July 2011 (introduction updated June 2013)