

# Safer Recruitment

## A Practical Guide for Schools



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## **Introduction**

No-one responsible for recruiting staff in schools needs reminding of what a responsible and onerous task this can be.

Making a poor selection decision (on any position in the school) is likely to have a major impact upon the school and its standards.

There is, however, a real risk that, by their very nature, schools might attract undesirable people seeking to gain employment and thereby increasing their exposure to children and young people.

The Soham murders were a stark and devastating reminder of the risk.

Over the years, arrangements for vetting staff and improving recruitment methods have been introduced to substantially reduce this risk. And further changes are imminent.

This Guide is produced as a tool to explain the current and future systems and, in so doing, providing easy access to more detailed source documents.

It is also supplied with our compliments to all of our customers who have attended our Safer Recruitment Seminars held throughout the country.

On 14 November 2006, the DfES issued statutory guidance on 'Safeguarding Children and Safer Recruitment in Education'. This document supersedes and rationalises previous guidance on recruitment, child protection procedures and other arrangements designed to safeguard children. It will come into force on 1 January 2007 and will itself be supplemented by further new guidance when the vetting and barring scheme (envisaged under the Safeguarding Vulnerable Groups Act 2006) is implemented in 2008.

The DfES guidance can be downloaded at:

<http://www.teachernet.gov.uk/wholeschool/familyandcommunity/childprotection/goodpractice>

## The DfES Quality Mark

Commercial companies that have provided agency services to schools have been around since the early 1990's. By the late 1990's there was a growing concern amongst schools and local authorities about some of those companies and how they were regulated. It was often very difficult for a school to make any qualified judgement on the quality of the organisations they were dealing with. There were organisations operating in the market that did not have proper quality systems in place and this damaged the reputation of all supply agencies.

So, in consultation with the Recruitment and Employment Confederation (the trade organisation for the recruitment industry in the UK) the DfES devised a rigorous and definitive standard for agencies to meet. Those that met this standard were awarded the Quality Mark. The QM standards set out 20 detailed standards that an agency must comply with. These standards cover:

- Face to face interviews by a trained interviewer
- The entire list of vetting checks – including
  - Identity checks,
  - GTC registration,
  - Qualification checks (including checking the comparability of overseas qualifications)
  - List 99 checks
  - Enhanced CRB clearances
  - Permission to work checks (this covers the checking of work permits or working holiday visas for non-EU citizens).
- Provision of induction programme for supply teachers
- Taking up 2 references (one being their most recent employer)
- A policy on how overseas trained teachers will be recruited and vetted
- Access to CPD and learning opportunities for supply teachers
- Dealings with schools – this covers providing accurate details of the supply teacher, transparent details on charging policy and terms of business, a proper complaints procedure etc.

These are exacting standards which are tested by the REC's external auditors – an organisation who seeks accreditation also has to provide two client references from each of its offices (so for Select Education more than 60 schools have confirmed we meet these standards).

The DfES Quality Mark has been operating since 2002 and there are now 65 organisations that have been awarded the Quality Mark. Only 3 public sector organisations hold the Quality Mark – Birmingham, The Black Country Partnership and Rochdale and Oldham Supply agency.

Once they have met the standard organisations receive accreditation for a period of three years before they are re-accredited.

For more information on the Quality Mark go to  
<http://www.rec.uk.com/rec/sector-groups/education.aspx>

## **The Law in relation to recruitment in schools**

It is important to distinguish between what schools have to do because it is the law and what schools do because this is in line with its authority's policy or good practice guidelines.

### **Equal Opportunities legislation**

There are four principal pieces of equal opportunities legislation that affect recruitment:

- Sex Discrimination Act 1975 (and to some extent the Equal Pay Act which requires employers to pay equal pay for work of equal value)
- Race Relations Act 1976
- Disability Discrimination Act 1995
- The Employment Equality (Age) Regulations 2006

All 4 pieces of legislation follow a similar structure and make it unlawful to discriminate against a person because of their race, gender or disability. All 4 provide statutory redress (through the Employment Tribunal) for anyone who feels they have been unfairly treated in the selection process.

They distinguish between:

"Direct Discrimination" – e.g. advertising for a 'Doorman' or a 'Seamstress' where preference for a person from a particular group is stipulated.

"Indirect discrimination" – this is where an employer applies a term or condition which a disproportionate number of a particular group cannot comply with (and where that requirement cannot be justified) e.g. a requirement that all candidates must be 5 foot 10 inches or taller would have a disproportionately adverse effect on women. It is worth examining person specifications carefully to ensure they do not include requirements that might amount to indirect discrimination.

Race and sex discrimination legislation allows for employers to advertise for a particular type of person where this is for reasons of authenticity, decency or for personal one to one services (e.g. an actress to play the part of Maria Von Trap, a Male toilet attendant, a female Muslim to provide personal counselling to Muslim girls). In such cases these are deemed to be Genuine Occupational Qualifications ("GOQs"). If you wish to advertise a GOQ post, speak first to the Commission for Racial Equality (or the Equal Opportunities Commission) to explain your intentions. They will confirm it's a GOQ (keeping you on the right side of the law) and will be able to respond positively should there be any complaints made by the general public.

For further advice on

The Race Relations Act: go to [www.cre.gov.uk/legal/law.html](http://www.cre.gov.uk/legal/law.html)

The Sex Discrimination Act : go to [www.eoc.org.uk/Default.aspx?page=15497](http://www.eoc.org.uk/Default.aspx?page=15497)

The Disability Discrimination Act: go to

[www.drc-gb.org/the\\_law/legislation\\_codes\\_regulation.aspx](http://www.drc-gb.org/the_law/legislation_codes_regulation.aspx)

## **Rehabilitation of Offenders Act (1974)**

This is legislation which is designed to prevent recidivism. It entitles anyone who has a criminal conviction to treat that conviction as 'spent' after a period of time (the more serious the sentence, the longer the period before the conviction becomes 'spent').

However there are exemptions allowed under the Act – and all jobs in schools are exempt. This means that all convictions (whether spent or not) have to be declared by the applicant. The fact that the job in question is exempt under the Act has to be spelt out in the recruitment literature and the applicant has to be reminded to declare all of their convictions. Just because a person has a conviction does not in itself de-bar them from working in a school – it depends on the nature of the conviction, when it occurred etc. So schools still have to exercise discretion when applicants disclose previous convictions.

For further information on the Rehabilitation of Offenders go to:

[www.dft.gov.uk/stellent/groups/dft\\_transsec/documents/page/dft\\_transsec\\_026451.hcsp](http://www.dft.gov.uk/stellent/groups/dft_transsec/documents/page/dft_transsec_026451.hcsp)

## **Role of the Local Authority in School recruitment matters**

The law which determines the local authority's role in school recruitment is set out in Schedule 16 of the School Standards and Framework Act 1998 (For foundation and voluntary aided schools, it is Schedule 17).

The appointment of a Head or Deputy rests with the Governing body. However, the local authority has an entitlement to make written representations to the selection panel if it believes a candidate is not suitable. The panel is obliged to consider such representations and respond to these to the full governing body. The Governing Body has to at least consider these representations before confirming a recommendation to appoint. The only absolute power of veto the local authority has, concerns candidates who do not hold the necessary staff qualification requirements.

For teacher recruitment there is no entitlement for the local authority to make representations about the suitability of a candidate, but they can still veto an appointment if the person does not hold the necessary staff qualification requirements.

Under Schedule 16, the Chief Education Officer is entitled to attend all proceedings (including interviews) for any teacher or headteacher appointment. Most authorities exercise this right for Headship and other senior leadership positions. As this is a statutory function however, they are not entitled to charge the school for their attendance/advice.

For non-teaching staff, Chief Education Officers have no entitlement to attend but can veto appointments if candidates do not meet the qualification requirements. They do, however, have a key role in determining the pay for a non-teaching post (to ensure this is consistent with the Authority's own pay structures).

For Church of England and Roman Catholic schools the governing body is entitled to accord advisory rights to the 'appropriate diocesan officer', so that the Diocesan authorities have some influence over recruitment decisions. Most faith schools do accord these advisory rights.

### **Advertising of vacancies**

Much of the practice in relation to advertising of school vacancies is determined by local authority equal opportunities policies – which specify how and where jobs should be advertised. However the only statutory obligations upon schools to advertise vacancies are set out in Schedule 16. For Headteacher vacancies, the governing body “shall advertise the vacancy in such publications circulating throughout England and Wales as they see appropriate” (might advertising a Headship on a national web-site constitute advertising in a publication?).

For all other teaching posts the requirement is much less specific, “Where the governing body advertise the vacancy, they shall do so in a manner likely in their opinion to bring it to the notice of persons (including employees of the authority) who are qualified to fill it”

For more information on the role of the local authority go to:

[www.opsi.gov.uk/ACTS/acts1998/80031-bg.htm#sch16](http://www.opsi.gov.uk/ACTS/acts1998/80031-bg.htm#sch16)

### **Age Discrimination**

New age discrimination laws came into effect this October. The implications of this will no doubt emerge over the next few years as case law develops. There are, however, some sensible steps to take now.

Examine person specifications for posts before you advertise a position. Look particularly at experience requirements. Is the requirement for 5 years' post qualification experience justified (otherwise this might discriminate against younger candidates)? If it is justified, however, don't take it out!

Wording of adverts – most public sector adverts are fairly sensitive already and avoid inappropriate language, but just watch out for any potential bias creeping in that might imply a preference for a particular age group – 'a mature individual', 'a dynamic rising star' etc. That does not mean the advertisement has to be bland and uninteresting. The principal purpose of any advertisement is to attract interest, so be prepared to take a few risks and be different if you want to generate a good response.

An area which is bound to be a source of dispute/challenge will relate to the relative cost of employing experienced teachers compared to newly qualified teachers. E.g. a panel has to choose between an NQT and an experienced teacher at the top of the mainscale. If there is little to choose in their suitability for the role, there will be an obvious financial incentive to employ the NQT. If that is the deciding factor, this is likely to be discriminatory. It is fair to assume that this issue will be tested in the employment tribunal at some point in the future.

For further information on age discrimination go to:

[www.dti.gov.uk/employment/discrimination/age-discrimination](http://www.dti.gov.uk/employment/discrimination/age-discrimination)

## References

References are an integral part of making recruitment safer. It allows the employer to verify an applicant's career history and to establish whether or not they are suitable for the job in question.

### Obligation to provide a reference?

The first question to ask is: "is an employer obliged to provide a reference?" Legally, there is no obligation to provide a reference (except for certain parts of the financial services industry where employers are obliged to comment upon an ex-employee's honesty, trustworthiness and competence to other financial service institutions). Some employers have a policy of not providing references.

However, Lord Slynn, argued there was a moral duty upon employers to provide a reference for an ex-employee. So the bottom line is you don't have to provide one – and if someone has been a particularly troublesome employee you can refuse to provide a reference – or if you wish you can simply offer the barest of details (i.e. the dates during which they were employed).

### What you can expect from a reference.

If an employer provides a reference they have to balance two duties of care. They have a duty of care to the subject of the reference to make sure that the reference is accurate and reflects their experience, skills and contribution to the organisation. They also have a duty to you to provide an honest reference that does not mislead you as the prospective employer (even if the discrete components of the reference are factually correct). The principal case law on references is the case of *Spring vs. Guardian Assurance plc*. If the reference makes false or unsubstantiated statements then the employee may claim damages for defamation. If the reference gives a misleading impression of the candidate then the prospective employer may have a claim for negligence.

A word of caution on providing references. Under the Data Protection Act as the provider of a confidential reference you are entitled not to show the contents to the subject of the reference. However the subject (to which the data in the reference refers) is entitled to ask the recipient of the reference to see the reference. So just be careful about what you say. And stick to 4 simple rules:

- Stick to facts
- If you express an opinion have the evidence to justify this (e.g. Fred was a poor timekeeper – evidence of 15 'lates' in the last 12 months)
- Include relevant information however unhelpful (Julie resigned following her suspension from duty).
- Read it through and ask the question "Does this reference give a misleading impression"?

### Compromise agreement

This is a legal tool to end a contract of employment by mutual agreement, whereby the employee agrees not to pursue any future claims against their employer (either through the Employment Tribunal or County Court). It will often include an 'agreed

reference' that will be used in the event of a reference being requested from a prospective employer. That agreed reference still has to be truthful and must not be written to give a misleading impression.

If an employee leaves because of child protection allegations, these departures can no longer be covered by compromise agreements. In such circumstances (where an employee is dismissed or resigns before an investigation is concluded) the employer is obliged to report the circumstances to the Child Safeguarding Unit at the DfES. They will decide whether the teacher should be included on List 99 or whether the circumstances should be referred to the GTC if it entails allegations of professional misconduct.

### **Methods for taking up references**

A critical question to consider is what part the reference will play in your selection decision? Does the reference influence your selection decision or is it simply a 'pre-offer check' to make sure that you can verify what the candidate has claimed about their previous work history? It is for you to decide what part the reference will play in the selection process – and this may determine how and when you take it up.

### **When do you take them up?**

The new DfES guidance recommends references are taken up before the interviews, so that any issues arising can be addressed during the interview. This may be difficult, particularly for potential recruits coming from the private sector where it is much less common for candidates to agree to referees being contacted ahead of any job offer- and the DfES guidance does allow for this eventuality.

### **How do you take them up?**

There are basically three ways of taking up references:

- Request a written reference by letter. This gives the referee free licence to tell you what they want to tell you (and no more). Even when such a reference is informed by, say, you providing a copy of the job description or person specification, it is still left to the referee to decide what areas to cover.
- Ask the referee to complete a pro-forma – This is a more systematic approach and requires the referee to address specific areas or questions (e.g. please describe their previous supervisory experience, would you re-employ this person? Were they honest? Were they reliable? Were there any concerns regarding the safeguarding of children? etc)
- Take up a verbal reference where you follow a pre-agreed format. In practice this means speaking to the referee and putting the questions on the pro-forma directly to them. This has all the benefits of the pro forma approach but can be quicker. It also has the added benefit of allowing you to gauge their response to certain questions and may allow you to probe further if they show some hesitancy in replying. It is also advisable to ask the referee to confirm their verbal reference in writing. This is a final check that you have been speaking to a bona fide referee.

### **With whom do you take them up?**

Most schools have a policy that the referees should be their last or most recent employers. If candidates offer referees other than their two most recent employers you should probe why this is the case. If necessary, insist that they provide the names of their two most recent employers. If there is some reluctance to do this you need to understand why. When you take up references you must ensure you are talking to the right person. If it's someone from a school make sure the referee is the Head (not just another colleague).

Also, make sure you verify recent gaps in the candidate's employment history. If they say they have been on a round the world tour for the last six months seek some proof – they may have been in jail!

For further advice on references go to:

[www.cipd.co.uk/subjects/recruitmen/references/references.htm](http://www.cipd.co.uk/subjects/recruitmen/references/references.htm)

## **CRB Enhanced Disclosure – How the process works**

### **Background to the CRB**

The Criminal Records Bureau (“CRB”) is an Executive Agency of the Home Office set-up to help organisations make safer recruitment decisions.

Prior to 2002, access to police checks was mainly confined to organisations in the statutory sector for staff who had ‘substantial unsupervised access’ to children. There were many other employers that could not access these checks directly yet employed staff with similar access to vulnerable groups. The CRB enables many more organisations to access these checks as part of good recruitment practice.

The CRB was established under Part V of the Police Act 1997 and was launched in March 2002.

The Criminal Records Bureau (CRB) acts as a ‘one-stop-shop’ for organisations, checking police records and, in relevant cases, information held by the Department of Health (DH) and the Department for Education and Skills (DfES).

The CRB process does not exclude the employer from running an initial List 99 check with the DfES. ‘List 99’ is the list of teachers who have been barred from teaching by the Secretary of State for Education and Skills.

If the post involves working with children or vulnerable adults, the following may also be searched:

- Protection of Children Act (“POCA”) List
- Protection of Vulnerable Adults (“POVA”) List
- Information that is held under Section 142 of the Education Act 2002 (formerly known as List 99)

To access these further searches the registered person has to confirm at Section Y of the form that the post involves:

- working with children, and/or
- working with vulnerable adults

### **What is disclosed to the employer?**

A **standard disclosure** shows details of all convictions, cautions, reprimands and warnings held on the Police National Computer (“PNC”). If the position involves working with children or vulnerable adults (and the relevant boxes have been marked on the application form to indicate this) it will also provide details from:

- the Protection of Children Act List (PoCA);
- the Protection of Vulnerable Adults List (POVA); and
- Information held by the DfES under Section 142 of the Education Act 2002 of those considered unsuitable for banned from working with children (i.e. ‘list 99’)

**An Enhanced Disclosure** is for posts involving a far greater degree of contact with children or vulnerable adults. In general, the type of work will involve regularly

caring for, supervising, training or being in sole charge of such people. Examples include a Teacher, Scout or Guide leader. All teachers and teaching assistants will have to have an enhanced disclosure.

Enhanced Disclosures are also issued for certain statutory purposes such as gaming and lottery licences.

Enhanced Disclosures contain the same information as Standard Disclosures but with the addition of local police force information considered relevant by Chief Police Officer(s). This is known as 'soft information'. For example, if a police officer went to someone's home and observed unusual behaviour but no further action was taken this may be recorded.

### **New requirement to do CRB and List 99 checks on school staff that do not have contact with children.**

Since 12 May 2006, it applies to all staff in schools that have been recruited since that date (in independent schools, including Academies, these staff have undergone CRB checks since 2003).

### **How to avoid delays in processing of CRBs**

Each Disclosure application form is scanned by the CRB automatically. However, many forms cannot be scanned due to some basic errors made when completing the form. This causes delays in processing applications. To ensure your applications are processed as smoothly and efficiently as possible, please follow these 'Do's and Don'ts' when completing Disclosure application forms

- **No. 1 Five-year address history.** Gaps and overlapping in address histories are by far the biggest cause of rejected forms.
- **No. 2 Middle name missing.** When an applicant submits information such as a driving licence number and it indicates that a middle name exists, but it has not been detailed on the application form, the CRB will reject the form and return it to the Registered body for clarification.
- **No. 3 Surname at birth missing.** An applicant crosses MS or MRS, but does not enter surname at birth in Section C20. The surname at birth must always be provided even if this is the same as the surname recorded in Section A.
- **No. 4 Level of check.** The application form should always indicate the level of check required at Section Y6/7.
- **No. 5 Missing signature.** The application form should always be signed by the registered countersignatory at Section Y9, and by the applicant at Section H68.

If you make any of these errors, your Disclosure will take longer to process.

DO make sure you use BLACK INK THROUGHOUT and write clearly in BLOCK CAPITALS ONLY.

## **How many identification documents do I need to see?**

The acceptable documents to prove identity are listed in two groups as follows

### **Group 1**

- Passport
- EU Photo Identity Card
- Driving Licence (UK) (Full or provisional) England/Wales/Scotland/Northern Ireland/ Isle of Man ; either photocard or paper (a photo card is only valid if the individual presents it with the counterpart licence)
- Birth Certificate (UK) issued within 12 months of date of birth – full or short form acceptable
- HM Forces ID Card (UK)
- Firearms Licence (UK)
- Adoption Certificate (UK)

### **Group 2**

- Marriage/Civil Partnership Certificate
- Financial Statement - e.g. pension, endowment, ISA Birth Certificate, Vehicle Registration Document P45/P60 Statement (UK)
- Mail Order Catalogue Statement Bank/Building Society Statement
- Court Claim Form (UK) Documentation issued by Court Services Utility Bill - electricity, gas, water, telephone – including mobile phone contract/bill Exam Certificate (e.g. GCSE, NVQ TV Licence \*\* Addressed Payslip) Credit Card Statement
- National Insurance Card (UK) Store Card Statement \*NHS Card (UK) Mortgage Statement
- Benefit Statement- e.g. Child Allowance, Pension Insurance Certificate of British Nationality (UK) Council Tax Statement (UK)
- Work Permit/Visa (UK)

If the candidate can produce one of the documents in Group One, then you need only to see 3 documents in total (these can come from Group 1 or 2).

If they cannot produce a document from Group 1 then you need to see 5 documents in total from Group 2.

## **What if the enhanced disclosure throws up some relevant information?**

In the event that information is identified as part of the enhanced disclosure, the information will be disclosed to the Registered Body (for many schools, this will be the local authority). It will be for the Registered body to determine whether this information casts doubt on the person's suitability for the job in question and the registered body may well wish to discuss the precise disclosure with the school to decide whether or not to proceed with the appointment.

A candidate's suitability should be judged in light of the results of all the relevant checks carried out on him or her. The fact that a candidate has a criminal record does not automatically make him or her unsuitable.

Your local authority may have a published policy and procedure on how it responds to information on disclosures. In the absence of such guidance, you may wish to consider a number of factors in weighing up your decision:

- **The nature of the offence** - Convictions for sexual, violent, child related or drug offences will be particularly strong contra-indicators for work with children.
- **The age of the offence** - Offences which took place many years in the past may often have less relevance than recent offences. However, incidents for violent, sexual, child related or drug offences are more likely to give cause for concern than, for instance, an isolated case of dishonesty committed when the person was young. The potential for rehabilitation has to be balanced against the need to protect children.
- **The frequency of the offences** - A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.
- **Additional circumstances** - Any relevant information offered by the candidate about the circumstances which led to the offence being committed, for example, the influence of domestic or financial difficulties will be considered. Whether the applicant's circumstances have changed since the offence was committed, making re-offending less likely should also be considered.

For further advice on CRB enhanced disclosures go to:

<http://www.crb.gov.uk/>

## **Eligibility to Work in the UK**

Some people are automatically entitled to work in the UK. Others may have restrictions on how long they can stay, whether they can work or the type of work that they can do.

It is important to follow certain procedures and to check each potential employee's eligibility to work, to avoid facing prosecution for employing somebody who isn't legally entitled to work in the UK or to undertake the proposed type of work.

### **Who is entitled to work?**

#### *EU Citizens*

Under EU law, teachers from the following countries can work unrestricted in the UK with no visa or work permit required:

Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, and United Kingdom.

(NB Iceland, Liechtenstein, Switzerland and Norway are not members of the European Union. However, the European Economic Area ("EEA") Agreement gives nationals of these countries the same rights to enter, live and work in the United Kingdom as EU Citizens).

When nationals from EEA countries and Switzerland reside in the UK, their immediate family members from outside the EEA or Switzerland gain the same rights to enter or remain here and work freely.

#### *Work Permit holders*

If you have a candidate that is not an EU/EAA citizen and does not have a visa you will have to apply for a work permit – this is a relatively straight forward process for someone coming to fill a teaching position. However the work permit has to relate to a specific vacancy.

#### *Those with an indefinite leave to remain*

Certain non-EU (EEA) citizens will have indefinite leave to enter or remain in the UK. In which case their passport is stamped accordingly.

The key words here are: 'Indefinite' and 'Right of Abode'

#### *Those with limited leave to enter*

These stamps and endorsements mean that a person can take any work in the United Kingdom but they not have permission to stay here indefinitely. You will be able to employ a person with this status while the date shown on their endorsement or stamp is valid. There are no restrictions on the type of work you may offer them – the limitation applies to the date rather than the number of hours or type of work.

*Those with other leaves to remain or enter*

Certain qualified people and their dependants who meet the requirements of the UK immigration rules are granted leave to enter or remain in the UK for a limited period of time. These are:

- Highly Skilled Migrant Programme;
- UK Ancestry;
- Dependent family members of work permit holders and students; and partner or spouse of a UK citizen on their probationary period.

These stamps look similar to the 'limited leave to remain' category.

*Working holidaymakers*

The requirements to be met by a person seeking leave to enter the United Kingdom as a working holidaymaker are that he:

(i) is a national or citizen of a country that participates in the working holiday scheme or a British Overseas Citizen; a British Overseas Territories Citizen; or a British National (Overseas); and

(ii) is aged between 17 and 30 inclusive or was so aged at the date of his application for leave to enter; and

(iii) (a) is unmarried and is not a civil partner, or  
(b) is married to, or the civil partner of, a person who meets the requirements of this paragraph and the parties to the marriage or civil partnership intend to take a working holiday together; and

(iv) has the means to pay for his return or onward journey, and

(v) is able and intends to maintain and accommodate himself without recourse to public funds; and

(vi) is intending only to take employment incidental to a holiday, and not to engage in business, or to provide services as a professional sportsperson, and in any event not to work for more than 12 months during his stay; and

(vii) does not have dependent children any of whom are 5 years of age or over or who will reach 5 years of age before the applicant completes his working holiday; and

(viii) intends to leave the UK at the end of his working holiday; and

(ix) has not spent time in the United Kingdom on a previous working holidaymaker entry clearance; and

(x) holds a valid United Kingdom entry clearance, granted for a limited period not exceeding 2 years, for entry in this capacity.

A person seeking to enter the United Kingdom as a working holidaymaker may be admitted provided he is able to produce on arrival a valid United Kingdom entry clearance granted for a period not exceeding 2 years for entry in this capacity.

The countries participating in this scheme are as follows:

Antigua and Barbuda, Australia, The Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Canada, Cameroon, Dominica, Fiji Islands, The Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Malawi, Malaysia, Maldives, Mauritius, Mozambique, Namibia, Nauru, New Zealand, Nigeria, Pakistan, Papua New Guinea, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Swaziland, Tanzania, United Republic of Tonga, Trinidad and Tobago, Tuvalu, Uganda, Vanuatu, Western Samoa, Zambia, Zimbabwe

For further advice on right to work in the UK go to:

<http://www.ind.homeoffice.gov.uk/archive/ukpassportstamps>

## **Eligibility to Teach in the UK (recognition of overseas qualifications)**

As well as there being rules on who can live and work in the UK, there are also rules on who is actually eligible to teach.

Overseas-trained teachers (OTTs) are a strong feature of schools in England, particularly schools in London, other large cities and the south-east. Most schools welcome the fresh perspectives OTTs bring to the teaching staff, their professionalism and the opportunity they provide for students to meet someone with a different life experience.

### **Existing Qualification**

These regulations vary depending on the country of original qualification of the overseas trained teacher (OTT).

#### *EU (EEA) Citizens*

Teachers from the EU, the EEA and Switzerland enjoy the right to have their qualifications recognised in the UK. Teachers from the EU, EEA and Switzerland should contact the English General Teaching Council (GTC) in order to obtain form EC1. Once completed the GTC will assess their qualifications and, if approved, will award Qualified Teacher Status (QTS) for England. Once awarded QTS and are registered with the GTC, they are free to apply for any teaching posts.

#### *Non EU Citizens*

Those teachers who are nationals of countries outside the European Union (EU) and the European Economic Area (EEA) must have their qualifications assessed before seeking to obtain a teaching post. One of the key agencies with which you will have to deal is the National Academic Recognition Information Centre ("NARIC"). It provides comparability information on a person's qualifications. They are the national agency responsible for information provision on international education and qualifications.

On the completion of NARIC evaluation, candidates will receive a letter of statement with regard to their qualifications. This letter of statement may vary depending on the actual award, and it advises how their qualification compares against UK qualification levels.

An overseas-trained teacher can work in England if their qualification is recognised by the 'competent overseas authority' in that country for up to 4 years. After 4 years they must obtain QTS.

## **Record keeping – the new rules**

New regulations in May 2006 made CRB checks mandatory for all people recruited to work in schools. In June 2006, Ofsted reported inadequate systems in schools for recording that had and had not been checked correctly as part of the recruitment process.

In response to the Ofsted report, the DfES issued guidelines to schools in July 2006. This required every school to undertake an audit of all staff employed in schools to record what checks had been carried out and when. Schools were advised not to seek CRB checks for any gaps in their records – just to identify where the gaps were.

This record should include the following checks (and the date they were carried out):

- Identity check
- Qualifications check
- permission to work (if non-EU citizens)
- List 99
- CRB enhanced disclosure

Local authorities have been given the task of collating these records to identify the scale of the task to 'fill the gaps'. In a further letter of clarification issued in September 2006, the DfES reminded schools to return their completed audits to their local authority by 30 September 2006.

The DfES has issued further guidance on how re-checks can be completed for any 'gaps' identified. Schools will need to submit new CRB records (via their registered bodies) by 30 November 2006. The CRB aim to have completed these re-checks by the end of March 2007.

For further information on the re-checking process, read the DfES letter of 31 October 2006 at:

<http://www.teachernet.gov.uk/doc/10481/ACF3E58.pdf>

Schools are obliged to maintain the same records for all supply teachers whether they are employed directly or provided by a supply agency.

### **How can Select Education help you meet your obligations?**

Every time we assign a person to your school, we confirm the booking with an email and this confirms the status of all of these checks (and when they were undertaken). In addition, every Select Education candidate will carry photo ID – on the back of the ID card is confirmation of their check status.

### **Staff working before their CRB clearance has been received**

There are specific rules about staff working before their CRB enhanced clearance has been received back. The guidance on this point goes back to 2002 (when the CRB was first established). Providing a CRB check has been applied for a person can work

in school at the Head's discretion, pending receipt of the CRB clearance (providing List 99 and all other pre-employment checks have been completed).

In those instances we will advise the Head before a booking is confirmed and it will be for the Head to decide if they are happy for that person to be working in the school.

For further advice on record keeping go to: [www.teachernet.gov.uk/vettingrecords](http://www.teachernet.gov.uk/vettingrecords)

## **The future Vetting arrangements following the Bichard Enquiry**

In June 2004, Sir Michael Bichard reported on his enquiry into the circumstances surrounding Ian Huntley's appointment to Soham School. He made a number of wide-ranging recommendations about recruitment to schools and vetting arrangements.

One specific recommendation was the establishment of a single national list of all people working with children and vulnerable adults which would simply confirm their suitability or otherwise to work with children or other vulnerable adults.

The Government's response to this recommendation is the Safeguarding Vulnerable Groups Act 2006.

This will merge List 99 and the Protection of Children Act ("POCA") List. However, the Protection of Vulnerable Adults ("POVA") list will still be maintained separately. There will be links though, and a person who poses a threat to both groups will appear on both lists.

One major development is the notion of a barring board. This will be independent so Ministers will no longer make decisions on individual cases. It also removes the burden from employers to judge whether or not someone is suitable for working with children. Employers will simply consult the list and be told whether someone is suitable or not. They no longer have to exercise any discretion (nor need to know why that person is unsuitable).

The list will be developed gradually and as new starters are checked they are automatically added to the list. As and when fresh information comes to light (e.g. a new conviction) the list will automatically be checked and the person's status reviewed. If they are 'barred' the current employer will be notified.

It is proposed that the list will be accessed online (as is the case with List 99 presently) and this should not only speed up the checking process but allow greater accessibility (to parents looking to employ nannies for example).

Plans are for the new system to be operating in 2008.

For further information on future arrangements go to:

[www.everychildmatters.gov.uk/vettingandbarring](http://www.everychildmatters.gov.uk/vettingandbarring)