Safer Recruitment / Recruitment, selection and disclosure policy

Inspired Learning Group

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1 Introduction

Inspired Learning Group (and the School) is committed to providing the best possible care and education to its pupils and to safeguarding and promoting the welfare of children and young people. The School is also committed to providing a supportive and flexible working environment to all its members of staff. The School recognises that, in order to achieve these aims, it is of fundamental importance to attract, recruit and retain staff of the highest calibre who share this commitment.

This policy applies to the whole School including the Early Years Foundation Stage (EYFS).

The aims of the School's recruitment policy are as follows:

- to ensure that the best possible staff are recruited on the basis of their merits, abilities and suitability for the position
- to ensure that all job applicants are considered equally and consistently
- to ensure that no job applicant is treated unfairly on the basis of the protected characteristics outlined in the Equality Act 2010: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- to ensure compliance with all relevant legislation, recommendations and guidance including but not limited to:
    - Education (Independent School Standards) Regulations 2014 (**ISSRs)**;
    - Keeping children safe in education (DfE, September 2024) (**KCSIE**);
    - Statutory framework for the Early Years Foundation Stage (DfE, December 2023);
    - Disqualification under the Childcare Act 2006 (**DUCA**);
    - Prevent Duty Guidance for England and Wales 2015, updated December 2023; and
    - Any guidance or code of practice published by the Disclosure and Barring Service (**DBS**);
- to ensure that the School meets its commitment to safeguarding and promoting the welfare of children and young people by carrying out all necessary pre-employment checks.

Employees involved in the recruitment and selection of staff are responsible for familiarising themselves with and complying with the provisions of this policy. At least one person on every recruitment panel will have undertaken safer recruitment training.

2 Data protection and recording of checks

The School is legally required to carry out the pre-appointment checks detailed in this procedure. Staff and prospective staff will be required to provide certain information to the School to enable the School to carry out the checks that are applicable to their role. Any checks carried out will be recorded as required on the School's Single Central Record. This will include all individuals who work in regulated activity, and others where checks have been undertaken. The School will also be required to provide certain information to third parties, such as the Disclosure and Barring Service and the Teaching Regulation Agency. Failure to provide requested information may result in the School not being able to meet its employment, safeguarding or legal obligations. The School will process personal information in accordance with the ILG Data Protection policy and the Information and records retention policy.

3 Recruitment and selection procedure

All adverts posted by the School and ILG will include a statement about their commitment to safeguarding and promoting the welfare of children, and make clear that safer recruitment checks will be undertaken.

All applicants for employment will be required to complete an **application form** containing questions about their academic and employment history and their suitability for the role. Applicants will also be asked to provide details of their online profile, including account names and social media handles so that online searches can be carried out on shortlisted candidates (see section 4 for more information). This information must be provided by the applicant in order for the application to be accepted.

Incomplete application forms will be returned to the applicant where the application deadline has not passed. Should there be any gaps in academic or employment history, a satisfactory explanation must be provided. A curriculum vitae will not be accepted in place of the completed application form. This includes peripatetic teachers or other self employed staff. Interviews are usually only conducted with a fully completed application form.

Applicants will receive a job description and person specification for the role applied for. This policy and the School's child protection and safeguarding policy and procedures are available to download from the School's website. Copies can be forwarded to applicants on request.

The School will then conduct a shortlisting exercise by reviewing all application forms received in order to determine which applicants will be invited for interview. The shortlisting exercise will usually be conducted by two members of staff who will ideally also be involved in the interview process.

Shortlisted applicants will be invited to attend a **formal interview** at which their skills and experience will be discussed in more detail. Interviewers will use the question template to ask compulsory compliance questions and checks. All shortlisted applicants will be tested at interview about their suitability to work with children. As part of this process, candidates for teaching and other relevant posts will be required to teach a lesson with an appropriate year group. This will be observed by a member of the SLT or the Subject Lead and assessed using ISI criteria (or similar). Feedback will be disseminated to the interview panel, and may be discussed with the candidate.

All shortlisted applicants will be required to complete a self-declaration form prior to interview in which they will be asked to provide information about their criminal records history and other factors relevant to their suitability to work with children. This information will be considered and discussed with applicants at interview.

If the School decides to make an offer of employment following the **formal interview**, any such offer will be conditional on the following:

- the agreement of a mutually acceptable start date and the signing of a contract incorporating the School's standard terms and conditions of employment
- verification of the applicant's identity (where that has not previously been verified)
- verification of qualifications, whether professional or otherwise, which the School takes into account in making the appointment decision, or which are referred to in the application form, whether a requirement for the role or not
- verification of the applicant's employment history

- the School being satisfied that any information generated through online searches does not make the applicant unsuitable to work at the School
- the receipt of two references (one of which must be from the applicant's most recent employer) which the School considers to be satisfactory
- for positions which involve "teaching work", information about whether the applicant has ever been referred to, or is the subject of a sanction, restriction or prohibition issued by the Teaching Regulation Agency which renders them unable or unsuitable to work at the School
- for applicants who have carried out teaching work outside the UK, information about whether the applicant has ever been referred to, or is the subject of a sanction issued by a regulator of the teaching profession in any other country which renders them unable or unsuitable to work at the School
- where the position amounts to "regulated activity" (see section 4.2.1 below) the receipt of an enhanced disclosure from the DBS which the School considers to be satisfactory
- where the position amounts to "regulated activity" (see section 4.2.1 below) confirmation that the applicant is not named on the Children's Barred List*
- information about whether the applicant has ever been subject to a direction under section 142 of the Education Act 2002 which renders them unable or unsuitable to work at the School
- for management positions, information about whether the applicant has ever been referred to the Department for Education, or is the subject of a direction under section 128 of the Education and Skills Act 2008 which renders them unable or unsuitable to work at the School
- confirmation that the applicant is not disqualified from acting as a trustee / governor or senior manager of a charity under the Charities Act 2011 (if applicable, see section 4.5 below)
- confirmation that the applicant is not disqualified from working in connection with early or later years provision (if applicable, see section 4.7 below)
- verification of the applicant's medical fitness for the role (see section 4.8 below)
- verification of the applicant's right to work in the UK; and
- any further checks which the School decides are necessary as a result of the applicant having lived or worked outside of the UK which may include an overseas criminal records check, certificate of good conduct or professional references.

*The School is not permitted to check the Children's Barred List unless an individual will be engaging in "regulated activity". The School is required to carry out an enhanced DBS check for all staff, supply staff and governors who will be engaging in regulated activity. However, the School can also carry out an enhanced DBS check on a person who would be carrying out regulated activity but for the fact that they do not carry out their duties frequently enough i.e. roles which would amount to regulated activity if carried out more frequently.

Whether a position amounts to "regulated activity" must therefore be considered by the School in order to decide which checks are appropriate. It is however likely that in nearly all cases the School will be able to carry out an enhanced DBS check and a Children's Barred List check.

The authorisation procedure will be followed prior to any work commencing at the School. This includes sign off by the person carrying out the checks, a 2nd sign off by the Head or an assigned senior member of staff, followed by final sign off by the Compliance Manager.

4 Pre-employment checks

In accordance with the recommendations set out in KCSIE, DUCA and the requirements of the ISSRs (including the *Boarding schools: national minimum standards* where applicable) the School carries out a number of pre-employment checks in respect of all prospective staff.

In fulfilling its obligations to carry out pre-employment checks, the School does not discriminate on the grounds of any protected characteristics.

Online searches

In addition to the checks set out below, the School reserves the right to obtain such formal or informal background information about an applicant as is reasonable in the circumstances to determine whether they are suitable to work at the School. In accordance with KCSIE this will include online searches on shortlisted candidates (**online searches**). The online searches the School carries out may include searches of internet search engines, websites and social media platforms. Applicants are asked to confirm if they have any social media accounts in the application form. This information will be used to carry out online searches. Applicants are not required to provide account passwords or to grant the School access to private social media accounts.

Online searches may be carried out at the shortlisting stage or after an offer of employment has been made (but prior to work commencing). The School will not carry out online searches as part of its initial sift of applications.

The School will determine how it approaches online searches on a case by case basis. However, all applicants for a role at the School will be treated consistently with regard to online searches.

Wherever possible online searches will be undertaken by a person who will play no other part in the recruitment process (including the shortlisting exercise) or the appointment decision. In carrying out online searches the School is looking for any publicly available information about an applicant that:

- may be relevant to their suitability to carry out the role for which they have applied;
- may be relevant to their suitability to work at the School or in an education setting;
- is of a safeguarding nature; and/or
- may have an impact on the School's reputation (whether positive or negative).

Any information generated from online searches will be entered in the 'Online & Social Media Check form'. Where online searches are undertaken on shortlisted applicants any relevant information generated will be provided to the interview panel for discussion with shortlisted applicants at interview. Where online searches are undertaken on the successful applicant only any relevant information generated will be discussed prior to employment commencing. All offers of employment will be conditional upon the School being satisfied that the successful applicant is suitable to work at the School in light of any information generated from online searches.

In evaluating any online information for relevance the School will use the following criteria:

- whether the information is relevant to the position applied for;
- whether the information is relevant to the applicant's suitability to work at the School or in an education setting;
- whether the information could have an impact on the School's reputation (whether positive or negative);

- whether the information calls into doubt the applicant's willingness or ability to uphold the School's commitment to safeguarding and promoting the welfare of children;
- the length of time since the information became publicly available and whether the applicant's circumstances have changed since the information was published;
- whether the information reveals a pattern of concerning behaviour; and
- the relevant circumstances and the explanation(s) offered by the applicant.

For successful candidates, the School will retain information generated through online searches for the duration of the individual's employment and in accordance with relevant ILG policies after employment ends.

For unsuccessful candidates, the School retains the information generated from online searches for six months from the date on which they are informed their application was unsuccessful, after which it will be securely destroyed.

Verification of identity, address, right to work in the UK and qualifications

All applicants who are invited to an interview will be required to bring with them evidence of their identity, right to work in the UK, address and qualifications.

The School asks for this information at interview to ensure that the person attending interview is who they claim to be, that they are permitted to work for the School if appointed and that they hold appropriate qualifications.

Identity and address: all applicants must bring with them to interview, original documents which evidence their identity and address as set out below and in the list of valid identity documents (these requirements comply with DBS identity checking guidelines):

- one document from Group 1*; and
- two further documents from either of Group 1*, Group 2a or Group 2b, one of which must verify the applicant's current address; and

(*applicants must always provide their birth certificate as one form of identity unless there is good reason why this cannot be provided).

Where an applicant claims to have changed their name by deed poll or any other means (e.g. marriage, adoption, statutory declaration) they will be required to provide documentary evidence of the change. They will also be required to provide their birth certificate.

The School asks for the date of birth of all applicants in order to verify identity and check for any unexplained discrepancies in the employment and education history. The School does not discriminate on the grounds of age.

Right to work in the UK: all applicants must also bring to interview a valid form of evidence which confirms their right to work in the UK. Valid forms of evidence can be found in the Home Office 'Right to Work Checklist': (Right to work checklist (publishing.service.gov.uk)).

Qualifications: all applicants must also bring to interview original documents which evidence any educational and professional qualifications referred to in their application form and / or which the School requests.

4.1 **References**

References will be taken up on short listed applicants, at least one prior to interview where possible.

Please note that no questions will be asked about health or medical fitness prior to any offer of employment being made.

All offers of employment will be subject to the receipt of a minimum of two references which are considered satisfactory by the School. One of the references must be from the applicant's current or most recent employer. This must be completed by a senior person with appropriate authority. If the referee is based in an educational setting, the reference should be confirmed by the Headteacher/ Principal/Manager as accurate in respect to disciplinary investigations. Where there is no current employer, verification of the most recent period of employment and reasons for leaving should be obtained. If the current / most recent employment does / did not involve work with children, then the second reference should be from the employer with whom the applicant most recently worked with children. Neither referee should be a relative or someone known to the applicant solely as a friend.

All referees will be asked whether they believe the applicant is suitable for the job for which they have applied and whether they have any reason to believe that the applicant is unsuitable to work with children. All referees will be sent a copy of the job description and person specification for the role for which the applicant has applied. If the referee is a current or previous employer, they will also be asked to confirm the following:

- the applicant's dates of employment, salary, job title / duties, reason for leaving, performance, sickness* and disciplinary record
- whether the applicant has ever been the subject of disciplinary procedures involving issues related to the safety and welfare of children (including any in which the disciplinary sanction has expired), except where the issues were deemed to have resulted from allegations which were found to be unsubstantiated, unfounded, false or malicious
- whether any allegations or concerns 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, except where the allegation or concerns were found to be unsubstantiated, unfounded, false or malicious
- whether the applicant could be considered to be involved in "extremism" (see the definition of "extremism" at section 7 below).

  (*questions about health or sickness records will only be included in reference requests sent out after the offer of employment has been made.)

The School will only accept references obtained directly from the referee and it will not rely on references or testimonials provided by the applicant or on open references or testimonials.

The School will compare all references with any information given on the application form. Any discrepancies or inconsistencies in the information will be taken up with the applicant and the relevant referee before any appointment is confirmed.

If it has not been possible to obtain a reference prior to interview it will be reviewed upon receipt. Any discrepancies identified between the reference and the application form and/or the interview assessment form will be considered by the School. The applicant may be asked to provide further information or clarification before an appointment can be confirmed.

If factual references are received i.e. those which contain limited information such as job title and dates of employment, this will not necessarily disadvantage an applicant although additional references may be sought before an appointment can be confirmed.

As part of the selection process, the School will use appropriate techniques to identify the best candidate for the post. Interviewers will agree other structured questions according to the job role, and will explore potential areas of concern. Full records will be kept of decisions made and all information considered.

The School may at its discretion make telephone contact with any referee to verify the details of the written reference provided.

The School treats all references given or received as confidential which means that the applicant will not usually be provided with a copy.

All references received from a school must be countersigned by the Head of that school.

All internal candidates who apply for a new role at the School will have their application assessed in accordance with this procedure. References may be taken up on internal candidates as part of the application process and can be provided by colleagues as the School will be the most recent employer and will previously have taken up references from past employers.

4.2 Criminal records checks

From May 2013, the DBS commenced the filtering and removal of certain specified information relating to old and minor criminal offences from all criminal records disclosures. Further details on the DBS filtering rules can be found at:

https://www.gov.uk/government/publications/filtering-rules-for-criminal-record-check-certificates/new-filtering-rules-for-dbs-certificates-from-28-november-2020-onwards

https://www.gov.uk/government/publications/dbs-list-of-offences-that-will-never-be-filtered-from-a-criminal-record-check

4.2.1 Regulated activity

The School applies for an enhanced disclosure from the DBS and a check of the Children's Barred List (now known as an Enhanced Check for Regulated Activity) in respect of all positions at the School which amount to "regulated activity" as defined in the Safeguarding Vulnerable Groups Act 2006 (as amended). The purpose of carrying out an Enhanced Check for Regulated Activity is to identify whether an applicant is barred from working with children by inclusion on the Children's Barred List and to obtain other relevant suitability information. Any position undertaken at, or on behalf of the School will amount to "regulated activity" if it is carried out:

(a) frequently, meaning once a week or more; or

(b) overnight, meaning between 2.00 am and 6.00 am; or

(c) satisfies the "period condition", meaning four times or more in a 30 day period; and

(d) provides the opportunity for contact with children.

Separate Barred List checks are carried out in the following circumstances:

- for newly appointed staff who are engaging in regulated activity, pending the receipt of an Enhanced DBS Certificate with Barred List information;

- where an individual has worked in a post in a school or college that brought them into regular contact with children or young persons which ended not more than three months prior to that person's appointment to the organisation.

Roles which are carried out on an unpaid / voluntary basis will only amount to regulated activity if, in addition to the above, they are carried out on an unsupervised basis.

It is for the School to decide whether a role amounts to "regulated activity" taking into account all the relevant circumstances. However, nearly all posts at the School amount to regulated activity. Limited exceptions could include an administrative post undertaken on a temporary basis in the School office outside of term time or voluntary posts which are supervised.

4.2.2 **The DBS disclosure certificate**

The DBS issues the DBS disclosure certificate to the subject of the check only, rather than to the School. It is a condition of employment with the School that the **original** disclosure certificate is provided to the School prior to their start date. Original certificates should not be sent by post. A convenient time and date for bringing the certificate into the School should be arranged as soon as it has been received. Applicants who are unable to attend at the School to provide the certificate are required to send in a certified copy to the School by post or email at least one week prior to their start date. Where a certified copy is sent, the original disclosure certificate must still be provided on the first working day.

Employment will remain conditional upon the original certificate being provided and it being considered satisfactory by the School.

For those who are subscribed to the DBS Update Service, a check will be done to confirm that no new information has been added to the check since its issue. The original DBS certificate will still need to be provided.

A pre-existing enhanced DBS check for those coming from an educational establishment can be accepted under the three-month rule for a member of staff working in regulated activity, however a separate Barred List check will be undertaken. This allows candidates to move between schools without the requirement for a further DBS check to be undertaken – unless they leave the school's workforce for three months or more. A new DBS check is not required when accepting a pre-existing check.

Should a DBS indicate any convictions or cautions, the School must consult with a member of the ILG Management Team prior to considering the candidate's appointment (see Section 9 for further details).

KCSIE states that schools are not required to retain copies of DBS certificates. However a record will be kept of the certificate number and issue date.

DBS certificates are generally not renewed for existing staff.

The School should also refer to the flowchart in Appendix 2.

4.2.3 **Starting work pending receipt of the DBS disclosure**

If there is a delay in receiving a DBS disclosure, in exceptional circumstances the Head has discretion to allow an individual to begin work pending receipt of the disclosure certificate. This will only be allowed if all other checks, including a clear check of the Children's Barred List (where the position amounts to regulated activity), have been completed and once

appropriate supervision has been put in place. A risk assessment must be completed by the School beforehand, and authorised by a member of the ILG Management Team before any work commences. This will be reviewed by the School every 2 weeks until the DBS is received.

4.2.4 **Applicants with periods of overseas residence**

DBS checks will still be requested for applicants with recent periods of overseas residence and those with little or no previous UK residence. The School will take into account the "DBS unusual addresses guide" in such circumstances.

For applicants who are living overseas, or who have lived overseas previously, obtaining a DBS certificate may be insufficient to establish their suitability to work at the School. In such cases the applicant will be required to provide additional information about their suitability from the country (or countries) in which they have lived. The School's policy is normally to request such information from each overseas country in which the applicant has lived for a period of three months or more in the previous 5 years.

When requesting such information the School has regard to relevant government guidance and will therefore always require the applicant to apply for a formal check from the country in question i.e. a criminal records check (or equivalent) or a certificate of good conduct.

The School recognises that formal checks are not available from some countries, that they can be significantly delayed or that a response may not be provided. In such circumstances the School will seek to obtain further information from the country in question, such as a reference from any employment undertaken in that country.

The UK Centre for Professional Qualification can no longer provide an advisory service on behalf of the UK Government in regard to regulated professions and recognition of professional qualifications. However the School will also ask shortlisted applicants (and their referees) to disclose whether they have ever been referred to, or are the subject of a sanction issued by, the regulator of the teaching profession in the countries in which they have carried out teaching work.

Sanctions and restrictions issued by the regulating authority of another country will not prevent a person from working as a teacher at the School. However, the School will take all relevant information into account in determining whether an applicant is suitable to work at the School.

The School may allow an applicant to commence work pending receipt of a formal check from a particular country if it has received a reference and/or letter of professional standing from that country and considers the applicant suitable to start work. Decisions on suitability will be based on all of the information that has been obtained during the recruitment process. Unless expressly waived by the School, continued employment will remain conditional upon the School being provided with the outcome of the formal check and it being considered satisfactory.

If no information is available from a particular country the School may allow an applicant to commence work if they are considered suitable based on all of the information that has been obtained during the recruitment process.

The School will take proportionate risk based decisions on a person's suitability in these circumstances. All suitability assessments must be documented and retained on file

If the formal check is delayed and the School is not satisfied about the applicant's suitability in the absence of that information, the applicant's proposed start date may be delayed until the formal check is received.

4.3 **Prohibition from teaching check**

The School is required to check whether staff who carry out "teaching work" are prohibited from doing so. The School uses the DfE online services system to check whether successful applicants are the subject of a prohibition, or interim prohibition order issued by a professional conduct panel on behalf of the Teaching Regulation Agency. The link to the 'Check a Teacher's Record' (CTR) can be found on https://check-a-teachers-record.education.gov.uk/check-records/sign-in for both qualified and non qualified teaching staff.

In addition the School asks all shortlisted applicants to declare whether they have ever been referred to, or are the subject of a sanction, restriction or prohibition issued by, the Teaching Regulation Agency or other equivalent body in the UK.

Where an applicant is not currently prohibited from teaching but has been the subject of a referral to, or hearing before, the Teaching Regulation Agency (or other equivalent body), whether or not that resulted in the imposition of a sanction, or where a sanction has lapsed or been lifted, the School will consider whether the facts of the case render the applicant unsuitable to work at the School.

The School applies the definition of "teaching work" set out in the Teachers' Disciplinary (England) Regulations 2012, which state that the following activities amount to "teaching work":

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

The above activities do not amount to "teaching work" if they are supervised by a qualified teacher or other person nominated by the Head. If in any doubt or if the applicant has taught previously, or may teach in future, the check will be undertaken, including for sports coaches.

4.4 **Prohibition from management check**

The School is required to check whether any applicant for a management position is subject to a direction under section 128 of the Education and Skills Act 2008 which prohibits, disqualifies or restricts them from being involved in the management of an independent school (**section 128 direction**).

The School will carry out checks for section 128 directions when appointing applicants into management positions from both outside the School and by internal promotion.

This check applies to appointments to the following positions made on or after 12 August 2015:

- Head
- teaching posts on the senior leadership team
- teaching posts which carry a departmental head role; and
- support staff posts on the senior leadership team

The School will assess on a case by case basis whether the check should be carried out when appointments are made to teaching and support staff roles which carry additional responsibilities.

All individuals who are appointed to the governing body will be subject to a section 128 direction check.

The relevant information is contained in the enhanced DBS disclosure certificate (which the School obtains for all posts at the School that amount to regulated activity). It can also be obtained through the DfE online services system. The School will use either, or both, methods to obtain this information.

In addition the School asks all shortlisted applicants to declare whether they have ever been the subject of a referral to the Department for Education, or are subject to a section 128 direction or any other sanction which prohibits, disqualifies or restricts them from being involved in the management of an independent school.

Where an applicant is not currently prohibited from management but has been the subject of a referral to, or hearing before, the Department for Education or other appropriate body, whether or not that resulted in the imposition of a section 128 direction or other sanction, or where a section 128 direction or other sanction has lapsed or been lifted, the School will consider whether the facts of the case render the applicant unsuitable to work at the School.

4.5 Disqualification from acting as a senior manager

4.5.1 Who is covered

At the School the disqualification rules will be applicable to all governors, the Head, Nursery Manager if applicable, SLT and potentially other senior staff or external consultants.

There is no single list or register that covers all of the disqualification criteria and the School therefore adopts a pragmatic approach to checking whether a person is disqualified. This is achieved by the use of a self-declaration form and the checking of relevant publicly accessible registers.

4.5.2 Self-declaration

All those who are covered by the disqualification rules are required to complete a self-declaration form to confirm whether, to the best of their knowledge, they are subject to any of the disqualification criteria.

A failure to disclose relevant information, or the provision of false information, which subsequently comes to the School's attention may result in the termination of an appointment as a governor or senior manager or the withdrawal of an offer of employment / contract of services and may also amount to a criminal offence.

All those who are required to complete a self-declaration form are also under an ongoing duty to inform the School if there is a change in their circumstances that results or may result in them becoming disqualified from acting as a governor or senior manager.

4.5.3 Waiver

A person who discloses that one or more of the disqualification criteria is applicable to them may apply for a waiver of the disqualification.

The School may at its absolute discretion withdraw an offer of employment / contract of services for a senior manager or cease or terminate an appointment to the governing body if a waiver application becomes necessary.

4.7 Childcare disqualification

The Childcare Act 2006 (**Act**) and the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 (**Regulations**) state that it is an offence for the School to employ anyone in connection with our early years provision (**EYP**) or later years provision (**LYP**) who is disqualified, or for a disqualified person to be directly involved in the management of EYP or LYP.

The latest regulations as at August 2018 can be found at:

https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006/disqualification-under-the-childcare-act-2006

4.7.1 Definitions

(a) EYP includes usual school activities and any other supervised activity for a child up to 1 September after the child's 5th birthday, which takes place on the school premises during or outside of the normal school day;

(b) LYP includes provision for children not in EYP and under the age of 8 which takes place on school premises outside of the normal school day, including, for example breakfast clubs, after school clubs and holiday clubs. It does not include extended school hours for co-curricular activities such as sports activities.

DUCA states that only those individuals who are employed directly to provide childcare are covered by the Regulations. "Childcare" means any form of care for a child, which includes education and any other supervised activity for a child who is aged 5 or under. "Childcare" in LYP does not include education during school hours but does cover before and after school clubs.

4.7.2 Relevant roles

Roles which will be covered by the Regulations are teaching and teaching assistant positions in EYP, and those which involve the supervision of under 8s in LYP. Those who are directly involved in the management of EYP and LYP include the Head, and may also include other members of the leadership team as well as those involved in the day to day management of EYP or LYP at the School.

DUCA contains an express statement that cleaners, drivers, transport escorts, catering and office staff are not covered by the Regulations.

Some roles at the School may involve the provision of childcare in EYP or LYP on an occasional basis. They will not automatically be within the scope of the Regulations and the School will therefore consider whether they do on a case by case basis. The Regulations only apply to a limited number of roles within the School but do extend beyond employees to governors and volunteers who carry out relevant work in EYP or LYP.

4.7.3 Grounds for disqualification

The grounds on which a person will be disqualified from working in connection with EYP or LYP are set out in the Regulations. They are not only that a person is barred from working with children (by inclusion on the Children's Barred List) but also include:

(c) having been cautioned (after 6 April 2007) for, or convicted of, certain criminal offences including violent and sexual criminal offences against children and adults whether committed in the United Kingdom or overseas;

(d) various grounds relating to the care of children, including where an order is made in respect of a child under the person's care;

(e) having been refused registration for the provision of childcare (including nurseries, day care and child minding or other childcare), having been disqualified from any such registration or having had that registration cancelled;

(f) having been refused an application for registration of a children's home or having had any such registration cancelled; or

(g) having been prohibited, restricted or disqualified from private fostering.

4.7.4 **Self-declaration form**

All applicants to whom an offer of employment is made to carry out a relevant role in EYP or LYP will be required to complete a self-declaration form confirming whether they meet any of the criteria for disqualification under the Regulations.

The School will decide whether a role is relevant and within the scope of EYP or LYP by having regard to the guidance in DUCA. Employment with the School in any relevant role will be conditional upon completion of the self-declaration form and upon the applicant not being disqualified.

The School cannot permit any person who is currently disqualified to start work in a relevant role. The School also reserves the right at its absolute discretion to withdraw an offer of employment if, in the opinion of the School, any information disclosed in the self-declaration form renders that person unsuitable to work at the School.

Applicants who have any criminal records information to disclose about themselves must also provide the following information:

(h) details of the order, restriction, conviction or caution and the date that this was made;

(i) the relevant court or body and the sentence, if any, which was imposed; and

(j) a copy of the relevant order or conviction.

Applicants are not required to disclose a caution or conviction for an offence committed in the United Kingdom if it has been filtered in accordance with the DBS filtering rules (see section 4.3 above).

For the avoidance of doubt the School does not require applicants to request any criminal records information directly from the DBS. The School only requires applicants to provide relevant information about themselves "to the best of their knowledge".

4.7.5 **Waiver of a disqualification**

A person who discloses information which appears to disqualify them from working in a relevant role may apply to Ofsted for a waiver of the disqualification. The School may withdraw an offer of employment at its absolute discretion and is under no obligation to await the outcome of an Ofsted waiver application. If a waiver application is rejected the School will withdraw the conditional offer of employment.

4.7.6 **Retention of disqualification information**

The School will securely destroy any information which is provided by an applicant which is not relevant to the childcare disqualification requirements as soon as it is established that it is not relevant. Where a person appointed to a role at the School is found to be disqualified the School will retain any relevant information only for the period it takes for a waiver application to be heard and the decision communicated to the School, after which it will be securely destroyed.

4.7.7 **Continuing duty to disclose change in circumstances**

After making this declaration staff in a relevant role are under an on-going duty to inform the School if their circumstances change in a way which would mean they subsequently meet any of the criteria for disqualification. Any failure to disclose relevant information now, or of a future change in circumstances, will be treated as a serious disciplinary matter and may lead to the withdrawal of a job offer or dismissal for gross misconduct.

4.8 **Medical fitness**

The School is legally required to verify the medical fitness of anyone to be appointed to a post at the School, after an offer of employment has been made but before the appointment can be confirmed.

It is the School's practice that all applicants to whom an offer of employment is made must complete a Health Questionnaire. The School may, at its discretion, arrange for the information contained in the Health Questionnaire to be reviewed by a medical advisor. This information will be reviewed against the Job Description and the Person Specification for the particular role, together with details of any other physical or mental requirements of the role i.e. proposed timetable, extra- curricular activities, layout of the School etc. If the School's medical advisor has any doubts about an applicant's fitness the School will consider reasonable adjustments in consultation with the applicant. The School may also seek a further medical opinion from a specialist or request that the applicant undertakes a full medical assessment.

Successful applicants will be required to sign a declaration of medical fitness confirming that there are no reasons, on grounds of mental or physical health, why they should not be able to discharge the responsibilities required by the role. If an applicant prefers to discuss this with the School instead, or to attend an occupational health assessment to consider their fitness for the role, they should contact the Head so that appropriate arrangements can be made.

The School is aware of its duties under the Equality Act 2010. No job offer will be withdrawn without first consulting with the applicant, obtaining medical evidence, considering reasonable adjustments and suitable alternative employment.

5 **Contractors and agency staff**

Subject to the statements below, the School normally completes the same checks for contractors and their employees who undertake regulated activity at the School as it does for its own employees. The School requires written confirmation from the contractor or agency that it has completed these checks on all of those individuals whom it intends will work at the School before any such individual can commence work at the School.

The checks for contractors (third-party staff) and agency staff may differ according to their role. The School can exercise reasonable discretion whether they should be treated in line with contractor or agency staff. The School should refer to pg 111 – 112 of the guidance provided by the 'ISI Commentary on the Regulatory Requirements'.

The relevant minimum checks always include:

- Barred list check for those in regulated activity;
- Appropriate level of DBS check;
- Identity check on arrival;
- Any other role-specific checks, where applicable, eg. disqualification from childcare.

Agencies who supply staff to the School must also complete the pre-employment checks which the School would otherwise complete for its staff. Again, the School requires confirmation that these checks have been completed before an individual can commence work at the School.

The School will independently verify the identity of individuals supplied by contractors or an agency in accordance with section 0 above and requires the provision of the DBS disclosure certificate before those individuals can commence work at the School.

6 Volunteers

The School will request an enhanced DBS disclosure and Children's Barred List information on all volunteers undertaking regulated activity with pupils at or on behalf of the School (the definition of regulated activity set out in section 4.3.1 above will be applied to all volunteers).

The School will request an enhanced DBS disclosure without Children's Barred List information on all volunteers who do not undertake regulated activity. This is likely to be because their volunteering duties are subject to regular, day to day supervision by a fully checked member of staff or by a volunteer who the School has deemed appropriate to supervise and ensure the safety of those pupils in their care.

Under no circumstances will the School permit an unchecked volunteer to have unsupervised contact with pupils.

The School should refer to the vetting checks flowchart contained within the ISI Commentary on the Regulatory Requirements Sept 2021 (Appendix 3), as previously referred to in Section 5.

In the case of a supervised volunteer, a risk assessment must be completed by the School before any work commences, and authorised by a member of the ILG Management Team.

It is the School's policy that a new DBS certificate is required for volunteers who will engage in regulated activity but who have not been involved in any activities with the School for three consecutive months or more. Those volunteers who are likely to be involved in activities with the School on a regular basis may be required to sign up to the DBS update service as this permits the School to obtain up to date criminal records information without delay prior to each new activity in which a volunteer participates.

In addition the School will seek to obtain such further suitability information about a volunteer as it considers appropriate in the circumstances. This may include (but is not limited to the following):

- formal or informal information provided by staff, parents and other volunteers
- character references from the volunteer's place of work or any other relevant source; and

- an informal safer recruitment interview.

7 Appointment of others falling outside the definitions of staff and supply staff

7.1 Several categories of people fall outside the main regulations concerning appointment, but still need checks as part of having regard to KCSIE. Those not covered elsewhere in this policy include the following:

7.2 Proprietors and Governors/Advisors : Checks will be carried out according to KCSIE and the schedule provided by ISI. These would normally include identity, enhanced DBS check (including Barred List check), right to work in the UK, overseas checks if applicable, prohibition from teaching and management, disqualification from childcare. Checks are not required for qualifications, references, employment history or medical fitness.

7.3 Work Experience students, Trainee Teachers and Apprentices : Checks are normally the same as employed staff, and for those working in regulated activity.

8 Visiting speakers and the Prevent Duty

The Prevent Duty Guidance requires the School to have clear protocols for ensuring that any visiting speakers, whether invited by staff or by pupils, are suitable and appropriately supervised.

The School is not permitted to obtain a DBS disclosure or Children's Barred List information on any visiting speaker who does not engage in regulated activity at the School or perform any other regular duties for or on behalf of the School.

All visiting speakers will be subject to the School's usual visitors protocol. This will include signing in and out at Reception, the wearing of a visitors badge at all times and being escorted by a fully vetted member of staff between appointments.

The School will also obtain such formal or informal background information about a visiting speaker as is reasonable in the circumstances to decide whether to invite and / or permit a speaker to attend the School. Any such checks will be recorded by the School. In doing so the School will always have regard to the Prevent Duty Guidance and the definition of "extremism" set out in KCSIE (as amended in 2024) which states:

"*"Extremism" is the promotion of advancement of an ideology based on violence, hatred or intolerance that aims to:*

- *Negate or destroy the fundamental rights and freedoms of others; or*
- *Undermine, overturn or replace the UK's system of liberal parliamentary democracy and democratic rights; or*
- *Intentionally create a permissive environment for others to achieve the results in the points set out above.*

In fulfilling its Prevent Duty obligations the School does not discriminate on the grounds of race, colour, nationality, ethnic or national origin, religion or religious belief, sex or sexual orientation, marital or civil partner status, gender reassignment, disability or age.

9 Policy on recruitment of ex-offenders

9.1 Background

The School will not unfairly discriminate against any applicant for employment on the basis of conviction or other details disclosed. The School makes appointment decisions on the basis of merit and ability. If an applicant has a criminal record this will not automatically bar them from employment with the School. Each case will be decided on its merits in accordance with the objective assessment criteria set out below.

All positions within the School are exempt from the provisions of the Rehabilitation of Offenders Act 1974. All applicants must therefore declare all previous convictions and cautions, including those which would normally be considered "spent" except those received for an offence committed in the United Kingdom if it has been filtered in accordance with the DBS filtering rules.

A failure to disclose a previous conviction (which should be declared) may lead to an application being rejected or, if the failure to disclose is discovered after employment has started, may lead to summary dismissal on the grounds of gross misconduct. A failure to disclose a previous conviction may also amount to a criminal offence.

It is unlawful for the School to employ anyone who is barred from working with children. It is a criminal offence for any person who is barred from working with children to apply for a position at the School. The School will make a report to the police and / or the DBS if:

- it receives an application from a barred person
- it is provided with false information in, or in support of an applicant's application; or
- it has serious concerns about an applicant's suitability to work with children.

9.2 Assessment criteria

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, the School will consider the following factors before reaching a recruitment decision:

- whether the conviction or other matter revealed is relevant to the position in question
- the seriousness of any offence or other matter revealed
- the length of time since the offence or other matter occurred
- whether the applicant has a pattern of offending behaviour or other relevant matters
- whether the applicant's circumstances have changed since the offending behaviour or other relevant matters; and
- the circumstances surrounding the offence and the explanation(s) offered by the applicant.

If the post involves regular contact with children, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of any the following offences:

- murder, manslaughter, rape, other serious sexual offences, grievous bodily harm or other serious acts of violence; or
- serious class A drug related offences, robbery, burglary, theft, deception or fraud.

If the post involves access to money or budget responsibility, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted at any time of robbery, burglary, theft, deception or fraud.

If the post involves some driving responsibilities, it is the School's normal policy to consider it a high risk to employ anyone who has been convicted of drink driving within the last ten years.

9.3 Assessment procedure

In the event that relevant information (whether in relation to previous convictions or otherwise) is volunteered by an applicant during the recruitment process or obtained through a disclosure check, the School will carry out a risk assessment by reference to the criteria set out above. The assessment form must be signed by the Head and approved by a member of the ILG Management Team before a position is offered or confirmed.

If an applicant wishes to dispute any information contained in a disclosure, they may do so by contacting the DBS. In cases where the applicant would otherwise be offered a position were it not for the disputed information, the School may, where practicable and at its discretion, defer a final decision about the appointment until the applicant has had a reasonable opportunity to challenge the disclosure information.

9.4 Retention and security of disclosure information

The School's policy is to observe the guidance issued or supported by the DBS on the use of disclosure information.

10 Whistleblowing and exit interviews

All staff are expected and encouraged to raise concerns they have, whether related to the safeguarding and welfare of pupils, the conduct of staff or other matters, during the course of their employment in accordance with the School's polices (including the Whistleblowing Policy, the Safeguarding Policy and the Staff Code of Conduct). All staff receive training so that they understand the School's expectations. Safeguarding children is at the centre of the School's culture and is accordingly considered formally during staff performance development reviews and appraisal and finally at an exit interview which may be held with leavers.

11 Referrals to the DBS and Teaching Regulation Agency

This policy is primarily concerned with the promotion and practice of safer recruitment. However, applicants should also be aware that the School has legal responsibilities to fulfil when employment comes to an end. In particular, the School has a legal duty to make a referral to the DBS where:

- an individual has applied for a position at the School despite being barred from working with children; and / or
- an individual has been removed by the School from working in regulated activity (whether paid or unpaid), or has resigned prior to being removed, because they have harmed, or pose a risk of harm to, a child.

The DBS will consider whether to impose sanctions on that individual which may restrict or prevent them from working with children in future. In addition, if a teacher is dismissed because they are found to have committed serious misconduct, or they have breached the Teachers' Standards, or they resign prior to dismissal on such grounds, the School will make a referral to the Teaching Regulation Agency.

The Teaching Regulation Agency will consider whether to impose a prohibition from teaching order.

12 Queries

If an applicant has any queries on how to apply for a post at the School or any other recruitment matter, they should contact the Head. An applicant can also request details of the School's arrangements for induction, probation and reasonable adjustments.

13 Version control

Date of adoption of this policy	January 2022
Date of last review of this policy	September 2024
Date for next review of this policy	Autumn 2025
Policy owner	ILG Head Office

Appendix 1 List of valid identity documents

Group 1: primary identity documents

- current valid passport
- biometric residence permit (UK)
- current driving licence photocard - full or provisional (UK / Isle of Man and Channel Islands)
- birth certificate - issued within 12 months of birth (UK, Isle of Man and Channel Islands - including those issued by UK authorities overseas, such as Embassies, High Commissions and HM Forces)
- adoption certificate (UK and Channel Islands)

Group 2a: trusted government documents

- current driving licence: photocard - full or provisional (all countries outside the UK excluding Isle of Man and Channel Islands)
- current driving licence: paper version if issued before 1998 - full or provisional (UK / Isle of Man and Channel Islands)
- birth certificate - issued after time of birth (UK, Isle of Man and Channel Islands)
- marriage / civil partnership certificate (UK and Channel Islands)
- immigration document, visa or work permit (issued by a country outside the UK. Valid only for roles whereby the applicant is living and working outside of the UK. Visa / permit must relate to the non-UK country in which the role is based)
- HM Forces ID card (UK)
- fire arms licence (UK, Channel Islands and Isle of Man)

All driving licences must be valid.

Group 2b: Financial and social history documents

- mortgage statement (UK)**
- bank / building society statement (UK and Channel Islands)*
- bank / building society statement (countries outside the UK)*
- bank / building society account opening confirmation letter (UK)*
- credit card statement (UK)*
- financial statement - e.g. pension or endowment (UK)**
- P45 / P60 statement (UK and Channel Islands)**
- council tax statement (UK and Channel Islands)**
- letter of sponsorship from future employment provider (non UK only; valid only for applicants residing outside the UK at the time of application; must be valid at time of application)
- utility bill (UK; not mobile telephone bill)*
- benefit statement - e.g. child benefit, pension (UK)*
- a document from central or local government/ government agency / local council giving an entitlement - e.g. from the Department for Work and Pensions, the Employment Service , HM Revenue & Customs (UK and Channel Islands)*
- EEA national ID card (must be valid at time of application)
- Irish passport card (cannot be used with an Irish passport; must be valid at time of application)
- cards carrying the PASS accreditation logo (UK, Isle of Man and Channel Islands; must be valid at time of application)
- letter from Head or College Principal (UK; for 16-19 year olds in full-time education. This is only used in exceptional circumstances if other documents cannot be provided; must be valid at time of application).

Note

If a document in the list of valid identity documents is:

denoted with * - it should be less than three months old

denoted with ** - it should be less than 12 months old

Appendix 2 Flowchart of Disclosure and Barring Service Criminal Record Checks and Barred List Checks

