

Safe Recruitment Working Practices Schools

May 2025

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Introduction

Organisations who work with or on behalf of children, young people and other vulnerable client groups need to be vigilant in their recruitment and selection of staff. Abusers may target these organisations and can be extremely skilled at presenting themselves as caring and trustworthy individuals. Some indicators of abusive behaviour can emerge through inappropriate attitudes or inconsistent reactions and a vigorous recruitment and selection process provides important opportunities to identify these and deter and prevent offenders from gaining access to children, young people and vulnerable adults through their work.

This document has been prepared to provide information and support to all recruiting managers within schools who recruit new employees and outlines the key requirements expected in relation to the safe recruitment and selection of people. It is expected that the same principles will also be applied when engaging volunteers, contractors or via agencies.

Safe recruitment is a key priority for Salford City Council and schools to ensure our staff, pupils, clients, customers and service users are not subject to any risk whether it is through their day to day duties and responsibilities or access to the services we are depended upon to provide. The guidance has been designed to help ensure safe and effective recruitment and selection decisions are made in line with best practice, regulatory and legal guidance and the Salford Safeguarding Children Partnership (SSCO) Safe Recruitment Policy and Good Practice Guide.

The purpose of the document and overall approach to recruitment is to encourage the continuous improvement of safer recruitment practices across the City Council and schools to help deter, identify and reject unsuitable individuals and to safeguard all who access council services. Safe recruitment is not solely for those individuals who work with vulnerable people i.e. adults, children and young people but ensures best practice in recruitment across the Council.

Safe Recruitment in Salford

Salford Council including schools, have a corporate social responsibility to account for the safety and protection of every individual it deals with as an employer, as a service provider and as a corporate parent. We therefore need to be confident that our recruitment practices embed this culture of safety and protection throughout the Council and schools.

For those individuals who will work and/or come into contact with children and young people, the recruitment practice requires managers to meet existing regulatory and legal requirements.

Whilst there are specific mandatory regulatory and legal requirements for children, young people and vulnerable adults, safe recruitment should not be considered to be exclusive to these service groups or staff. Implementing mandatory best practice across the Council and schools to engage safe recruitment practices and processes will encourage the continuous improvement in practice that will help to deter, identify and reject people who are unsuitable to work for Salford Council.

Safe Recruitment Steps

E-Recruitment / Application Process

All recruitment to school vacancies should where possible be administered through the e-recruitment system (Job train). The recruitment process is supported by the e-recruitment system and ensures that the correct type of application form is used as appropriate to each vacancy. Not all jobs require the specific dates in each period of employment however those posts classified as 'safeguarding or high risk' and requiring Disclosure and Barring Service (DBS) clearance do and therefore different application forms are required.

Scrutinising and Short Listing

All application forms should be scrutinised to ensure that they are fully and properly completed, the information provided is consistent and does not contain any discrepancies.

The application form employment history should be checked for gaps and any subsequent identified gaps should be clarified during the selection process to enable the recruiting manager to make an informed decision to continue.

The detail of such gaps and explanation should be documented and recorded by the school. This must be complete prior to any initial offer letter being processed.

All candidates should be assessed equally by the members of the interview panel, against the criteria contained in the person specification/role profile without exception or variation.

Conditional Offer of Employment

Following the verbal offer and acceptance of employment, employees must not commence working for the school until full clearances have been received and checked by the employer. All Community and Voluntary Controlled Schools must follow this safe recruitment practice and it is recommended to Voluntary Aided schools and Academies.

Pre employment checks include an identity check, an enhanced DBS check (with children's barred list check where appropriate) verification of entitlement to work in the UK in line with Asylum & Immigration Act requirements, receipt of satisfactory references, qualification check (where appropriate), childcare disqualification checks (where appropriate), further checks on people who have lived or worked outside the UK and medical clearance. This also applies to internal appointments, in that staff should not transfer to a regulated activity post until such checks can be evidenced.

Pre Employment Conditions/Clearances

The recruiting manager must complete the starter form and request references via Jobtrain to evidence safe recruitment practice. Further guidance on how to use the system can be found on Schoolszone [The recruitment journey \(salford.gov.uk\)](https://www.salford.gov.uk/schoolszone)

The forms are to verify all school checks have been undertaken and the level of clearances required before employment can be confirmed. The recruiting manager must identify which conditions must be met for the post that they are recruiting to on the starter form by completing this in full otherwise this will delay the onboarding and start date.

The school or Human Resources will then email the applicant via Jobtrain, requesting the necessary clearances. Please note employment **must not** commence until all

relevant conditions have been met and documentary evidence has been received and recorded on file by the school and HR. The recruiting manager will be notified once all the relevant clearances have been received and a start date can then be confirmed.

Arrangements should not be made for a new employee to commence employment prior to clearances being received and will be in breach of the safe recruitment requirements therefore the HR team will be unable to arrange for any payment to be made to them.

In exceptional circumstances, and only following a full assessment of risk and Chair of Governors sign off, it may be possible for a new employee to commence employment before all conditions have been met. This would only be in the case of where a DBS certificate has not been received but all other checks, including a separate children's barred list check had been carried out. These decisions must be discussed with the HR team and be fully documented with the rationale recorded on the individual's personal file. A risk assessment form for this purpose can be found at **Appendix 1**.

If an existing employee is transferring employment or taking up secondary employment, Human Resources will undertake an audit of the clearances currently held on record.

Disclosure and Barring Service (DBS) Clearance

All school based positions require an enhanced check. This check must be in place prior to the individual commencing employment and documentary evidence to this effect on record. Whilst safe recruitment requirements are a key priority it is also recognised that there can be delays in clearance being received. However, these delays may be as a result of further checks being needed and could indicate an issue.

Where ONLY the DBS check is missing, a risk assessment could be considered and on these occasions, the risk assessment form must be completed by the recruiting manager and approved by the Chair of Governors. For posts that have direct, unsupervised contact with children, young people or vulnerable adults, it is not advisable to proceed on the basis of a risk assessment. This will only be waived if it is agreed that as part of the induction process they are off site, out of direct contact, fully supervised or working on aspects of the job that don't require direct and/or unsupervised access to clients. Such decisions must be discussed with the HR team and be fully documented with the rationale recorded. In this circumstance a separate barred list check must be carried out in addition to all other checks before the individual can commence work.

Re-checks

From January 2015, in line with Council policy, there is no requirement for DBS re-checks (the only exception is governors who are still re-checked every 3 years) As DBS checks do not have an expiry date, the most recent check for each employee will therefore remain their current check. Schools will however reserve the right to carry out additional checks by exception where there are concerns in relation to an individual engaged in regulated activity.

It is recommended that schools request employees are asked to undertake a self-declaration annually to confirm they have had no new convictions, cautions or warnings.

It is recommended that employees sign up to the DBS update service to keep their certificates up to date - [DBS Update Service - GOV.UK \(www.gov.uk\)](http://www.gov.uk) The service costs £13 a year for employees, there is no charge for volunteers

Portability

However, from January 2014 , employees who are already in receipt of an enhanced DBS check from their existing employer may use that disclosure as proof of a DBS in the following circumstances (all of the below **must** apply):

- The employees original DBS/CRB certificate can be produced.
- The DBS is clear of any positive disclosures.
- The employee has not had a break in service of more than 3 months between leaving employment with their previous employer and commencing work at a school (with the exception of normal school holidays)The name and address of the employee are the same as other identification.

NB. This only applies where the DBS check has been undertaken by a Local Authority. Where a DBS check has been undertaken by a privately commissioned HR service, this will not be acceptable to Salford City Council. Local Authorities adhere to a standard that cannot be guaranteed by a privately commissioned service.

The recruiting manager will need to verify the identity of the individual in line with existing guidelines, and satisfy themselves that the DBS certificate produced is both genuine and relates to the individual concerned.

Where an employee cannot produce an original DBS certificate, where there has been a break in service of more than 3 months or where there are positive disclosures on the DBS check, a new DBS check will need to be undertaken in line with the Council's safer recruitment guidelines.

The above guidance does not preclude schools from complying with all other safer recruitment practices (i.e. satisfactory references, identity checks, registration with statutory bodies).

Identification and Verification of Right to Work

All candidates must provide documentary evidence of their identity and right to work, in line with the Immigration, Asylum and Nationality Act 2006 ('the Act') came into force on 29 February 2008 (**Appendix 2**) A UK passport should always be seen where available. Additionally a document such as a utility bill must be provided that verifies the candidates name and address. Where relevant, change of name documentation must be produced.

If the recruiting manager is checking identification, the original documents **must** be seen and a copy taken. The copy must then be signed and dated to say the original document has been seen and sent through to Human Resources.

Online checks

Keeping children safe in Education now recommends that schools consider carrying out an online search on all shortlisted candidates. The purpose of this is to help identify if an individual is suitable to work with children by identifying any incidents or issues that may have happened and which are publicly available online. Schools should inform shortlisted candidates that online searches may be done as part of due diligence checks. School should only look for information that is available to anyone through the usual search engines and must not delve into any private social media accounts. Online searches should only be done on shortlisted candidates. Where possible, someone who is not part of the recruitment panel should conduct the search and only share information that is relevant and of concern to avoid any unconscious bias and

any risk of discrimination. If anything is found online that is a concern then this should be discussed at the interview.

References

Two written references are required for every new employee, one **must** be the individual's current/previous employer.

References will be requested by the recruiting manager using the standard reference request forms. References should be requested for all shortlisted candidates prior to interview to enable the recruiting manager to follow up any issues or gaps during the interview process.

The recruiting manager must complete a reference verification form (**Appendix 3**) to confirm the information provided has been carefully checked against the application form for any discrepancies or anomalies and reflects the candidate's experience.

Further guidance on references can be found at **Appendix 4**

Section 128 Checks

A section 128 direction prohibits or restricts an unsuitable individual from participating in the management of an independent school, including academies and free schools.

Maintained schools should carry out a section 128 check for school governors. Using the DfE online services portal [DfE Sign-in \(education.gov.uk\)](https://www.gov.uk/guidance/section-128-checks), schools can check if a person they propose to recruit as a governor is barred as a result of being subject to a section 128 direction. There is no requirement for schools to record this information on the single central record, but they can if they chose to.

A section 128 direction will be disclosed when an enhanced DBS check with children's barred list information is requested, provided that 'child workforce independent schools' is specified on the application form as the position applied for. Where a person is not eligible for a children's barred list check but will be working in a management position in an independent school, a section 128 check should be carried out using the DfE online services portal - [DfE Sign-in \(education.gov.uk\)](https://www.gov.uk/guidance/section-128-checks)

Childcare Disqualification Checks

The Childcare (Disqualification) Regulations 2018 prohibit anyone who is disqualified from providing relevant childcare provision or from being directly concerned in the management of such provision.

Staff are covered by this legislation if they are employed or engaged to provide early years childcare (up to, and including, reception age).

For schools and nurseries, this includes:

- All staff (including leadership) and volunteers who work in early years provision (including teachers and support staff working in school nursery and reception classes);
- All staff (including leadership) and volunteers who provide supervised activity such as breakfast clubs, lunchtime supervision and after school care both during the normal school day and outside of school hours for children in the early years age range (from birth to the age of 5).
- All staff (including leadership) and volunteers working in later years provision for children who have not attained the age of 8 including before school settings, such

as breakfast clubs, and after school provision (this does not include education or supervised activity for children above reception age during school hours);

- All staff (including leadership) who are directly concerned in the management of such early or later years provision.

Candidates will be asked to undertake a self-declaration as part of the pre-employment checks to affirm that they are not disqualified. The Staff Disqualification Declaration form can be found at **Appendix 5**

Further information on these regulations can be found in the Childcare Disqualification Regulations – Guidance for Schools (August 2018)) [Disqualification under the Childcare Act 2006 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Individuals who have lived or worked outside the UK

Individuals who have lived or worked outside the UK must undergo the same checks as all other staff, even if the individual has never been to the UK, In addition schools must make any further checks they think appropriate. These checks could include:

- criminal records check for overseas applicants
- obtaining a letter (via the applicant) from the professional regulating authority in the country (or countries) in which the applicant has worked confirming that they have not imposed any sanctions or restrictions, or that they are aware of any reason why they may be unsuitable to teach.

If this information is not available schools should seek alternative methods of checking suitability (such as obtaining an employment reference) or undertake a risk assessment that supports informed decision making on whether to proceed with the appointment. Schools should be mindful that the criteria for disclosing offences in other countries often have a different threshold than those in the UK.

Salford's guidance on overseas checks is - If you have lived or worked abroad for three months or more in the last five years or 12 months or more (whether continuously or in total) in the last ten years whilst aged 18 or over. Please refer to our Safer recruitment page on schools zone - [Safer recruitment](#)

Statutory Framework for the Early Years Foundation Stage

Under this framework [Statutory framework for the early years foundation stage for group and school providers \(publishing.service.gov.uk\)](http://publishing.service.gov.uk), schools must ensure that people looking after children are suitable to fulfil the requirements of their roles. In addition to the checks carried out under this document, Early Years providers must ensure that individuals are not under the influence of alcohol or any other substance which may affect their ability to care for children. This includes medication which may affect an individual's ability to care for children.

In the event that individuals declare information which calls in to question their ability to care for children, please contact the Schools HR Team for further advice. Further medical information may be required.

Employees from within Salford City Council or another Salford School

For internal candidates i.e. those already employed by the Council or from another Salford School, a streamlined approach will be followed. It is therefore important that you indicate this on the new starter form. This will enable HR to check and confirm any employment clearances which are already on file (i.e. a DBS check) and will speed up the recruitment process.

It is however important that you obtain at least one satisfactory reference verifying the candidate's suitability for the new post and providing details of current performance.

Withdrawing a Conditional Offer

As long as it is made clear to a prospective employee that an employment offer is conditional, the offer can be withdrawn if a condition is not satisfied.

A contract of employment is only made where there has been an unconditional offer and an unconditional acceptance, supported by the intention to create a legal relationship.

Volunteers

A volunteer is a person who performs an activity which involves spending time, unpaid, doing something which aims to benefit someone (individuals or groups).

The new definition of regulated activity relating to children and young people does not apply to the work of supervised volunteers, however there is statutory guidance to consider when the work of a volunteer would be regulated activity if they are not supervised.

The three main points to consider are:

- there must be supervision by a person who is in regulated activity.
- the supervision must be regular and day to day.
- the supervision must be reasonable in all the circumstances to ensure the protection of children.

This provides managers with the flexibility to determine what is reasonable following a full risk assessment of the circumstances. The specific level of supervision required should be based on the following factors:

- ages of the children, including whether their ages differ widely.
- number of children that the individual is working with.
- whether or not other workers are helping to look after the children.
- the nature of the individual's work (or, in a specified place such as a school, the individual's opportunity for contact with children).
- how vulnerable the children are (the more they are, the more an organisation might opt for workers to be in regulated activity).
- how many workers would be supervised by each supervising worker.

Any risk assessment undertaken must be clearly documented and held by the school.

Where it is identified through a risk assessment that a volunteer is not supervised under the above definition, a full enhanced DBS check should be carried out. It must be identified whether the post is a true volunteer as follows:

- How often will the volunteer be working?
- What activities will the volunteer undertake?
- Will this potentially lead to paid employment?

Volunteers who are directly concerned with the management of childcare provision, or who work on a regular basis whether supervised or not, in regular childcare are within

the scope of the Childcare Disqualification Regulations and therefore should complete the declaration form.

Governors

Governors in maintained schools are required to have an enhanced DBS check. It is the responsibility of the governing body to apply for the certificate for any governors who do not already have one. Salford still re-check governor DBS's every 3 years.

Governance is not a regulated activity so governors do not need a children's barred list check unless in addition to their governance duties, they also engage in regulated activity.

Schools should also carry out a section 128 check for school governors.

All governors to annually sign an eligibility & suitability form. This form contains the suitability aspects from the staff annual suitability declaration that apply to governors, combined with the eligibility form they already have to complete that refers directly to their eligibility to be a governor. If they declare anything on this form we are recommending a DBS check be completed. The rules for the portability of DBS checks for employees will also apply to school governors.

Appendix 1 - Risk Assessment

Consideration of commencement of employment prior to pre-employment checks

Question	Answer
Name of prospective employee:	
Post title:	
School Name:	
Name of Head Teacher	
Date of Risk Assessment:	
Reasons for considering commencement of employment prior to receiving clearance:	
Consequences, to service delivery, of waiting for clearance:	
Level of access during "waiting period"	
Supervision arrangements during "waiting period" and any other control measures:	

Pre-employment checklist:

Question	Answer
Has the employee left employment?	
Medical clearance received?	
UKBA (right to work in the UK) clearance check completed?	
Qualifications verified?	
References?	
Satisfied with general background & employment history checks?	
Current DBS check back	
Children's Barred List check (where no DBS)	

Previous DBS clearance: (see section on 'Portability' within Policy)

Question	Answer
Is a previous disclosure available?	

Question	Answer
Has it been seen by you?	
What is its date?	
Disclosure Number	
Level of Check	

Assessment of risk following control measures: High/Medium/Low

Options: 1) Following risk assessment I have determined that the above named may commence employment with the identified control measures. I undertake to personally review this situation at intervals of no less than every two weeks.

Signed:

Date:

Review date:

To be completed by the Headteacher and Chair of Governors if ONLY the DBS check is not in place.

To be completed by the Headteacher and authorised by the Strategic Director of Children's Services if any other safe recruitment checks are not in place.

Appendix 2 Preventing Illegal Working in the UK

The law on preventing illegal working is set out in sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006 (known as the 2006 Act) which came into force on 29 February 2008. These rules replaced the previous ones under section 8 of the Asylum and Immigration Act 1996 (known as the 1996 Act).

The law is in place to:

- make it harder for people with no right to work in the UK to unlawfully gain or keep employment ;
- make it easier for you to ensure that you only employ people who are legally allowed to work for you; and
- strengthen the Government's controls on tackling illegal working by making it easier for us to take action against employers who use illegal workers.

Employing someone who is not allowed to work in the UK is illegal. As an employer you have a duty under the 2006 Act to carry out document checks on people to make sure they have the right to work in the UK **before** you employ them.

The documents that are acceptable for proving someone has the right to work in the UK are split into two lists. These lists are called List A and List B. You should always refer to these lists to make sure that you ask for the right documents.

Documents which show an ongoing right to work

If you're a British or Irish citizen, you can prove your right to work in the UK with either of the following:

- a British passport
- an Irish passport or passport card

Your passport or passport card can be current or expired.

If you do not have a passport or passport card, you can prove your right to work with one of the following:

- a UK birth or adoption certificate
- an Irish birth or adoption certificate
- a certificate of registration or naturalisation as a British citizen

You must also give your employer an official letter or document from a previous employer or a government agency.

The letter must show your name and National Insurance number.

If you're not a British or Irish citizen, you can prove your right to work with:

- a share code - you can [apply for a share code online](#)
- your [immigration documents](#)

You can choose which option you use. Your employer cannot reject your application because you gave them an eligible immigration document instead of a share code, for example.

If you cannot prove your right to work, if you're not a British or Irish citizen, your employer can check if you can work with the [employer checking service](#).

If you're a Commonwealth citizen, you may be able to [get documents to show that you can work in the UK through the Windrush Scheme](#).

Appendix 3 Reference Verification Confirmation

Question	Answer
Name of prospective employee:	
Post title:	
Referee 1 name:	
Address:	
Contact Number:	
<p>I confirm reference 1 has been verified and the information contained in the reference reflects the candidates experience stated in the application form and that the information provided in the reference has been confirmed as an accurate record from the referee detailed above</p>	
Referee 2 name:	
Address:	
Contact Number:	
<p>I confirm reference 2 has been verified and the information contained in the reference reflects the candidates experience stated in the application form and that the information provided in the reference has been confirmed as an accurate record from the referee detailed above</p>	

Appendix 4 Guidance on References

Purpose of References

The purpose of seeking references is to obtain objective and factual information to support appointment decisions. References should not be used as part of the shortlisting process. If conducted properly, the process of seeking references can provide important information about a candidate.

Schools should adhere to the following when seeking references:

- do not accept open references e.g. to whom it may concern
- do not rely on applicants to obtain their reference
- ensure any references are from the candidate's current employer and have been completed by a senior person with appropriate authority (if the referee is school or college based, the reference should be confirmed by the headteacher/principal as accurate in respect of any disciplinary investigations)
- obtain verification of the individual's most recent relevant period of employment where the applicant is not currently employed
- secure a reference from the relevant employer from the last time the applicant worked with children (if not currently working with children), if the applicant has never worked with children, then ensure a reference from their current employer
- always verify any information with the person who provided the reference
- ensure electronic references originate from a legitimate source
- contact referees to clarify content where information is vague or insufficient information is provided
- compare the information on the application form with that in the reference and take up any discrepancies with the candidate
- establish the reason for the candidate leaving their current or most recent post, and;
- ensure any concerns are resolved satisfactorily before appointment is confirmed

Requesting References

It is recognised that it is common practice in the private sector for references only to be requested following a conditional offer of appointment being made. However, Keeping Children Safe in Education states that ideally references should be sought on all short listed candidates and be obtained before interview, so that any issues of concern they raise can be explored further with the referee, and taken up with the candidate at interview.

References must always be sought for both internal and external candidates and offers of employment always made subject to receipt of satisfactory references, where these have not been obtained prior to interview. However, this should occur only in exceptional circumstances where for example, because of delay on the part of the referee, or because a candidate has requested that their current employer is not contacted prior to interview. It is up to the chair of the interview panel, advised by HR consultants/providers, as to whether to respect this request. It should be acknowledged that there sometimes may be personal difficulties between individuals and their employers which may explain why an applicant may not want a past employer to be contacted. There should be an opportunity for candidates to explain these circumstances at interview and an expectation by the interview panel that they will do so.

In any case, where a reference has not been obtained on the preferred candidate before interview, the prospective employer must ensure that a reference is sought, received and scrutinised, and any concerns are resolved satisfactorily, before the person's appointment is confirmed.

Where all references have not been received prior to the interview, care should be taken to ensure that candidates are not disadvantaged. Should a recruitment complaint be received, it would not be possible to justify making an appointment purely because two satisfactory references had been received on one candidate but not the other.

Request for references should be sent out at the same time as the invitation to interview letters.

It is normal practice that one of the references is the applicant's current or most recent employer. There are circumstances when this is not always applicable, for example:-

- If the candidate has not previously been employed, a reference would normally be requested from their last establishment.
- If the candidate has recently been unemployed or self-employed, then consideration should be given to asking for another suitable referee with knowledge of the candidate such as a doctor, solicitor, police officer or other professional.
- If it is not possible to obtain a reference from any of the above, the panel will consider asking for another suitable reference

Normally two references should be sufficient, providing one is the current or most recent employer. However, if the candidate is not currently working with children, but has done so in the past, an additional reference should be sought from the employer by whom the candidate was most recently employed to work with children.

Relatives and friends should be precluded from providing references as they are unlikely to be objective and there is no way of verifying the accuracy of the information they have provided. Applicants should always be reminded that the prospective employer reserves the right to make contact with any of the employers listed on the application form.

Obligation to Provide References

It is rare for an employer to refuse as it is established practice to provide a reference and a refusal could result in adverse consequences for the employee.

In the event that a referee does refuse to provide a reference, find out why and seek an alternative referee.

The author of a reference may stipulate that it is confidential, and need not show it to the employee. However, employees can ask their new employer for a copy of the reference which may be disclosable if it is proper to do so, having balanced the rights of the author, any other person mentioned in the reference and the employee.

Evaluating References

On receipt, references should be checked to ensure that all specific questions have been answered satisfactorily. If all questions have not been answered or the reference is vague or unspecific, the referee should be telephoned and asked to provide written answers or amplification as appropriate. This makes it easier to clarify and/or expand upon certain aspect of the reference where necessary.

The information given should also be compared with the application form to ensure that the information provided about the candidate and his/her previous employment by the referee is

consistent with the information provided by the applicant on the form. Any discrepancy in the information should be taken up with the applicant.

References should be treated as confidential. Difficulties arise, however, where a reference raises a serious concern about the preferred candidate's suitability for the post. The referee's consent to the disclosure of the contents of the reference should be obtained prior to discussing the concerns directly with the candidate. As a result of receipt of an adverse reference, the panel may:-

- Seek clarification on the area of concern with the candidate during the interview. If this proves satisfactory, the panel may appoint.
- Refuse the appointment on the grounds of an unsatisfactory reference. Where this is the case the panel must ensure that the decision is fair and reasonable and based on justifiable grounds.
- Where the reference is unclear or hints at problems, it is advisable to telephone the referee in order to clarify the information. Notes of the conversation must be documented, dated, signed and placed on file.

Providing a Reference

An employer has a duty of care to exercise reasonable skill and care in the preparation of a reference. If this is not done adequately, the employee could bring a claim under one of the following:-

- Negligence – where reasonable care is not taken. An employer may be found to be liable if loss results from the employer's failure to exercise reasonable care in the preparation of a reference
- Defamation – where a reference contains a false or unsubstantiated statement that damages the reputation of a former employee. The employee may be able to claim damages
- Deceit – where a false statement is knowingly made.

The employer may be able to defend inaccuracies only where it can be shown it was given in good faith. Likewise, a disclaimer of responsibility could be included:-

"Whilst pleased to provide this reference, it is given on the understanding that this is done without legal responsibility and with the exclusion of legal liability on the part of and in respect of the organisation providing the reference and the author of it and without legal liability to the subject of it and the recipient of it".

However attractive this disclaimer may appear, it would be unlikely to protect where the supplier of the reference fails to comply with the duty of care, maliciously defames or intends to deceive, however, it can be used to assist in preventing the success of claims.

It should be noted that the author of a reference also owes a duty of care to the recipient of the reference if the reference was carelessly favourable or contained omissions.

Care should be taken to ensure that references are:

- Provided only by those members of staff in organisation who are authorised to do so.
- honest and the facts are correct. Even if the discrete components are factually correct care should be taken to ensure that the reference does not give a misleading overall impression of the individual.
- carefully considered. Be cautious about giving subjective opinion about an individual's performance, conduct or suitability which cannot be substantiated with factual evidence

- written for a specific job vacancy. They should not be written as an “open reference”, to be used on an ad-hoc basis.
- provided on headed notepaper on behalf of the organisation in response to specific requests from the prospective employer

Open references are often sought at times of dismissal, redundancy, conduct or capability. Managers sometimes provide these references with the best of intentions, in the hope that the employee will secure alternative employment.

It is recommended that this type of reference only be provided where agreement has been reached between employer, employee, TU representative and HR, for an agreed reference to be produced as part of a compromise agreement.

However, ‘compromise agreements’ by which an individual agrees to resign and the agency/organisation agrees not to pursue disciplinary action should never be used in situations which follow a substantiated allegation of illegal or inappropriate behaviour against a child.

Appendix 5: Staff Disqualification Declaration

Name:

Position:

Name of Headteacher/Manager:

Please answer the questions and sign the declaration below to demonstrate that you are safe to work with children. If there are any aspects of the declaration that you are not able to meet, you should disclose this immediately to the Headteacher/Manager.

This declaration uses online links to the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 (“the 2018 regulations”) and obligations under the Childcare Act 2006 in schools. Hard copies of these are also available from the school office.

Please circle yes or no against each question:

Section 1 – Orders or other restrictions	Please respond
Have any orders or other determinations relating to the care of children been made in respect of you? A full list of care orders and determinations can be found in Table B: Relevant Orders	YES/NO
Have any orders or other determinations related to childcare been made in respect of a child in your care?	YES/NO
Have any orders or other determinations been made which prevents you from being registered in relation to child care, children’s homes or fostering? A full list of care orders and determinations can be found in Table B: Relevant Orders	YES/NO
Are there any relevant orders, restrictions or prohibitions in respect of you as set out in Schedule 1 of the Regulations? The Regulations are available from the school office or at the link below: Disqualification under the Childcare Act 2006 – GOV.UK	YES/NO
Are you barred from working with Children (Disclosure and Barring (DBS)?)	YES/NO
Are you prohibited from Teaching?	YES/NO

Section 2 – Specified and Statutory Offences	Please respond
Have you been cautioned (including a reprimand or warning) since 6 April 2007 or have you been convicted of:	YES/NO
Any offence against or involving a child? (A child is a person under the age of 18)?	YES/NO
Any violent* or sexual offence against an adult? * A violent offence in this context is murder, manslaughter, kidnapping, false imprisonment, ABH, GBH.	YES/NO
Any offence under the Sexual Offences Act?	YES/NO
Any other relevant offence? Available from the link below for Schedule 2 and 3 of the Regulations: The Childcare (Disqualification) Regulations 2009	YES/NO
Have you ever been cautioned, reprimanded, given a warning for or convicted of any similar offence in another country?	YES/NO

If you have answered YES to any of the questions above you should provide the details below in respect of yourself, or where relevant the member of your household. You may supply this information separately, if you so wish, but you must do so without delay.

You should also provide a copy of the relevant order, caution, conviction etc. In relation to cautions/convictions a DBS Certificate may be provided.

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Signed..... Date action taken.....