



REC

Recruitment
& Employment
Confederation

Putting Pupils First

The essential guide to safeguarding
and good recruitment practice



Executive Summary

Teacher recruitment remains one of the major challenges facing school leaders.

The aim of this guide is to provide an overview of changes to safeguarding requirements, employment regulations and hiring trends that schools need to be aware of when recruiting both permanent and temporary supply staff.

As the professional body for the UK recruitment industry, the Recruitment & Employment Confederation (REC) is committed to working with schools, academy chains, local authorities and teaching unions to promote compliance and good hiring practices. Our aim is also to help schools to identify and develop good working relationships with compliant agencies.

1

Safeguarding: What are the legal obligations for schools and agencies?

Safeguarding requirements have continued to evolve over recent years. The challenge for schools is to ensure that new requirements are effectively implemented and that there is clarity in terms of respective obligations when working with external recruitment providers.

Safeguarding checks must cover a candidate's identity, their right to work in the UK, enhanced DBS check and professional qualifications.

When hiring temporary staff, it is the responsibility of the supply agency to undertake safeguarding checks. Proof that these checks have been undertaken should be provided to a school prior to the start of a candidate's assignment. Schools are required to maintain a single central record for their own staff as well as for supply staff.

The REC requires its members to undertake a status update check annually on all candidates working within schools, which is more frequent than the base limits established by DfE guidance.

2

How are recruitment agencies regulated?

The UK recruitment sector is governed by a number of regulations and government inspectorates. One of the REC's aims is to ensure that schools, supply agencies and individual workers have a consistent understanding of current legislation covering the recruitment process.

Recruitment agencies in the UK are governed by the [Conduct of Employment Agencies and Employment Businesses Regulations 2003 \(Conduct Regulations\)](#), which cover restrictions on the manner in which fees can be charged as well as the information that schools must make available to agencies to ensure that they meet their responsibilities.

Under the updated regulations, supply agencies are no longer required to agree terms with schools when supplying staff. However, under the REC's Code of Professional Practice, members are still required to agree terms with schools.

[The Agency Worker Regulations \(AWR\)](#) require that a temporary worker be provided with equal treatment, in terms of pay and conditions, compared with directly recruited staff after 12 weeks of an assignment.

The abolition of statutory pay scales has made it more difficult for schools to identify 'equal treatment' measures, but specialist agencies are committed to helping schools meet their requirements. Although this legislation is based on an EU Directive, there is no immediate prospect of the regulations being amended or repealed.

3

What can schools expect from compliant supply teacher agencies?

Compliant supply agencies provide crucial support to schools by supplying qualified and effectively vetted staff, often at short notice. Helping schools to identify good agencies to work with is a key part of the REC's work.

REC members must comply with the industry's [Code of Professional Practice](#) and pass a mandatory compliance test. Asking suppliers whether they are REC members provides an important filter.

Agencies within REC membership must agree all fees with a school before any services are provided and must be transparent in all dealings with teachers and schools. Agencies must also check that candidates are willing to work in a position before they are supplied to a school.

The REC Code is enforced through a Complaints and Disciplinary Procedure and a Professional Standards Committee, made up of industry peers and trade union representatives.

A number of supply agencies have gone further in demonstrating compliance by undertaking the [REC Audited Education](#) accreditation. This initiative builds on the previous Quality Mark scheme which the REC managed on behalf of the Department for Education for over ten years and provides schools with a recognised kitemark when selecting an agency to work with.

1. Safeguarding

Safeguarding: Legal obligations for schools and agencies

This section sets out what schools and agencies need to do to meet their legal obligations.

Schools have a duty to ensure that the supply agencies they use carry out the same safeguarding checks on supply staff as the school is required to carry out on its own staff.

Keeping Children Safe in Education (KCSIE) is statutory guidance issued by the Department for Education. The guidance states that schools and colleges must ensure that they get written confirmation from supply agencies and third parties that the same checks have been carried out for staff who they supply to schools as the school would carry out on its own staff.

KCSIE 2020 contains important guidance on how schools should handle abuse allegations made against supply staff. It makes it clear that schools hold a responsibility to fully explore concerns about supply staff where allegations are made.



Checks that agencies and schools must carry out

- ✓ Verify a candidate's identity, preferably from current photographic ID and proof of address except where, for exceptional reasons, none is available
- ✓ Obtain a certificate for an enhanced DBS check with a barred list check where the person will be engaging in regulated activity such as teaching or supervising children
- ✓ Ensure that a potential candidate is not on a prohibited list. Such checks are undertaken via a system called the Employer Access Online Service
- ✓ Verify the person's right to work in the UK following Home Office advice on the GOV.UK website
- ✓ If the person has lived or worked outside the UK, make any further checks the school or college consider appropriate (see relevant sections to follow)
- ✓ Verify professional qualifications, as appropriate. And additionally – where relevant, check whether the person is disqualified under the childcare provisions.

Obtaining a certificate for an enhanced DBS check which includes barred list information: DBS certificates and the DBS update service.

The Disclosure and Barring Service (DBS) is responsible for issuing DBS certificates. DBS checks form part of the process of checking that individuals are suitable to work in schools. The DBS Update Service provides a robust process for checking individuals' criminal records.

Why is the Update Service important?

The Update Service allows for routine safeguarding checks to be undertaken via an online portal. The check is a seamless method for ensuring that no new information has come to light in respect of a candidate working within a school since the DBS check was first taken.

The facility benefits candidates who are regularly required to produce a criminal record check. The Update Service potentially means that a person will only ever need to apply for one DBS certificate. New employers must ask to see the original certificate and then use the online facility operated by the DBS to carry out a status check, which will confirm whether the certificate is still correct or if any new information has been added to the candidate's file. In the latter case, the employer will be directed to ask the candidate to apply for a new certificate that will then show the updated information.

The guidance for schools makes the following reference to DBS checks:

"A DBS certificate must be obtained from the candidate before or as soon as practicable after appointment."

Alternatively, if the applicant has subscribed to it and gives permission, the school or college may undertake an online update check through the DBS Update Service.

Individuals can join the DBS Update Service when applying for a new DBS check; this will allow them to re-use this check when applying for similar jobs. With the individual's consent, their employer can go online and carry out a free, instant check to see if a new certificate is required: www.gov.uk/dbs-update-service

Did You Know?

The REC requires its members to undertake a status update check at least annually on all candidates working within schools. This provides an additional layer of protection to schools.

Did you know?

Subscribing to the Update Service is a cost-effective way for supply staff to ensure that they are available for assignments via multiple agencies at one fixed cost of £13 per year (subject to change).

Supply agencies can also use the Update Service when carrying out DBS checks as an alternative to asking candidates to apply for a new certificate. This is an ideal system for supply staff who work in different schools and with different supply agencies. If the online check shows that there is new information on the candidate's certificate, it will state that the candidate needs to apply for a new certificate.



This process can only be used if the candidate has subscribed to the Update Service. If the candidate has not subscribed, the supply agency should ask the candidate to apply for a new DBS check certificate.

Under previous DfE statutory guidance for schools, Criminal Records Bureau checks were described as having a three-year shelf life. **This guidance has been repealed.** The DBS states that DBS certificates have no end date. This means that consideration now needs to be given to how long individuals should be able to rely on an existing DBS certificate before a fresh status check is carried out or a new certificate is obtained. Supply agencies should have in place a policy that addresses this and is consistent with the policy of the schools they are supplying.

The REC requires members to:

- ✓ Carry out a status check for new candidates that they register or, if they are not subscribed to the Update Service, ask the candidate to apply for a new DBS certificate
- ✓ Use the Update Service to carry out a status check at least every 12 months (or ask candidates to apply for a new certificate if they are not subscribed to the Update Service)
- ✓ In any case the supply agency must adopt a policy that is consistent with the school's own policy for obtaining DBS checks.



Disqualification - relevant childcare roles

The Department for Education has issued **statutory guidance** regarding the obligations for schools under the Childcare (Disqualification) Regulations 2009. The guidance explains the basis on which staff may be disqualified from undertaking certain childcare roles.

Supply agencies are aware of the disqualification provisions and, as part of their legal obligations to check the suitability of anyone before they supply them to schools, they must also carry out disqualification checks. This only applies if the role will involve any relevant childcare work.

Following a consultation exercise in 2016, the DfE decided to remove disqualification by association in relation to roles in schools and registered non-domestic childcare settings.

This means that since August 2018 there is no longer a requirement for schools to carry out checks to determine whether staff who carry out relevant childcare roles are disqualified by association, and accordingly, employment businesses that supply staff to schools will also no longer be required to carry out such checks.

There is no change to the ongoing requirement to seek information to determine whether a person carrying out relevant childcare roles is disqualified in their own right.

Therefore, it is essential that when schools instruct agencies, they provide them with all relevant information about the role, and particularly whether the work may involve relevant childcare work.

Candidates/staff who have worked or lived overseas

“Individuals who have lived or worked outside the UK must undergo the same checks as all other staff in schools or colleges. In addition, schools and colleges must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered.” – Keeping Children Safe in Education, 2020

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 in schools or colleges. This includes obtaining an enhanced DBS certificate even if the individual has never been to the UK. In addition, schools and colleges must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered.

These checks could include, where available:

- ▶ Criminal records checks for overseas applicants; and for teaching positions
- ▶ obtaining a letter of professional standing from the professional regulating authority in the country in which the applicant has worked.

Where available, such evidence can be considered together with information obtained through other pre-appointment checks to help assess their suitability. Where this information is not available schools and colleges should seek alternative

methods of checking suitability and or do a risk assessment that supports informed decision making on whether to proceed with the appointment. Although sanctions and restrictions imposed by another regulating authority do not prevent a person from taking up teaching positions in England, schools and colleges should consider the circumstances that led to the restriction or sanction being imposed when considering a candidate's suitability for employment.

Supply agencies should follow similar steps to check staff before they are supplied to schools. The further checks that are appropriate are not specified by the DfE and it is left to schools and supply agencies to determine what checks will be carried out.

The checks may vary depending on the country that the individual has lived and/or worked in previously, as different countries have different processes in place for checking criminal records and other suitability checks.

The Home Office has provided advice on the criminal record information that is available in different countries and the DfE has provided guidance on the employment of overseas-trained teachers (from the European Economic Area and some other countries). These can be used by schools and supply agencies. The REC recommends that supply agencies ensure they are aware of the school's own policy for carrying out these checks.

Single central record

The single central record that schools are required to keep must also include information about supply staff. The record should include details of the checks that have been done in respect of such staff along with the relevant dates. Supply agencies should help schools in complying with this requirement by providing detailed written confirmation on what checks have been done.



Supply agencies should therefore confirm in writing that they have carried out the following checks:

- ✓ Identity check
- ✓ Enhanced DBS check with barred list check
- ✓ Prohibition from teaching check
- ✓ Further checks as required (for individuals who have lived/worked outside the UK)
- ✓ Professional qualifications
- ✓ Right to work in the UK.

Identity checks

Although the supply agency is required to check the identity of the individual who will be supplied, schools must also check that the person who presents themselves is, in fact, the person who has been checked by the supply agency.

Schools and supply agencies' legal duty to provide safeguarding information to the Disclosure and Barring Service

Providers of regulated activity, such as schools and colleges, have a legal duty to refer information to the DBS in the event that they remove anyone from carrying out regulated activity (or would have done so had the person not otherwise left) because:

- ▶ The 'harm test' is satisfied.
- ▶ They have engaged in 'relevant conduct'.
- ▶ They have been convicted of, or cautioned for, an automatic barring offence.

Teaching is an example of regulated activity. For further information about the 'harm test', relevant conduct and automatic barring offences, see the [DBS Referral Guidance: Frequently Asked Questions](#).

Supply agencies have a similar duty to refer information to the DBS about candidates they have provided to clients who are removed from carrying out regulated activity for the reasons above.

What is the position for supply staff and supply agencies?

The legal duty to refer information to the DBS applies to schools in relation to staff supplied by a supply agency, as well as their own internal staff. The legal duty to refer information to the DBS may apply if a school or college asks the supply agency to stop supplying a person or stops them from carrying out regulated activity because of any of the reasons referred to in the previous section.

Importantly, schools/colleges and supply agencies have a joint responsibility to refer information to the DBS. Because one party has made the referral does not mean that the other party is not also required to do so. As the decision to end the supply of the person is typically made by the school/college, it is helpful if they can clarify the reason that the assignment was ended (where possible) to help the agency determine if it is required to make a referral to the DBS.

This ensures that all parties can meet their legal obligations.

Schools, and agencies' legal obligation to refer information to the Teacher Regulation Agency (TRA)

Employers, including agencies, must consider whether to refer to the TRA details of any teacher that they dismiss or stop using because of serious misconduct, or might have dismissed or ceased to use their services had they not left first. This requirement is set out in the Education Act 2002.

The TRA may investigate the case and, if it is found that there is a case to answer, will decide whether to make a prohibition order in respect of the person. These provisions do not apply to teachers who work in further education colleges other than sixth form colleges.



2. Agency Regulations

How are recruitment agencies regulated?

The Employment Agencies Act 1973 and the Conduct Regulations are the key industry legislation for recruitment agencies. The Employment Agency Standards Inspectorate (EASI), which is part of the Department for Business, Energy and Industrial Strategy (BEIS), is currently responsible for enforcing the legislation (however, it is important to note that EASI will be incorporated into the new governmental single enforcement body that was announced in June 2021).

The Conduct Regulations are quite prescriptive in that they outline the requirements for a recruitment agency's relationship with its schools and candidates.

In particular, the Conduct Regulations:

- ▶ Require recruitment agencies to agree clear terms with candidates before any services are provided
- ▶ Impose restrictions on the way that fees are charged if, for example, a school takes on a member of staff who was supplied to them by a supply agency
- ▶ Require recruitment agencies to carry out suitability checks where candidates will be working with children
- ▶ Require recruitment agencies to obtain information from a school to help them select a suitable candidate for the role and then pass this information to the candidate so that the candidate is clear about the nature of the role. If schools can provide this information to agencies when requested, this will help agencies to meet their obligations.
 - ▶ Require agencies to carry out additional suitability checks for roles involving children, that is obtain copies of relevant qualifications or authorisations and offer to provide them to schools
 - ▶ Obtain at least two references from referees who have agreed that their reference may be provided to the school. The agency must offer the school copies of the references
- ▶ If the agency is unable to fully comply with these last two requirements, it must do so as far as possible but inform the school of steps it has taken. This enables the school to decide whether or not to accept a candidate.



Previously the Conduct Regulations required agencies to agree terms with schools.

However, following amendments to the Conduct Regulations, this is no longer a statutory requirement but agencies must still do this under the REC Code of Professional Practice.

Agencies must agree terms with schools before any services are provided, which must be clear about any fees that will be made to the school.

The Agency Workers Regulations 2010

What are the Agency Worker Regulations 2010?

The Agency Workers Regulations 2010 (AWR) came into force in October 2011 and provide agency workers with the right to equal treatment once an assignment at the same school extends beyond 12 weeks.

In the context of this guide, the temporary work agency is the supply agency. The hirer could be the local authority or board of governors/proprietor of free schools/academy trusts (depending on the type of school), but will generally be the party that employs the staff in the school. The agency workers are the supply staff.

Why does a supply agency need to know if a supply teacher has worked in this school before?

A supply teacher is entitled to equal treatment rights after working for 12 weeks within the same role and with the same hirer.

What information should the school provide to a supply agency?

The responsibility for providing equal treatment falls to both the supply agency and the hirer. In order to ensure equal treatment is provided, the supply agency will need to have information about the terms and conditions that the hirer would apply if it were engaging the supply staff directly.

The supply agency will need to know whether the supply staff have been supplied to the school previously, even if this was by another agency. This is because all of the time that has been worked at the school in the same role is considered when working out when the 12-week qualifying period has been reached.

For example, if a teacher is supplied by a supply agency to a school, once their assignment extends beyond 12 weeks they will be entitled to be engaged on the same terms and conditions as the hirer would have engaged the teacher if it had taken him or her on directly to do the same job. The Department for Education has produced [AWR guidance for schools](#) regarding supply teachers.

The supply agency will also need to obtain information from the school about the terms and conditions that the school would apply if it recruited the supply staff directly, that is, the school can ask itself the question:

“If we took on this supply teacher as our own employee rather than having him/her supplied by the supply agency and we were issuing an employment contract, what would the contract include in terms of pay, annual leave and duration of working time, night work, rest breaks and rest periods?”

What Is Equal Treatment?

Equal treatment is limited to certain employment terms and conditions that relate to:

- ✓ Pay
- ✓ Annual leave
- ✓ Duration of working time
- ✓ Rest breaks
- ✓ Rest periods
- ✓ Night work.

What responsibilities does the school have?

There are additional AWR benefits that supply agency workers are entitled to from day one of an assignment without completing the 12-week qualifying period.

These are:

Access to information about vacancies

This means the school must provide supply staff with information about any relevant vacancies and give the supply staff the same opportunity as its other employees in similar roles to find employment with the school.

Access to collective facilities

The supply staff must be given the same access to facilities such as canteen, child care facilities and transport services as the school provides to its own staff, unless there is justification for not doing so.

Policy for dealing with supply agencies

Schools may want to consider having a specific internal policy in place for using and working with supply agencies. The policy would be a helpful way of having a single comprehensive point of reference for staff to refer to when dealing with agencies.

Some of the areas that the policy could cover include:

- ▶ Details of staff members within the school who are responsible and authorised to instruct supply agencies
- ▶ A checklist of all the information that the school requires the supply agency to provide in respect of any staff supplied
- ▶ Details of the process that the school will use to check that the identity of supply staff matches the information provided by the supply agency
- ▶ A process for managing information that needs to be shared with the supply agency for the purpose of compliance with the Agency Workers Regulations 2010
- ▶ Providing information to the supply agency in relation to the Agency Workers Regulations 2010, for example parity of pay
- ▶ Details of the process that the school will follow if an allegation is made against a supply teacher.

Umbrella companies

Umbrella companies often work with supply agencies and supply staff in the education sector. In most cases the umbrella company engages the supply staff and is responsible for paying staff.

The umbrella company provides its services and staff to supply agencies, which in turn provide those services to schools and colleges. The supply agency must ensure due diligence and safeguarding checks are carried out in respect of the umbrella company workers supplied and is responsible for paying them.

Under Regulation 13A of the Conduct Regulations, agencies must supply workers with a Key Information Document from day 1. Where a worker is being supplied via an umbrella company, this document sets out key information about the worker's relationship with the agency and the umbrella company, including details about pay, holiday entitlement and other benefits. As not all of this information will be known to the agency, they must liaise with the umbrella to get the relevant information.

A teacher with curly hair and a beard is standing in a classroom, gesturing with his hands. To his left is a human skeleton. Behind him is a whiteboard with the title 'Biology Classwork' and a list of topics. In the foreground, the backs of several students' heads and their raised hands are visible, indicating an interactive lesson. The whiteboard text includes: 'Biology Classwork', 'Theme: Human skeleton', 'Adult skeleton 207 bones:', 'Cranial bones', 'Axial skeleton 33 bones', 'Appendicular skeleton 64 bones', 'Lower extremities', and 'Upper extremities 25 bones'.

3. How to choose an agency

What can you expect from a compliant agency?

Education agencies are well positioned to provide an additional add-on to your school's human resources function.

Supply agencies provide supply staff at short notice, with the required qualifications and experience and having passed all required suitability checks.

The key for schools is to identify compliant agencies to work with, and be aware of, what they should expect from a good recruitment provider.

Why should I work with an REC recruitment agency?

- ✓ Signed up to the REC Code of Professional Practice
- ✓ Comprises experienced professionals
- ✓ Fulfils the HR function gap in a school
- ✓ High standards on qualifications and safeguarding
- ✓ Well-developed pools of suitable candidates
- ✓ Responsive to immediate requirements
- ✓ Capable of removing unsuitable teachers and replacing them with alternatives
- ✓ Payment mechanisms link seamlessly into school business management models.



The right staff – whether teachers or in support functions – are what make the difference to a school's performance for pupils. This guide shows you how you can make sure you choose the right compliance-checked high-quality recruitment partner.

NEIL CARBERRY,
REC CHIEF EXECUTIVE

Driving compliance

How to Locate an REC Supply Agency

Visit the member directory and input your postcode at
www.rec.uk.com/membership/member-directory

The REC is committed to raising standards and highlighting excellence throughout the recruitment industry. Compliance is a fundamental cornerstone of membership of the REC. Any agency seeking to become and remain a member of the REC is required to sign up to and abide by the REC Code of Professional Practice (the Code), which requires basic statutory compliance as well as higher professional standards.

The Code has been created in consultation with both REC members and external stakeholders to ensure that all members conduct their businesses ethically, to the highest standards, and promote good practice. It is binding on all corporate members and allegations of breaches of the Code can be dealt with through the REC's Complaints and Disciplinary Procedure.

Schools and education workers are able to make complaints about an REC supply agency to the REC about any potential breaches by visiting: www.rec.uk.com/recruiters/compliance/complaints/making-a-complaint

Please note:

- ▶ We are unable to accept anonymous complaints
- ▶ A complaint must be made within one year of the event taking place
- ▶ The complaints procedure requires full disclosure, so if the complaint is taken forward (with your permission), the agency will see what you have written; in turn you will see what the agency writes
- ▶ We cannot investigate complaints against supply agencies that are not members of the REC.

Compliance test

To further demonstrate compliance, the REC has an online compliance test to assess an agency's knowledge of the relevant legislation and the Code.

This mechanism enables the REC to determine if new applicants meet the criteria for entry and whether they can continue to renew their membership by passing the compliance test every two years, as required by the REC.



REC

Audited

REC Audited Education

REC Audited Education was launched in 2013 as an accreditation scheme to identify best practice standards for agencies in the education sector. In order to achieve the accreditation, agencies must pass an audit.

The audit covers both teaching and non-teaching staff and goes beyond just compliance. It requires agencies to demonstrate that they operate best practice in other areas, such as customer service, staff development and diversity.

Holding the REC Audited Education logo demonstrates best practice and compliance with legislation. It is a requirement of the CCS and NPS education frameworks for agencies to hold an audit of an accredited auditing body. The REC is one of the accredited awarding bodies.

The audit process includes an online diagnostic, followed by a tailored on-site audit. As well as checking documentation> The REC will consult with the agency's staff about processes and systems, providing practical support to help agencies follow best practice. To ensure that all documentation and certification requirements are met, a sample of work seeker files are examined as part of the audit, including the following checks:

- ▶ Safeguarding
- ▶ Right to work
- ▶ Qualifications
- ▶ References and
- ▶ Health and Safety.

The Audited Process

1. Supply Agency completes an online diagnostic assessment
2. REC assessor conducts an on-site audit
3. The REC provides an audit report which may include actions a supply agency must implement
4. Supply agency is awarded REC Audited Education if the standard is met.
5. The annual diagnostic test is voluntarily undertaken to maintain REC Audited Education
6. Every two years a supply agency is required to renew REC Audited Education

For a list of agencies currently holding REC Audited Education, please view the [audited member directory](#)



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The Recruitment & Employment Confederation is the voice of the recruitment industry, speaking up for great recruiters.

We drive standards and empower UK recruitment businesses to build better futures for their candidates and themselves. We are champions of an industry which is fundamental to the strength of the UK economy.

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