

## SCHEDULE

### PART 1

#### CONDITIONS OF APPROVAL UNDER SECTION 342(1) OF THE 1996 ACT

##### **Special educational provision**

1. Arrangements must be made at the school with respect to—
  - (a) the registered pupils<sup>(1)</sup> for whom special educational provision is to be made, categorised by reference to the number, age and sex of day pupils and pupils for whom accommodation is provided respectively, and their respective special educational needs, and
  - (b) the special educational provision to be made for these pupils.

##### **Governing body**

2.—(1) The arrangements to be made at the school with respect to the composition and proceedings of the governing body and the appointment or election of its members must meet the requirements set out in sub-paragraph (2).

- (2) The arrangements must provide—
  - (a) for the governing body to include—
    - (i) at least one member appointed by one or more local authority,
    - (ii) at least one member elected by teachers at the school from among their number, and
    - (iii) at least one member elected by, or appointed to represent, parents of children at the school;
  - (b) that a governor is to hold office for a period of four years from the date of election or appointment, except in the case of a governor who is the head teacher of the school who may hold office as long as that person is the head teacher; and
  - (c) that the governing body must hold at least three meetings in every school year.

##### **Welfare of pupils**

3. The proprietor must make arrangements for safeguarding and promoting the health, safety and welfare of registered pupils at the school which—

- (a) have regard to any guidance, including where appropriate, the National Minimum Standards, about safeguarding and promoting the health, safety and welfare of pupils, and
- (b) include arrangements actively to promote the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.

##### **Suitability of staff and governors**

4.—(1) The suitability of a person who has been appointed to a position, which is not the position of chair of the governing body, must be checked in accordance with sub-paragraphs (3) to (7).

(2) A person's suitability for appointment to a position under this paragraph must be checked before the appointment is made, or if permitted, as soon as practicable after appointment.

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(1) For the meaning of "registered pupil" see section 434(5) of the 1996 Act.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(3) The proprietor must check—

- (a) the person's identity;
- (b) that the person meets all relevant staff qualification requirements; and
- (c) the person's right to work in the United Kingdom.

(4) The proprietor must ensure that, where relevant to the person, an enhanced criminal record check is made in respect of that person and an enhanced criminal record certificate is obtained before or as soon as practicable after the person's appointment.

(5) In the case of any person for whom, by reason of that person living or having lived outside the United Kingdom, obtaining such a certificate is not sufficient to establish the person's suitability to work in a school, the proprietor must make such further checks as the proprietor considers appropriate, having regard to any guidance issued by the Secretary of State.

(6) In the case of a person who cares for, trains, supervises or is in charge of pupils for whom accommodation is provided, in addition to the matters specified in sub-paragraphs (3) to (5), the proprietor must check that the National Minimum Standards are complied with.

(7) The checks referred to in sub-paragraphs (4) to (6) do not need to be carried out in relation to a person who has worked in—

- (a) a school in England in a position which brought the person regularly into contact with children or young persons,
- (b) a maintained school in England in a position to which the person was appointed on or after 12th May 2006 and which did not bring the person regularly into contact with children or young persons, or
- (c) an institution within the further education sector in England, or in a 16 to 19 Academy, in a position which involved the provision of education which brought the person regularly into contact with children or young persons,

during a period which ended not more than three months before the person's appointment.

### **Suitability of supply staff**

5.—(1) The suitability of a person supplied by an employment business to the school who is working as a teacher or member of support staff at the school must be checked in accordance with sub-paragraphs (2) to (6).

(2) The proprietor must have received—

- (a) written notification from the employment business in relation to that person—
  - (i) that it has made the checks referred to in paragraph 4(3) to the extent relevant to that person;
  - (ii) that, where relevant to that person, an enhanced criminal check has been made and that it, or another employment business, has obtained an enhanced criminal record certificate in response to such a check;
  - (iii) whether, if the employment business has obtained such a certificate before the person is due to begin work at the school, it disclosed any matter or information;
- (b) a copy of any enhanced criminal record certificate, obtained by an employment business before the date on which the person is due to begin work at the school; and
- (c) in the case of a person for whom, by reason of living or having lived outside the United Kingdom, obtaining such an enhanced criminal record certificate is not sufficient to establish the person's suitability to work in a school, written notification of such further checks made by the employment business as it considered appropriate, having regard

to any guidance issued by the Secretary of State and the information disclosed by such checks.

(3) Except in the case of a person to whom sub-paragraph (4) applies, the certificate referred to in sub-paragraph (2)(a)(ii) must have been obtained not more than three months before the date on which the person is due to begin work at the school.

(4) This sub-paragraph applies in relation to a person who has worked in—

- (a) a school in England in a position which brought the person regularly into contact with children or young persons,
- (b) a maintained school in England in a position to which the person was appointed on or after 12th May 2006 and which did not bring the person regularly into contact with children or young persons, or
- (c) an institution within the further education sector in England, or in a 16 to 19 Academy, in a position which involved the provision of education which brought the person regularly into contact with children or young persons,

during a period which ended not more than three months before the person is due to begin work at the school.

(5) Before a person offered for supply by an employment business begins work at the school, the proprietor must check the person's identity (irrespective of whether the employment business carried out such a check before the person was offered for supply).

(6) Except for a person to whom sub-paragraph (4) applies, the proprietor must check that where a person offered for supply to care for, train, supervise or be in charge of pupils for whom accommodation is provided, the National Minimum Standards are complied with, before that person may begin work at the school.

### **Suitability of the chair of the governing body**

6.—(1) A person may only be appointed chair of the governing body of a school if the requirements of sub-paragraphs (2) and (3) are satisfied.

(2) Checks must have been made that the individual—

- (a) is not barred from regulated activity relating to children or vulnerable adults, or to both, in accordance with section 3 of the 2006 Act, where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and
- (b) does not carry out work, or intend to carry out work, at the school in contravention of a prohibition order or an interim prohibition order.

(3) The Secretary of State must make the following checks relating to the individual —

- (a) where relevant to the individual, an enhanced criminal record check, countersigned by the Secretary of State, where an application for such a check is made under section 113B(1) of the 1997 Act,
- (b) checks confirming the individual's identity and their right to work in the United Kingdom, and
- (c) in the case of an individual, for whom by reason of that individual living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish the individual's suitability to work in a school, such further checks as the Secretary of State considers appropriate.

(4) Where an enhanced criminal record check is made, the Secretary of State must obtain an enhanced criminal record certificate relating to the individual.

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### **Register of checks**

7.—(1) A register of checks containing the information referred to in sub-paragraphs (3), (4) and (6) must be maintained by the proprietor.

(2) The register may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form.

(3) For each member of staff appointed on or after 1st May 2007, the following information including the date on which each such check was completed or the certificate obtained—

- (a) a check was made to establish the person's identity,
- (b) a check was made to establish that the person meets relevant staff qualification requirements,
- (c) an enhanced criminal record certificate was obtained in respect of the person,
- (d) a check was made to establish the person's right to work in the United Kingdom, and
- (e) checks were made corresponding to those referred to in paragraphs 4(4), 4(5) and 4(6).

(4) For each member of staff in post on 1st August 2007 who was appointed at any time before 1st May 2007—

- (a) information indicating whether each check referred to in sub-paragraph (3)(a), (b), (d) and (e) was made;
- (b) information indicating whether an enhanced criminal record certificate was obtained; and
- (c) the date on which each such check was completed or certificate obtained.

(5) In the case of a member of staff who was appointed before 12th May 2006, sub-paragraph (4) applies only if the work brings the person regularly into contact with children or young persons.

(6) For supply staff, information indicating—

- (a) whether written notification has been received from the employment business that—
  - (i) it has made checks corresponding to those referred to in paragraphs 4(3), 5(2)(c) and 5(6), to the extent relevant to any such person, and
  - (ii) an enhanced criminal record check has been made and that it or another employment business has obtained such an enhanced criminal record certificate in response to such a check,

together with the date the written notification that each such check was made, or certificate obtained, was received; and

- (b) where written notification has been received from the employment business that it has obtained an enhanced criminal record certificate, whether the employment business supplied a copy of the certificate to the school.

### **Financial interests**

8.—(1) The school is not conducted for profit.

(2) No member of the staff may have a financial interest in the school other than by reason of receiving a salary that is unrelated to the financial performance of the school.

### **Financial viability**

9. The school is financially viable and the proprietor produces evidence relating to this, upon request by the Secretary of State.

## **Premises**

**10.**—(1) The premises of the school conform to the standards applicable to maintained special schools prescribed in regulations from time to time in force under section 542 of the 1996 Act<sup>(2)</sup>.

(2) If the Secretary of State is satisfied that it would be unreasonable to require conformity with any of the standards applicable to maintained special schools prescribed in regulations in force under section 542 of the 1996 Act, the Secretary of State may direct that different standards apply.

## **Fire safety**

**11.** The Regulatory Reform (Fire Safety) Order 2005<sup>(3)</sup> is complied with.

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(2) Section 542 has been amended by section 140(1) and (3) of, and Schedule 30, paragraph 158 and Schedule 31 to, the 1998 Act and [S.I. 2010/1158](#). The current regulations are the School Premises (England) Regulations 2012 ([S.I. 2012/1943](#)).

(3) [S.I. 2005/1541](#), to which there are amendments not relevant to these Regulations.