



Department  
for Education

**Consultation response form**

**Consultation closing date: 10 February 2016**  
**Your comments must reach us by that date**

# **Staffing and employment advice for schools**

**If you would prefer to respond online to this consultation please use the following link: <https://www.education.gov.uk/consultations>**

This consultation document is to advise that revised non-statutory '*Staffing and Employment Advice for Schools*' has been prepared to replace the department's statutory *Guidance on Managing Staff Employment in Schools*.

The advice is designed to help employers in all schools with staffing and employment matters, and to inform their decision making. It advises on matters contained within the School Staffing (England) Regulations 2009 and on wider staffing and employment issues.

The revised advice has been designed as more of a signposting document, directing users to where they can access the best sources of available advice and guidance.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

<b>Please tick if you want us to keep your response confidential.</b>	<input type="checkbox"/>
Reason for confidentiality:	

Name: Sarah McKimm	
Please tick if you are responding on behalf of your organisation.	<input checked="" type="checkbox"/>
Name of Organisation (if applicable):Independent Schools Inspectorate	
Address: CAP House 9-12 Long Lane London	

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by email: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk) or by telephone: 0370 000 2288 or via the Department's ['Contact Us'](#) page.

1 Did you regularly refer to the previous advice that the Department issued; *Guidance on Managing Staff Employment in Schools*, and did you find the advice and guidance it provided to be helpful?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
------------------------------	--

Comments:
-----------

2 Do you have any comments regarding the format of the new advice as compared to its predecessor; is the change to signposting to relevant sources of advice and guidance preferable to the former approach?

Yes

No

Comments:

3 Do you think that the associated regulations: *School Staffing (England) Regulations 2009* are now also in need of revision?

Yes

No

Comments:

There should be closer alignment between the *School Staffing (England) Regulations 2009* and the *Independent School Standards Regulations 2014* in relation to recruitment specifically so that all schools in both sectors are held to the same standards in relation to recruitment and vetting as this is intrinsic to safeguarding.

4 Is there anything that you consider as crucial advice for schools, academies and other users that was previously referred to in the *Guidance on Managing Staff Employment in Schools* and which is no longer referenced in the new advice?

Yes

No

Comments:

5 Are there any further comments regarding the new advice you wish to make?

Yes

No

Comments:

It is not apparent from the cover that it does not apply to independent schools (until para 1.4) or that it is not statutory.

### **Para 2.3 References**

The document advises to get references from the current or former employer and follow up discrepancies with the author. We strongly support this advice.

- It should be made clearer whether the reference to a “former” employer, refers to the most recent former employer or any former employer.
- KCSIE does not prescribe from whom references should be taken- so there is a gap in the advice for the indep sector as this advice is not offered to the independent sector.
- It would be helpful if the non-statutory advice in this document and the statutory guidance in KCSIE are aligned.

- No number of references is stated. If the number is discretionary and a matter of professional judgement, it would be helpful if that could be stated expressly.
- A comment about the value of references which confirm only that a person worked somewhere between certain dates would be helpful, as this is a FAQ.

### **Capability**

The advice to ask whether the candidate has been subject to capability proceedings would be useful for the independent sector. Although the requirement to provide capability information does not apply to independent schools, it would still be sensible for the question to be asked and for advice to this effect to be provided to independent schools, either in this document or KCSIE.

### **Disciplinary**

Schools would also be well advised to enquire whether candidates have been subject to disciplinary proceedings.

### **Para 4.5 – Prohibition from teaching**

It would be useful to stress in KCSIE, but here also may be helpful, that checks for prohibition from teaching are required for anyone in a teaching role, whether or not they have QTS and whether or not they are peripatetic. This could even include sports coaches if they effectively act as teachers. The position in relation to people who run extra-curricular clubs should be explained eg the yoga “teacher” after school.

If there is no blanket rule about “teachers” at lunch time or after-school clubs but schools are to assess whether each is “teaching”, that should be stated.

It should be explained that teaching assistants are not included, as a general principle. The application of prohibition from teaching checks to the EYFS needs to be explained ie whether/when working with very young children is to be considered “teaching” for the purpose of this check.

**Para 4.8 –** Of “In line with their responsibilities under KCSIE, the governing body must reassure itself that all appropriate suitability checks have been undertaken and that the school keeps a single central record, detailing the range of checks it has carried out on its staff.”

A clear public statement in this advice or KCSIE about the purpose of the SCR, applicable to both the state and independent sectors, would be very helpful. According to the Independent school standards, it is to record specifically pre-appointment checks. If checks are updated intermittently, this would imply that there is no need to update the SCR and that to do so could damage the integrity of the original information (depending on how it is done). However, if the SCR is a management tool showing the most recent checks, then this could be in conflict with its role as a record of pre-appointment checks. These questions make the difference between findings of compliance and non-compliance in the independent sector, and therefore it would be helpful to have a common position across sectors and common wording in KCSIE, the ISSR and this document.

**Para.s 4.9 and 4.10 – DBS checks**

It may be useful to clarify that where a registered umbrella body is able to supply the authentic results from the DBS of a criminal record check at the right level, with barring information if necessary, electronically, schools may rely on this and are not required to see a paper copy of the certificate. Possibly it could be suggested that schools should check a sample of electronic e-certificates against paper certificates from time to time.

**Para 5.10 – Health and physical capacity**

KCSIE refers only to “fitness to teach” but the relevant regs apply to all staff, not just teachers, certainly in the independent sector.

- KCSIE and this advice should be aligned on this.
- It should be made clearer exactly who is to be considered “staff” in this context, in both the maintained and the independent sector, because the statutory definition goes wider than employees and it is not always clear what the boundary is.
- The state and independent sectors should be aligned on this - It needs to be made clear whether the apparent permission in KCSIE for the state sector to apply this only to those who teach can be applied to the independent sector also or, conversely, whether checks of fitness are required for all staff (not just teachers) in the state sector.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

<b>Please acknowledge this reply.</b>	x
Email address for acknowledgement: sarah.mckimm@isi.net	

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, please confirm below if you would be willing to be contacted again from time to time either for research or to send through consultation documents?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
---	-----------------------------

All DfE public consultations are required to meet the Cabinet Office [Principles on Consultation](#)

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and use real discussion with affected parties and experts as well as the expertise of civil service learning to make well informed decisions
- departments should explain what responses they have received and how these have been used in formulating policy
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

If you have any comments on how DfE consultations are conducted, please email: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk)

**Thank you for taking time to respond to this consultation.**

Completed responses should be sent to the address shown below by 10 February 2016

Send by post to: Peter Windram, Department for Education, Bishopsgate House, Feethams, Darlington, DL1 5QE

Send by email to: [staffing.employment.consultation@education.gsi.gov.uk](mailto:staffing.employment.consultation@education.gsi.gov.uk)