

## **Safe Recruitment Policy**

### **Legislation / Guidance that informs this policy**

- Education Act (2002)
- Safeguarding Vulnerable Groups Act (2006)
- The Education (Independent School Standards) (England) Regulations (2014)
- Protection of Freedoms Act (2012)
- Keeping Children Safe in Education - KCSiE (Gov.UK Sept 2018)

*This policy supports the organisation's Safeguarding Policy.*

### **Other Red Balloon policies to be read in conjunction with this one**

- Safeguarding and Child Protection
- Whistleblowing
- Dealing with Allegations of Abuse against Staff
- Staff Code of Conduct
- Data Protection

### **Statement of intent**

Red Balloon is committed to ensuring that children attending its centres remain safe. A key element of this commitment is the organisation's policy and practice regarding the recruitment and retention of staff, trustees and volunteers.

### **Responsibility for Implementation**

The DSL (designated safeguarding lead) and nominated trustee in each centre are responsible for ensuring good safe recruitment practice ie that no 'unsuitable' person is employed by Red Balloon or works as a trustee or volunteer.

### **Statutory requirements**

The Safeguarding Vulnerable Groups Act (2006) established the Independent Safeguarding Authority (ISA) to make decisions about individuals who should be barred from working with children and to maintain a list of these individuals. The Protection of Freedoms Act (2012) merged the ISA with the Criminal Records Bureau (CRB) to form a single, new, non-departmental public body called the Disclosure and Barring Service (DBS).

Under the Safeguarding Vulnerable Groups Act (2006) it is an offence for an employer to knowingly employ someone in a regulated position if that person is barred from such work. It is also an offence for the individual who has been barred to apply for a regulated position (one which involves spending regular time working with children).

The Protection of Freedoms Act (2012) reduced the scope of 'regulated activity' by focusing on whether the work is unsupervised (in which case it counts as 'regulated activity') or supervised. The new definition of regulated activity came into force on 10 September 2012 and was issued in conjunction with guidance on the level of supervision required to take work out of the scope of regulated activity.

The Safeguarding Vulnerable Groups Act (2006) also imposed the legal requirement on employers to refer to the ISA (now DBS) information about employees or volunteers who (may) have harmed children while working for them.

In 2013 (updated July 2015, further in May and September 2016 and again in September 2018) the DfE issued further statutory guidance: 'Keeping Children Safe in Education'. Compliance with this guidance (for independent schools) is required under section 157 of the 2002 Education Act.

### **Practice:**

As required within this statutory guidance, Red Balloon will ensure that it:

“operates safe recruitment procedures including making sure that statutory duties to check staff who work with children are complied with and statutory guidance relating to volunteers is followed” ... and, “that proportionate decisions are taken on whether to require any checks beyond that and recruitment panel members are properly trained”.

Red Balloon will ensure that in pursuing safe recruitment procedures it does not discriminate against anyone for reasons of disability. In accordance with the 2010 Equality Act we will do all that we can to ensure any applicants with a disability suffer no discrimination whatsoever, and that, should they be appointed, they are supported to carry out their duties effectively (See Disability and Discrimination Policy).

**Red Balloon will ensure that no person who is known to pose a risk of harm to children engages in any 'regulated activity' or is engaged by the organisation in any role regardless of whether that role involves engagement in regulated activity.**

Regulated activity is defined as 'having the opportunity for contact with children',

specifically through:

- teaching, training, caring or supervising young people to include all work carried out within a school;
- providing advice or guidance on the wellbeing of young people;
- driving a vehicle that is being used solely for the purpose of transporting young people.

#### *Checks on new staff:*

DfE regulations for schools contain a statutory duty that schools must obtain a barred list check with an enhanced criminal records check for newly appointed staff. The DBS check is only statutorily required for staff who within the three months before their appointment have not worked in:

- a school in England in a post which brought them into regular contact with children or any post they were appointed to since 12 May 2006;
- an FE college in England in a position which involved the provision of education and regularly caring for, training, supervising or being in sole charge of children or young people under the age of 18...

but, whilst an employee may begin employment, Red Balloon practice is that, unless the DBS is portable, a new DBS will be applied for and a barred list check will always be carried out (even for staff transferring from current employment in regulated activity).

KCSiE (Sept 2018) states that: "There are certain circumstances where schools and colleges may obtain an enhanced DBS certificate (not including barred list information), for volunteers who are not engaging in regulated activity. This is set out in DBS workforce guides, which can be found on GOV.UK. Employers are not legally permitted to request barred list information on a supervised volunteer as they are not considered to be engaged in regulated activity".

#### *Recruitment procedure:*

When a post becomes vacant or a new post is created, an appointment group will ensure that an appropriate job description and person specification are written. The group will decide where adverts are to be placed and set closing dates for application, together with shortlisting and interview dates.

Shortlisting will take place against the requirements within the person specification and candidates notified as to their success or otherwise within three days of the process being undertaken.

An interviewing panel will have been convened by the appointment group. At least one member of that panel MUST have undertaken safe recruitment training, or update of that, within the previous two years.

Any offer of employment will be made subject to the satisfactory completion of pre-employment checks. The chair of the interviewing panel will ensure that the following actions are pursued:

- Verify the candidate's identity - photographic ID and proof of address should be seen except where, for exceptional reasons, none is available - the DBS requires that a person's identity has been properly verified for the purposes of an application for an enhanced criminal records check.
- Check (prior to appointment) that the qualifications required for the post are held by the applicant.
- Verify the person's right to work in the UK - if there is uncertainty about whether an individual needs permission, then the UK Border Agency's immigration enquiry bureau at [UKBApublicenquiries@ukba.gsi.gov.uk](mailto:UKBApublicenquiries@ukba.gsi.gov.uk) will be contacted.
- If the disclosure is not considered sufficient to establish suitability to work in a school (because it would not cover offences committed abroad, but only those on the police national computer), obtain whatever evidence of checking is available from the person's country of origin (or any other countries in which he or she has resided) and do this before the appointment is made. There is no definite specification as to how long the applicant would need to have lived outside the UK for such checks to be sought... but the NSPCC advises three months, and Red Balloon will follow that advice (NB The Home Office has published updated guides on what checks are available from different countries - a UK national returning after working in a foreign country should be asked to obtain a certificate of good conduct or equivalent from the country in question - extra references should be requested for applicants from countries which do not provide criminal record checks).
- Access an enhanced DBS check.
- Verify the candidate's medical fitness - it is the statutory responsibility of

employers to satisfy themselves that individuals have the appropriate level of physical and mental fitness before an appointment offer is confirmed. Potential appointees will be asked to complete a form asserting they they are physically and mentally able to meet the requirements of the post for which they have applied.

- Ensure a prohibition check is pursued - QTS (Qualified Teacher Status) is not a requirement for teachers in the independent sector, but schools must now check that anyone employed to carry out teaching work is not subject to a prohibition order issued by the Secretary of State - the check is completed via the secure access portal on the 'Teacher Services' webpage, and can be undertaken on individuals who do not have QTS by searching by name on the list of banned people (this applies to those appointed to teach on or after 1 April 2012). Any prohibition from work made by the now defunct GTCE (General teaching Council for England) remains current and any position who has been subject to disciplinary proceedings by that body will not be considered for work within the organisation.
- Check (from 18.01.16 ) whether any 'teacher restrictions' have been imposed by any European Economic Area (EEA) Authorities responsible for regulating the teaching profession.. Restrictions imposed by other EEA authorities do not prevent an individual from taking up a teaching position in England, but any Red Balloon recruitment panel will consider the restriction when considering a candidate's suitability for appointment.

*The above checks will be completed before a person takes up a position. An enhanced disclosure must be obtained before, or as soon as practicable after, appointment. Pending arrival of an enhanced disclosure, the proprietor of a centre has the discretion to employ the person with appropriate safeguards, provided those safeguards (eg supervision) are clearly stated, the postholder is informed of the safeguards and they are reviewed at fortnightly intervals. A note must be placed on the SCR to this effect.*

References will always be sought prior to appointment. KCSiE (Sept 2018) states that: "The purpose of seeking references is to obtain objective and factual information to support appointment decisions. References should always be obtained and scrutinised and any concerns resolved satisfactorily, before the appointment is confirmed, including internal candidates".

Two references will be taken up, ideally before interview, including a request for any reason why the applicant should not be employed for work with children. If a reference is taken over the telephone, detailed notes will be taken, dated and signed. A subsequent hard copy will also be requested. References will be read on receipt to check that all specific questions have been answered satisfactorily, with appropriate follow-up where required. References not received in good time before appointment will be chased by telephone and alternative referees sought if needed.

References sent by email should come from a business account. If the provider does not have access to a business account and uses a personal 'server' (eg they may be retired), then telephone calls will be made to ascertain the legitimacy of the provider and the reference.

Where there have been gaps in an applicant's employment history, the appointing panel must satisfy themselves, either through references or at interview, that the reason(s) for those gaps is / are legitimate.

Should a reference (or references) arrive after the interview and indicate gaps in service or any other issue that requires further interrogation, then a member of the interviewing panel will meet with the potential appointee to seek confirmation regarding their suitability for appointment.

All posts will be offered initially on a probationary period. If there are any concerns, particularly of any threat to students' welfare or safety, then employment may be terminated immediately during that period. If the probationary period is successfully completed, then the employee will move on to a permanent contract providing appropriate employment rights. Were there subsequently to be concerns re practice, they would be dealt with through the charity's identified processes (see 'Safeguarding', Whistleblowing' and 'Dealing with Allegations of Abuse against Staff' policies).

Red Balloon will refer anyone who has harmed or is considered to pose a risk of harm to a child and who has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left, to the DBS. "The legal duty to refer applies equally in circumstances where an individual is deployed to another area of work that is not regulated activity, or they are suspended" (KCSie Sept 2018) .

Staff in a management position will be checked to ensure that they are not barred from holding a management position. The regulations state that this applies to:

- headteachers,
- staff on the leadership team (including non teaching staff),

- teaching posts with departmental headship.

Staffing structures at Red Balloon Centres vary. The check will always be carried out for coordinators; coordinators, together with their chair of trustees, will decide whether checks are required for other members of staff ie who constitutes their 'management group'.

*Procedures applied to trustees:*

Each centre has its own group of trustees.

All chairs of trustees must obtain an enhanced DBS check. The same requirement applies to all full members of the trustee groups. Checks will be carried out prior to appointment, or as soon as practicable after appointment.

Any new trustee will be checked against the new 'prohibition from management' list: Red Balloon is clear that, "A section 128 direction also prohibits a person from taking up a position as governor (trustee) of a maintained school" (KCSiE Sept 2018).

Red Balloon will ensure that the proprietor of each centre has undergone all required checks (enhanced DBS, identity, right to work in the UK) and that their DBS check is countersigned by the Secretary of State.

*Procedures for agency staff:*

Red Balloon will always seek written notification from any agency provider that they have carried out the checks required by DfE regulations (identity, enhanced disclosure, right to work in the UK, DBS check, prohibition, qualifications, overseas checks, plus, in line with KCSiE advice, two references, declaration of medical fitness, check of previous employment history). An entry will be made on the SCR to indicate that these checks have been made. Regardless of assurances from an agency that a DBS check has been carried out, we will always require direct sight of the person's DBS check.

Centres will carry out their own identity check for all agency staff and insist that, upon arrival at a centre (including any temporary cover staff eg kitchen staff or an administrator), identity is 'confirmed'. A record will be kept of any such identity checks undertaken.

*Procedures for volunteers:*

Red Balloon understands that it is not allowed to check supervised volunteers against the barred list, and that there is no duty for an enhanced criminal records check to be obtained, although a coordinator may take the decision that it is prudent to seek such a check. KCSiE (Sept 2018) advises that, "schools and

colleges may choose to carry out an enhanced DBS check, without barred list information, in certain circumstances”. Given the nature of the Red Balloon student cohort we will always seek an enhanced DBS check.

The coordinator (or a member of staff to whom that responsibility is delegated) will undertake a risk assessment and utilise her/his professional judgement and experience to decide whether further checks should be sought in the case of all volunteers.

In reaching that decision s/he should consider:

- the nature of the work with children;
- what the establishment knows about the volunteer including formal or informal information offered by staff, parents and other volunteers;
- whether the volunteer has other employment or undertakes voluntary activities where referees can advise on suitability.

If a volunteer is to work in regulated activity, then the coordinator must decide what supervisions is required. The person carrying out such supervision must:

- be in regulated activity themselves;
- provide that supervision regularly on a ‘day to day’ basis.

The coordinator must assure her/himself that the level of supervision is, “reasonable in all the circumstances to ensure the protection of children” (KCSiE Sept 2018).

*Any instances where students are to be supervised by staff from another organisation:*

In any such circumstance the DSL will seek proof from the other organisation, be that school or other agency, that appropriate checks have been sought regarding any staff supervising regulated activity.

If any centre uses another ‘provider’ (eg activity centre, stables, gymnasium) written confirmation must be sought and received and filed from that provider confirming that all staff have been appropriately checked.

Red Balloon is fully aware that we remain responsible for the safeguarding arrangements for our students at all times, regardless of whether we place them with other organisations for any period of time.

*Staff subject to TUPE arrangements:*

If staff are transferred under TUPE and there is either no gap in employment, or a gap of less than three months, and all information is complete, then information will be passed to the new employer and a note made on the SCR that details have been accepted under TUPE.

*Contractors working on site:*

If contractors are working on site and they do not have a DBS check, appropriate risk assessments will be carried out and assurances sought from the employer that the contractors pose no threat to the safety of students. All efforts will be made to ensure that contact with students is kept to an absolute minimum and that students are made aware of their own responsibilities to pursue 'safe behaviour'. Should there be any concern whatsoever regarding the behaviour of a contractor (in terms of their engagement with students), then that person will be asked to leave the site immediately and the employer asked to provide different personnel to complete the work programme.

## **THE SINGLE CENTRAL REGISTER – THE LEGAL REQUIREMENTS**

Schools must keep a single central record so they have evidence to demonstrate to inspectors that they have carried out the range of checks required by the law. A copy of the documents used to verify the successful candidate's identity, right to work and required qualifications will be kept within a file that is maintained for that member of staff. Schools do not have to keep copies of vetting documents in order to fulfil the duty of maintaining the single central record.

An entry will be made for all current members of staff at the school, the trustee group, the proprietor and any individuals who work in regular contact with children including volunteers, supply staff and those employed as third parties.

KCSiE (September 2018) states that the SCR may be kept in paper or electronic format. All centres will maintain the record electronically, but will ensure that can be printed should inspectors require that.

For independent schools The Education (Independent School Standards) (England) Regulations (2014) describe the requirements of the SCR.

Policy updated Sept 2018, Bob Sproson ,Director of Education and RB

Safeguarding Lead.

The date for next policy review is September 2019, but should there be any change in regulatory requirements, or indication through inspection that amendment(s) is / are required, then the policy will be edited immediately.