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Purpose

Red Balloon is committed to ensuring that all children accessing our provision 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.

Scope

This policy governs the appointment of all RBNch employees (permanent and temporary) and volunteers (including trustees).

Policy statement and provision

Responsibility for Implementation

The DSL (designated safeguarding lead) and nominated Trustee are responsible for ensuring good safe recruitment practice i.e. 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 on numerous occasions, most recently September 2020) 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 2020) 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:

Advertising

- Careful consideration should be given to the advert for the role. These must be enticing, engaging and exciting for the reader whilst at all times being truthful and honest. The advert should contain such details as location, summary of the role, pay band/grade and how to apply.
- Suitable discussion must be had and recorded to show where the advert will be placed. Consideration should be given to whether to just use free recruitment sites or whether to pay for the adverts to attract a different calibre of candidate.
- Ensure it steers clear of any wording the employer is unsure about or thinks might be open to legal challenge. Apart from in very limited and lawful exemptions and exceptions, the advertisement must not discriminate on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy or maternity, race, religion or belief, sex (gender) and sexual orientation.
- No one should ever be appointed just on the basis of their CV. Application forms must be completed by each person wishing to be considered for a role within Red Balloon.
- The application process should be clear and concise and easy to follow, making effective use of such things as Job Descriptions, candidate briefing papers, applicant letter from the Head of Centre, annual reports and Red Balloon websites. Care should be given to ensuring the accuracy and veracity of all aspects of the advert.
- Wherever possible, all vacancies will be advertised simultaneously both internally (in all Centres and on the relevant Red Balloon website) and externally. Steps will be taken to ensure that knowledge of vacancies reaches under-represented groups.
- All vacancy advertisements will include an appropriate statement on equality and diversity.

Longlisting

- All equalities and monitoring forms must be removed and filed separately before any longlisting occurs.
- For roles attracting a large number of applicants, usually viewed as 40 or more, a longlisting process can be used to sift the initial tranche of application forms. This process can include such simple details as to whether the form was completed correctly, a large presence of spelling mistakes, a very short personal statement section or where all of the required forms are not returned. This process can be omitted if applicant numbers are manageable.

Shortlisting

- All applicants who remain in the process at this stage, after the possible use of the longlisting process will be scrutinised via the candidate shortlisting grid. Candidates will have just their initials entered across the top and all the relevant person specification required will be listed down the side. Ideally it will be the interview panel who individually complete this grid and then meet to discuss notes, findings and who they want to call for an interview. Ideally, for a day of interviews, no more than seven candidates should be called. Consideration should be given to extend the interview to

two days if more than seven are shortlisted. Alternatively, the shortlisting team can revisit the criteria and reduce the number of candidates down further.

- Every shortlisted candidate should show no gaps in their employment - care must be taken by anyone involved in shortlisting to ensure that any gaps are noted and marked for question and clarification with the relevant candidates.

Post shortlisting and pre-interview

- All shortlisted candidates will be contacted and invited to interview. Candidates that have not been shortlisted should be contacted to say that they have been unsuccessful. The interview panel, together with the HR Trustee should decide if just an interview on its own will provide enough information for them to choose the right candidate(s). Consideration should be given to the use of one or more of the following:
 - A presentation by the candidate to the panel
 - A written exercise to be completed at interview
 - An observed lesson/programme
 - A psychometric test
 - A group exercise
 - An in-tray/time management exercise
 - Any other suitable test or method to gain valuable insights into the candidate's ability to deliver on the role.
- All candidates must receive any relevant paperwork regarding the interview process and what will be expected of them, in a timely and accurate manner. The HR Trustee and Head of Centre must be careful to avoid any jargon or wording which only an existing staff member would understand.
- A suitable list of questions should be written to ensure the candidates are able to demonstrate their knowledge, skills, attitude and experience to be successful in post. The questions should cover a range of topics and scenarios specific to the advertised role and MUST contain at least one Safeguarding question and ALSO a question which ensures any issues as noted on a DBS check are explored.
- A pack containing all shortlisted application forms and relevant applicant details should be produced for each panel member. This should also include a blank questions template onto which the candidate's answers are recorded. Best practice is that notes taken from an interview are hand written and not input onto a laptop.

Interview

- The interview panel must consist of at least two, though ideally three staff/Trustees. One of the panel MUST be trained in Safer Recruitment training. A suitable introduction should be given by one of the panel to ensure each candidate is aware of the process and how the interview will be conducted alongside standard safety/fire safety instructions.
- Each of the panel should use their question template to record the candidate's answers. Panel members should not write down any scores to questions whilst with any candidate. Care should be taken to shield the questions from the candidates. Each candidate should not be able to see any paperwork about any other candidates.

- Candidates should be given the chance to ask their own questions at the end of the interview. They should also be told what the next steps are and when they are likely to hear the outcome of their interview

Appointment

- All interviewed candidates should be contacted with their outcome - ideally the successful candidate first. This allows for a regrouping and reconsideration of other candidates if the successful person turns down the offer.

Pre-employment checks

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 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 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 2020) 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 the 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 2020) .

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.

Procedures applied to trustees:

The chairs of trustees, together with all full members of the trustee groups, will be subject to an enhanced DBS check. 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: It is noted that, "A section 128 direction also prohibits a person from taking up a position as governor (trustee) of a maintained school" (KCSiE Sept 2020).

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.

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 headteacher may take the decision that it is prudent to seek such a check. KCSiE (Sept 2020) 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 Head of Centre (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 Head of Centre must decide what supervisions are required. The person carrying out such supervision must:

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

The Head of Centre must assure her/himself that the level of supervision is, "reasonable in all the circumstances to ensure the protection of children" (KCSiE Sept 2020).

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 another 'provider' (eg activity centre, stables, gymnasium) is to be used, 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.

Contractors working on any site:

If contractors are working on-site where Red Balloon students are in attendance 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, 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 2020) states that the SCR may be kept in paper or electronic format. We will record the SCR electronically, but will ensure it can be printed should inspectors require that.

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

Related legislation and documents

External Documents

Children Act (Gov. UK 1989)
Children Act (Gov. UK 2004)
General Data Protection Regulation - GDPR (May 2018)
Human Rights Act (Gov. UK 1998)
Education Act (Gov. UK 2002)
Education and Skills Act (Gov. UK 2008)
Sexual Offences Act (Abuse of Trust) (Gov. UK 2003)
Female Genital Mutilation Act (Gov. UK 2003)

Information Sharing; Advice for practitioners providing safeguarding services to children, young people, parents and carers (Gov.UK July 2018)
Counter-terrorism and Security Act (Gov.UK 2015)
Keeping Children Safe in Education - KCSiE (Gov.UK Sept 2020)
Revised Prevent Duty Advice for Schools (Prevent Duty Guidance: for England and Wales Gov.UK (July 2015)
Children Missing Education (Gov.UK Sept 2016)
Teacher misconduct: the prohibition of teachers (Gov.UK October 2015)
Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children (Gov.UK July 2018)

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

- Safeguarding
- Whistleblowing
- Esafety
- Attendance
- Dealing with Allegations of Abuse against Staff
- Student Wellbeing and Personal Development
- Behaviour for Learning
- Anti-Bullying

- Staff Code of Conduct
- Data Protection