



REC

Recruitment
& Employment
Confederation

Putting Pupils First

A guide for schools
using supply agencies

Executive summary



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As the professional body for the recruitment sector, the Recruitment and Employment Confederation (REC) represents over 3,000 recruitment businesses. A significant proportion of those support education providers. We are an Accreditation Body for the Crown Commercial Service Supply Teacher Framework, responsible for vetting supply agencies which are approved to supply staff to schools.

Ten years ago, we published the first version of Putting Pupils First, a guide to provide essential information to education leaders. It explains how supply agencies are regulated and what schools have the right to expect in terms of compliance and standards, when working with them.

Today, the REC remains committed to working with schools, academy chains, local authorities and teaching unions to promote compliance, high standards and good hiring practices.

This guide is designed to empower schools and colleges to make informed decisions when choosing a supply agency. It highlights how to meet safeguarding requirements to ensure safe and compliant staff hiring. It explains the legislation governing the recruitment industry and the effect this has on the supply of staff in education settings. Additionally, it emphasises the REC's commitment to fostering strong cooperation between schools and REC members for a seamless and effective partnership.



Introduction

Why being selective in choosing a supply agency matters

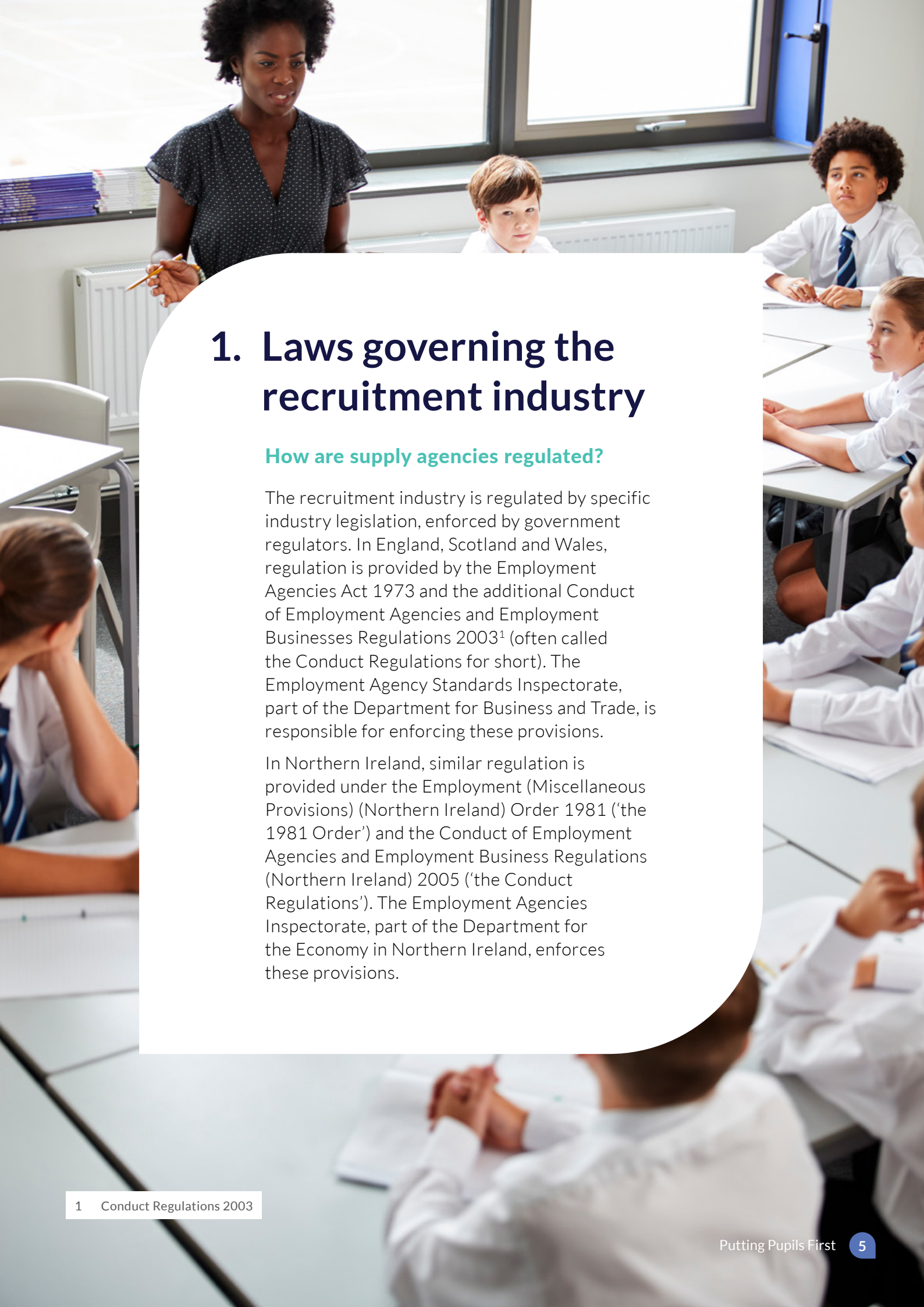
In 2023, teacher vacancies increased by 20%, from 2,300 in November 2022 to 2,800 in November 2023. Vacancies have also more than doubled in the previous three years, going from 1,100 in November 2020 to 2,300 in November 2023.

Temporarily filled posts also increased from 2,100 to 3,700 over three years. With teacher vacancies and reliance on temporary workforce in schools on the rise, it is important to partner with trusted, compliant and reliable supply agencies.

The supply of teaching staff is highly regulated, and compliant supply agencies provide crucial support to schools by providing qualified and vetted supply staff, often at short notice. Helping schools identify good supply agencies to work with is a key part of the REC's work.

REC members are part of a membership body which gives them access to a wide range of resources and supports to assist them in upholding high recruitment standards. REC members must comply with the REC Code of Professional Practice and pass a compulsory compliance assessment to enter and remain in REC membership. This ensures the schools they supply staff to are assured that they are partnering with quality supply agencies. The REC operates a robust complaints procedure and member agencies that do not meet REC standards can be sanctioned and ultimately expelled from REC membership. Look out for the REC logo when choosing a supply agency to work with as it is a widely recognised sign of quality within the recruitment sector.

Some REC members go further in demonstrating compliance and hold the REC Audited Education accreditation. Accredited members undergo a robust REC audit which assesses an REC member's compliance with key safeguarding and legal requirements. The REC is an Accreditation Body for the Crown Commercial Service (CCS)/ Department for Education (DfE) supply teacher framework. REC Audited Education is one of the approved accreditation products supply agencies are required to have to supply to staff to schools. REC Audited Education is also a recognised product for the Welsh government supply teacher framework, which similarly requires supply agencies to have an accreditation to supply onto the framework.

A photograph of a classroom scene. A female teacher with dark skin and curly hair, wearing a dark patterned top, stands and holds a pencil. She is looking towards a group of students. Several young students in white school uniforms are seated at desks. One boy in the foreground is looking towards the teacher. Another boy is looking out a window. A girl is looking towards the teacher. The classroom has large windows and white radiators.

1. Laws governing the recruitment industry

How are supply agencies regulated?

The recruitment industry is regulated by specific industry legislation, enforced by government regulators. In England, Scotland and Wales, regulation is provided by the Employment Agencies Act 1973 and the additional Conduct of Employment Agencies and Employment Businesses Regulations 2003¹ (often called the Conduct Regulations for short). The Employment Agency Standards Inspectorate, part of the Department for Business and Trade, is responsible for enforcing these provisions.

In Northern Ireland, similar regulation is provided under the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 ('the 1981 Order') and the Conduct of Employment Agencies and Employment Business Regulations (Northern Ireland) 2005 ('the Conduct Regulations'). The Employment Agencies Inspectorate, part of the Department for the Economy in Northern Ireland, enforces these provisions.

1 Conduct Regulations 2003

While these provisions cover all recruitment businesses, there are (specific) additional requirements for supply agencies working in the education sector as they are providing staff who work with children.

The Conduct Regulations provide a robust set of requirements that agencies must follow when working with schools and candidates. These requirements address the information that must be shared between agencies and schools and the processes that must be followed to ensure the selection of appropriate candidates. Under the Conduct Regulations, supply agencies should:

- ✓ Agree clear terms with candidates before any services are provided;²
- ✓ Have clear terms that set out how 'finders fees' will apply for supply staff that a school then chooses to employ directly;³
- ✓ Carry out suitability checks where candidates will be working with children;⁴
- ✓ Obtain information from a school to help them select a suitable candidate for the role and pass this information on to the candidate so that they are clear about the nature of the role. The provision of this information by schools when requested, will help agencies to meet their obligations;⁵ and
- ✓ Obtain at least two references from referees who have agreed that their reference may be provided to the school. The supply agency must offer the school copies of the references.⁶ If, in exceptional circumstances, the obligation to obtain two references cannot be met, supply agencies should always notify and get agreement from a school before a candidate is placed in an assignment.

2 Ibid, Regulation 14

3 Ibid, Regulation 10

4 Ibid, Regulation 22

5 Ibid, Regulation 18 and 21

6 Ibid, Regulation 22

Whilst supply agencies are no longer under a legal obligation to agree terms of business with schools, REC member supply agencies are still required to do so to comply with the REC Code of Professional Practice (the Code).⁷ This ensures transparency and certainty between you and REC member supplier agencies. It ensures that you know what to expect when you partner with an REC member supply agency.

When partnering with an REC member, the terms of business you are provided with should always contain the following information:

- ▶ The type of service to be provided;
- ▶ Details of fees and how they are calculated;
- ▶ Details of refunds/rebates;
- ▶ In the case of temporary supply agencies – details of transfer fees and extended period of hire; and
- ▶ The details of the procedure to be followed if the supply worker is found to be unsuitable.





Legislation for agency/supply workers

The Agency Workers Regulations 2010⁸ (the AWR) came into force in October 2011 and provide supply staff in England, Scotland and Wales with the right to equal treatment when working “in the same role with the same hirer for 12 continuous calendar weeks, during one or more assignments.”⁹ The Agency Workers Regulations (Northern Ireland) Regulations 2011¹⁰ provide similar rights to workers in Northern Ireland.

For example, if a teacher is supplied by a supply agency, once their assignment extends beyond 12 weeks they will be entitled to be engaged on the same terms and conditions as if you had employed them directly to do the same job.

Additionally, **there are rights that supply workers are entitled to from day one of an assignment without completing the 12-week qualifying period** under the AWR. These rights are:

► Access to information about vacancies¹¹

This means you must provide supply workers with information about any relevant vacancies and give them the same opportunity as your directly engaged staff in similar roles to find employment with you.

► Access to collective facilities¹²

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

8 Ibid

9 Ibid, Regulation 5

10 <https://www.legislation.gov.uk/nisr/2011/350/contents/made>

11 (n 44), Regulation 13

12 Ibid, Regulation 12



When are you considered to be the hirer under the AWR?

Under the AWR the person who is doing the hiring of supply staff is called the hirer. DfE has produced guidance¹³ on who the hirer is likely to be in different scenarios relating to agency supply teachers:

- ▶ In foundation schools, voluntary aided schools and foundation special schools, the “hirer” is the school’s governing body, being the legal entity to whom the worker is supplied.¹⁴
- ▶ In community schools, voluntary controlled schools, community special schools and maintained nursery schools, the “hirer” is either the local authority or the school’s governing body. It is a matter of fact to be determined in each case and depends on the entity the supply teacher is supplied to and who supervises and directs that person’s work.¹⁵
- ▶ For academies, including free schools, the “hirer” is the proprietor of the school often known as the “Academy Trust.” This will be the party responsible for supervising and directing that supply teacher.¹⁶
- ▶ In independent schools, the “hirer” is the proprietor of the school.¹⁷

It is important for you to give your supply agency information about the type of school supply staff will be working in. A good supply agency will be keen to protect you from any liabilities that could arise under the AWR. This information will be the key factor in establishing who the hirer will be for the purposes of the AWR. If, for example, the hirer is the Local Education Authority (LEA) rather than an individual school, a supply teacher who works in the same role in different schools run by the same LEA is likely to qualify for equal treatment more quickly than if the hirer was an individual school.

13 <https://www.gov.uk/government/publications/employing-agency-supply-teachers>

14 Ibid, 4

15 (n 47)

16 Ibid

17 ibid

When is a supply worker considered to be working in the same role for 12 weeks?

The AWR state that supply workers will be working in the same role unless they start a new role in which the work or duties are “substantively different.”¹⁸

There will be situations when it will not be easy to identify whether the work that supply staff are doing in a new assignment is “substantively different”, but the AWR focus on the work and duties performed during an assignment. If the only difference between an old and a new assignment is that the supply worker moves to another department or has a job title change, they are likely to still be working in the same role for the purposes of the AWR to be considered as working in a new role.

Government guidance¹⁹ on the AWR sets out questions which could assist you in determining whether roles are substantively different.

Questions you should be asking to decide whether a role is substantively different under the AWR.

- ▶ Are different skills and competences used?
- ▶ Is the pay rate different?
- ▶ Is the work in a different location/cost centre?
- ▶ Is the line manager different?
- ▶ Are the working hours different?
- ▶ Does the role require extra training - and/or a specific qualification that wasn't needed before?

The AWR state that a role “can be broadly”²⁰ similar. Because of this, even when a supply teacher does not fulfil identical duties as a teacher you engage directly, their role can still be compared to that of a directly engaged teacher. For example, a supply teacher may not be required to attend parents’ evening or do lesson planning, but if they carry out the role of a substantive teacher, they will be entitled to equal treatment including pay. A good supply agency will require information about the terms and conditions of teachers who you employ in your school that

¹⁸ (n 44), Regulation 7(3)

¹⁹ Agency workers regulations 2010 guidance for recruiters, 24

<https://www.gov.uk/government/publications/agency-workers-regulations-2010-guidance-for-recruiters>

²⁰ (n 44), Regulation 5(4)(a)(ii)

could be doing the same or similar work to any teachers they supply to you to ensure that they are protecting the schools they partner with against any legal liabilities under the AWR.

Ultimately it will be down to you and your supply agency to work together to decide whether any new role a supply worker carries out is substantively different from the previous roles.



Working for 12 continuous weeks

Any week in which supply staff work for you will count towards the 12-week qualifying period for the AWR, even if the work is not full-time (even if it is just one day or part of a day in a week).²¹

Supply staff do not have to work for 12 continuous weeks to reach the qualifying period.²² The AWR allows for certain breaks in an assignment without having to start counting towards the 12 weeks again from scratch. This means that a supply worker's qualifying period can be accrued over a time period that exceeds 12 weeks.

²¹ Ibid, Regulation 7(4)

²² Ibid, Regulation 7(5)

When will a break from an assignment be permitted under the AWR?

- ▶ **When it is less than six weeks:** If supply staff take a break from an assignment for any reason and the break is for six weeks or less,²³ on returning to the same role, the weeks that they previously worked will be carried forward. For example, if a supply teacher has worked at the school in the same role for eight weeks and the school closes for half term for two weeks, on returning to the same role with the same school, they will begin their ninth week. The supply staff member will not have to start counting again from zero but will only need a further four weeks to reach the 12-week qualifying period;
- ▶ **When it is caused by sickness or injury**²⁴ (up to a maximum of 28 weeks and provided evidence is given to the supply agency where requested);
- ▶ **When it is due to pregnancy, childbirth or maternity** and the supply worker is within a “protected period”²⁵ (which starts from the beginning of pregnancy to 26 weeks after childbirth);
- ▶ **When it is due to the supply worker taking parental leave** such as statutory/contractual maternity, adoption or paternity leave;²⁶
- ▶ **When it is because the supply worker has been called to do jury service;**²⁷
- ▶ **When a break occurs during periods when the school (the client) does not require the worker** because of various types of industrial action at the client’s establishment;²⁸ or
- ▶ **When it is due to periods when the school does not require the worker because the business has temporarily closed down.**²⁹
The Department for Education (DfE) guidance states that this would likely include the summer holidays/end of the academic year at a school.³⁰

23 Ibid, Regulation 7(8)(a)

24 Ibid, Regulation 7(8)(b)

25 (n 44), Regulation 7(8)(c)

26 Ibid, Regulation 7(8)(d)

27 Ibid, Regulation 7(8)(e)

28 Ibid, Regulation 7(8)(g)

29 Ibid, Regulation 7(8)(f)

30 (n 46), 6

Tips for meeting your legal obligations under the AWR

What information should you provide to a supply agency to comply with the AWR?

Under AWR, there is a joint responsibility between you and your supply agency to ensure that supply workers receive equal treatment to workers you engage directly.³¹

A good supply agency will do its best to protect both itself and you from any legal liabilities that could arise from not complying with the AWR. Partnering with a compliant supply agency means that by ensuring its own compliance, you are assured of your compliance with the relevant laws relating to the supply staff supplied to you.

We recommend adopting a policy/process for working with supply agencies which includes:

- ✓ Information about the terms and conditions that the school would apply if it were engaging the staff directly rather than through a supply agency. You will need to consider what a contract would include in terms of pay, annual leave and duration of working time, night work, rest breaks and rest periods if it was directly engaging the supply staff in the same role.
- ✓ Details of staff members within the school who are responsible for instructing supply agencies and are authorised to do so.
- ✓ A checklist of all the information that the school requires the supply agency to provide with respect to any staff supplied.
- ✓ A process for managing information that needs to be shared with the supply agency for the purpose of compliance with the AWR 2010.
- ✓ Providing information to the supply agency in relation to the AWR 2010, for example pay information.

31 (n 44), Regulation 14(1), 14(2)

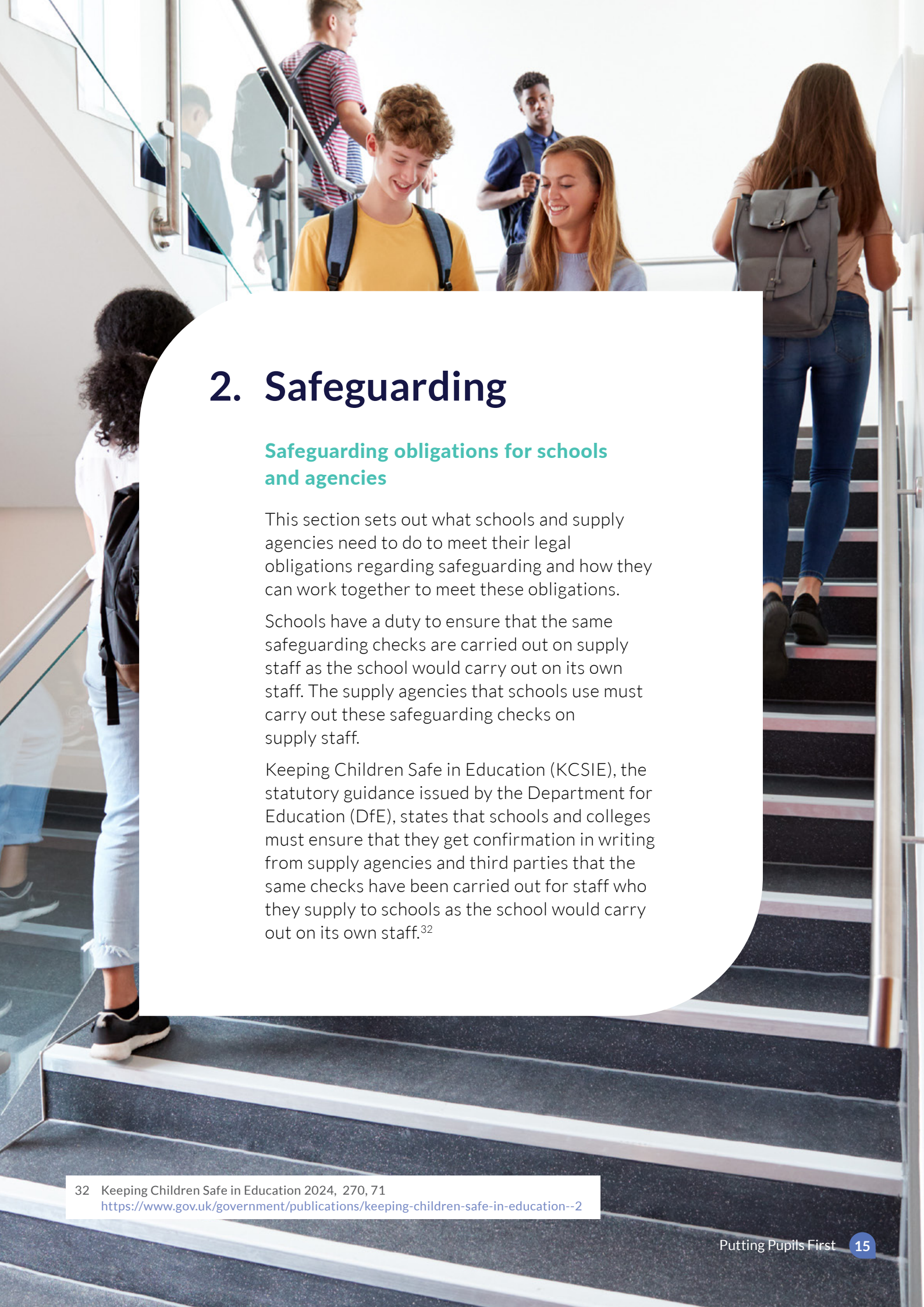
The use of umbrella companies in the education sector

Umbrella companies often work with supply agencies and supply workers in the education sector. In most cases, the umbrella company has a contract with the agency for the supply of temporary supply workers to its school clients. The umbrella company engages the workers and is responsible for paying them. The umbrella company workers are supplied to the agency's school/college clients despite there being no direct relationship between the agency and the umbrella company workers.

The umbrella company provides its services and staff to agencies, which in turn provide those services to schools and colleges. The agency must ensure due diligence and safeguarding checks are carried out with regards to the umbrella company workers supplied.

Under Regulation 13A of the Conduct Regulations, agencies must provide workers with a Key Information Document from day one. 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 this information will be known to the agency, they must liaise with the umbrella company to get the relevant information.



A background image showing several students on a modern school staircase. In the foreground, a boy in a yellow shirt and a girl in a grey top are smiling and looking at each other. Other students are visible in the background, some walking up and some down the stairs. The staircase has a metal railing and a glass balustrade.

2. Safeguarding

Safeguarding obligations for schools and agencies

This section sets out what schools and supply agencies need to do to meet their legal obligations regarding safeguarding and how they can work together to meet these obligations.

Schools have a duty to ensure that the same safeguarding checks are carried out on supply staff as the school would carry out on its own staff. The supply agencies that schools use must carry out these safeguarding checks on supply staff.

Keeping Children Safe in Education (KCSIE), the statutory guidance issued by the Department for Education (DfE), states that schools and colleges must ensure that they get confirmation in writing 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.³²

32 Keeping Children Safe in Education 2024, 270, 71
<https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

Safeguarding checks that supply agencies are obligated to carry out

Supply agencies are required to carry out multiple checks before supplying a worker to you to meet their legal obligations and to provide you with a level of confidence that pupils are not being put at risk. The minimum level of checks your supply agency should be carrying out should include the following:

- ✓ Verification of a candidate's identity, preferably from current photographic ID and proof of address except where, for exceptional reasons, none is available;³³
- ✓ Obtaining a candidate's full employment history and explanations for any gaps in employment;³⁴
- ✓ Obtaining and verifying two references.³⁵ Supply agencies on the Crown Commercial Service (CCS) Supply Teacher Framework are required to obtain references that cover the last 2 years;
- ✓ Obtaining an enhanced DBS check with a children's barred list check where the person will be engaging in regulated activity with children.³⁶ For example, teaching or supervising children;
- ✓ Ensuring that a potential candidate is not on the prohibited list³⁷ via the Check A Teachers Record system, previously the Employers Access Service;
- ✓ Ensuring that the candidate is mentally and physically fit to teach;³⁸
- ✓ Verifying the person's right to work in the UK following Home Office advice on the GOV.UK website;³⁹
- ✓ Making any further checks the school or college considers appropriate;
- ✓ Considering conducting an online search⁴⁰ to reveal any information that is publicly available online and which should be discussed during an interview. This should be conducted in accordance with your policy on online checks; and
- ✓ Verifying professional qualifications,⁴¹ as appropriate and additionally, where relevant, checking whether the person is disqualified under the childcare provisions.

33 Ibid, 238, 62.

34 Ibid, 219, 58.

35 The Conduct of Employment Agencies and Employment Businesses Regulations 2003, Regulation 22 (2)(b)
<https://www.legislation.gov.uk/uksi/2003/3319/contents>

36 (n 1), 238, 62.

37 Ibid, 238, 63

38 Ibid

39 Ibid

40 Ibid, 226, 59

41 (n 8)

Obtaining an enhanced DBS check with barred list information

DBS certificates

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.

Where supply staff will be involved in regulated activity relating to children, an enhanced DBS check and barred list check will be required prior to them starting work at a school.

A person will be engaging in regulated activity if they:

- ▶ Teach, train, or instruct children on a regular basis;
- ▶ Care for or supervise children on a regular basis;
- ▶ Provide advice or guidance relating to physical, emotional or educational well-being wholly or mainly for children;
- ▶ Work in a school, or in connection with the purpose of the school, where the work gives an opportunity for contact with children on a regular basis.

In certain circumstances, when schools are recruiting their own staff, they may not have to obtain an enhanced DBS certificate if within the previous three months the candidate has worked in a school in England and during this time, they were in regular contact with children.⁴² This is because schools can carry out a standalone barred list check to ensure that the person is not prohibited from working with children.

However, supply agencies do not have access to standalone barred list checks (as of April 2021) and must always carry out a full enhanced DBS check which includes a check of the barred list before supplying staff to carry out regulated activity.



42 The School Staffing (England) Regulations 2009, Regulation 12(6)
<https://www.legislation.gov.uk/ukxi/2009/2680/contents/made>



Supply agencies are also subject to additional requirements under Regulation 19 of the Conduct Regulations.⁴³ Supply agencies must have received the DBS and barred list check results before being able to supply the candidate to you.

If a DBS check reveals the details of a conviction or caution, your supply agency must provide you with a copy of the DBS certificate.⁴⁴ Provided the candidate is not barred from working with children, a conviction or caution does not necessarily mean that a candidate cannot be supplied to you, but a risk assessment must be carried out to determine suitability. The DfE statutory Keeping Children Safe in Education guidance states that schools should include their policy on ex-offenders in their job applications pack or on their website - this policy will help your supply agency to work with you when selecting suitable candidates. It will then be up to you to decide whether, based on the information provided, the candidate meets your requirements and can be supplied to you.

Historic DfE statutory guidance for schools stated that DBS checks were valid for three years. This guidance was repealed in 2013, and the DBS now states that DBS certificates have no end date.⁴⁵ This means that supply agencies should consider how frequently they should be carrying out a fresh status check. A good supply agency should have a policy that addresses this which is consistent with your policy on DBS checks.

REC members are required to carry out fresh DBS status checks at least every 12 months to ensure ongoing compliance.

⁴³ (n 6) Regulation 19

⁴⁴ (n 15) Regulation 18(1)(b)

⁴⁵ DBS guidance for employers

<https://www.gov.uk/guidance/dbs-check-requests-guidance-for-employers>

The DBS Update Service

The **Update Service** allows for routine safeguarding checks to be undertaken via an online portal rather than applying for a new DBS certificate. The check is a good way of ensuring that no new information has come to light in respect of a candidate working within a school since the DBS check was first carried out.

The update facility benefits candidates who are regularly required to produce a criminal record check and potentially means that a person will only ever need to apply for one DBS certificate. The supply agency must ask to see the original certificate⁴⁶ and then use the online update service 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. If new information has been added to the candidate's file, the agency will be directed to ask the candidate to apply for a new certificate that will then show the updated information.

This process can only be used if the candidate has subscribed to the Update Service, has produced their original certificate and the relevant workforce has been selected. If the candidate has not subscribed, or the incorrect workforce is shown, the supply agency should ask the candidate to apply for a new DBS check certificate.

The Update Service can be greatly beneficial to supply staff who move around lots of regulated roles. The REC encourages members to promote its use with supply staff as a way of making the process of vetting smoother and avoiding delays.

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).

46 DBS update service employer guide
<https://www.gov.uk/government/publications/dbs-update-service-employer-guide>

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 (DfE) has issued statutory guidance⁴⁷ 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 they must carry out disqualification checks as part of their legal obligations to check the suitability of anyone before they supply them to schools. This applies only if the role involves any relevant childcare work. The statutory guidance explains what is meant by ‘relevant childcare work’:

“Staff are covered by this legislation if they are employed or engaged to provide early years childcare (this covers the age range from birth until 1 September following a child’s fifth birthday, that is up to and including reception year) or later years childcare (this covers children above reception age but who have not attained the age of 8) in nursery, primary or secondary school settings, or if they are directly concerned with the management of such childcare. Staff in secondary schools only come into scope if they provide childcare or manage the childcare provision for those children covered by these arrangements. For example, if they host after-school childcare for children under 8.”⁴⁸

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. Supply agencies that supply staff to schools are also no longer 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 you instruct supply agencies, you provide them with all relevant information about a role, and particularly whether the work may involve relevant childcare work.

47 Statutory guidance - Disqualification under the Childcare Act 2006
<https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006>

48 (n 21), Staff covered and relevant settings

Supply staff who have lived or worked 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

These requirements include 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.⁴⁹

These checks could include, where possible:

- ▶ Criminal record checks for overseas applicants;
- ▶ For teaching positions, letters of professional standing from the professional regulating authority in the country in which the candidate has worked.

Where available, such evidence can be considered together with information obtained through other checks to help assess their suitability. Where this information is not available alternative methods of checking suitability should be considered, alternatively or in addition to this. A risk assessment to assist you in making an informed decision about whether to proceed with a candidate should be conducted.⁵⁰

Supply agencies should follow similar steps to check staff before they are supplied to schools. The DfE has not specified the appropriate additional/alternative checks to be carried out. A good supply agency will work with you to determine which checks to carry out.



49 (n 1), 286, 78

50 (n 1), 288, 79

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

The Home Office has provided advice on the criminal record information that is available in different countries⁵¹ and the DfE has provided guidance⁵² 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 as a guide on the processes they should be following. A good supply agency will be aware of your policy for carrying out these checks and will ensure that their policies are consistent when supplying you with staff. The REC recommends that REC members ensure they are aware of a school's policy for carrying out these checks.

Single central record

The single central record⁵³ 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. A good supply agency should assist you in complying with this requirement by providing detailed written confirmation of the checks it has conducted.⁵⁴

As stated in DfE's Keeping Children Safe in Education guidance:

For agency and third-party supply staff, schools and colleges must include whether written confirmation has been received that the employment business supplying the member of supply staff has carried out the relevant checks and obtained the appropriate certificates, the date this confirmation was received and whether details of any enhanced DBS certificate have been provided in respect of the member of staff.

51 Criminal records checks for overseas applicants
<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

52 DfE Guidance - Recruit teachers from overseas
<https://www.gov.uk/guidance/recruit-teachers-from-overseas#:~:text=Teachers%20who%20qualified%20or%20gained,Services%20through%20DfE%20Sign%2Din>

53 (n 15), Schedule 2

54 (n 1), 276, 75

Checklist: Single central record information your supply agency must confirm to schools

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

- ✓ Identity checks
- ✓ An enhanced DBS check with barred list
- ✓ Prohibition from teaching checks
- ✓ Further checks as required (for individuals who have lived/ worked outside the UK)
- ✓ Professional qualification
- ✓ 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, you are also required to check that the person who presents themselves is, in fact, the same person who has been checked by the supply agency. This may be completed by checking that the person presenting themselves to you is cross-referenced with the photographic ID document obtained by the supply agency for example. A good supply agency will work with you to decide on the best way of achieving this.



Tackling allegations - founded and unfounded

The importance of schools and supply agencies working together: Everyone who works with children has a duty to safeguard, protect and address concerns if allegations are raised.

Dealing with allegations about supply staff

KCSIE contains important guidance on how schools and agencies should handle allegations against supply staff whilst working at a school. The guidance states that:

'In no circumstances should a school or college decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the Local Authority Designated Officer (LADO) to determine a suitable outcome.'

Schools are inevitably in the best position to lead an investigation into an allegation about a supply worker as you will have access to witnesses, CCTV footage etc. However, your supply agency is required to be “fully involved and cooperate”⁵⁵ with you, LADO and the police throughout the investigation. For example, a supply agency could attend LADO meetings, obtain a witness statement from the supply teacher, and assist in arranging redeployment where necessary.

A good supply agency will work with you on getting to the bottom of an investigation. To facilitate this, it is advisable to provide supply agencies with a copy of your safeguarding policy before supply staff begin working at the school so that they are aware of your procedures.



⁵⁵ Ibid, 382, 96.

Referral obligations: Schools and supply agencies' legal duty to provide safeguarding information to the DBS

Providers of regulated activity, such as schools and colleges, have a legal duty to refer information to the DBS⁵⁶ if they remove anyone carrying out a regulated activity such as teaching (or would have done so had the person not otherwise left) because:

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

Further information about the 'harm test', relevant conduct and automatic barring offences can be found in the DBS Referral Guidance: Frequently Asked Questions section.⁵⁷

What is the position for supply staff and supply agencies?

Supply agencies have a duty to refer information about supply staff who are removed from carrying out regulated activity to the DBS for the reasons set out above.⁵⁸

Your legal duty to refer information to the DBS also applies in relation to staff supplied to you by a supply agency, in addition to your own internal staff. The legal duty to refer information to the DBS may apply if you ask your supply agency to stop supplying a person or you stop them from carrying out regulated activity because of any of the reasons referred to in the previous section.

You and your supply agency have a joint responsibility to refer information to the DBS. The fact that one party has made a DBS referral does not mean that the other party is not also required to do so. As the decision to end the supply of a candidate is typically made by a school/college, you can assist your supply agency by clarifying the reason an assignment was ended (where possible) to help the supply agency determine if it is required to make a referral to the DBS.

This will assist all parties in meeting their legal obligations.

56 (n 14) Regulation 35.

57 DBS Referral Guidance: Frequently Asked Questions

<https://www.gov.uk/government/publications/dbs-referrals-frequently-asked-questions-guide>

58 (n 14) Regulation 36



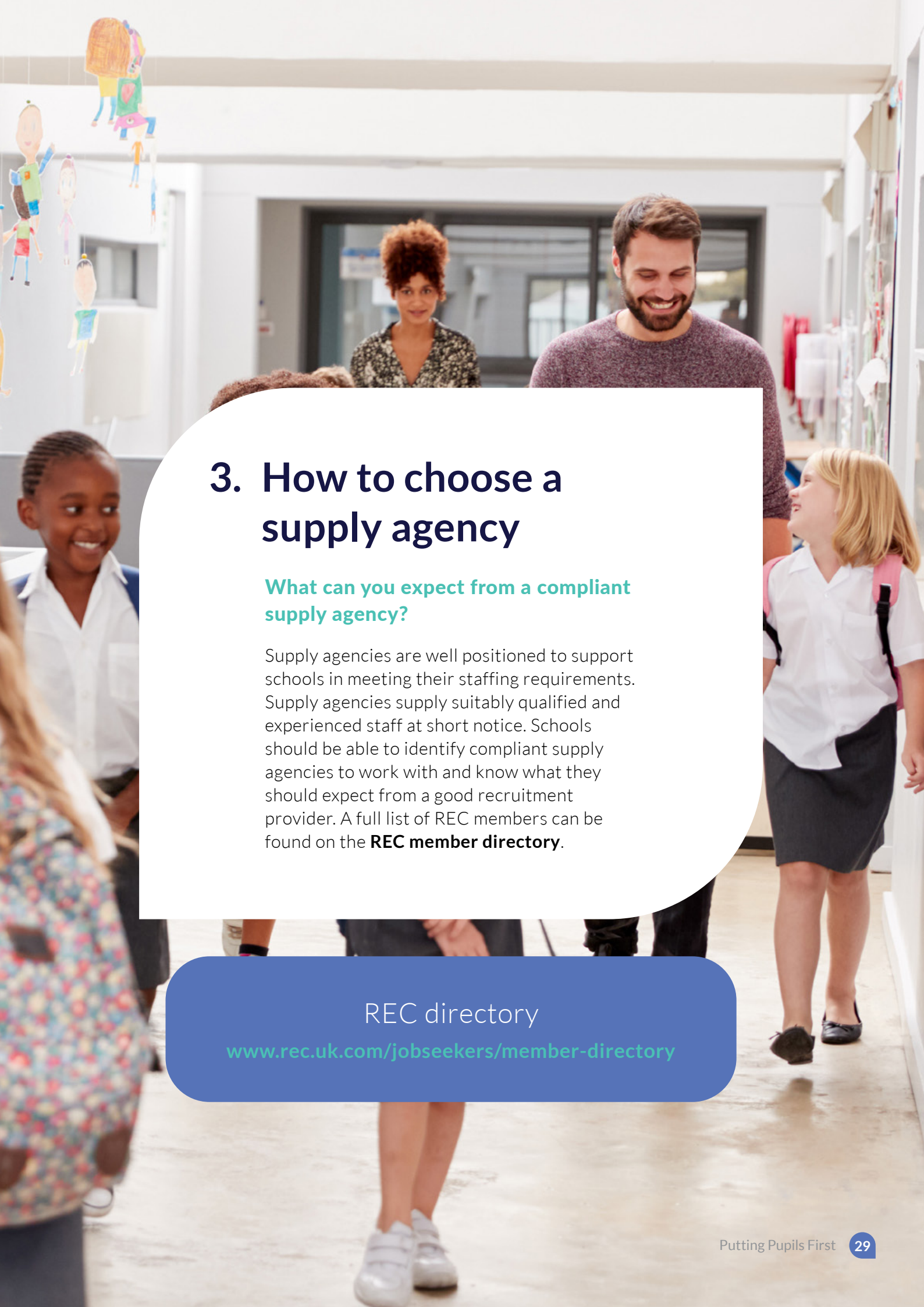
Schools, and supply agencies' legal obligation to refer information to the Teacher Regulation Agency (TRA)

Employers, including supply agencies, must consider whether to refer the 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, to the TRA. This requirement is set out in the Education Act 2002.⁵⁹

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.⁶⁰ These provisions do not apply to teachers who work in further education colleges other than sixth form colleges.

⁵⁹ Education Act 2002, Regulation 141D and 141E
<https://www.legislation.gov.uk/ukpga/2002/32/contents>

⁶⁰ Ibid, Regulation 141B



3. How to choose a supply agency

What can you expect from a compliant supply agency?

Supply agencies are well positioned to support schools in meeting their staffing requirements. Supply agencies supply suitably qualified and experienced staff at short notice. Schools should be able to identify compliant supply agencies to work with and know what they should expect from a good recruitment provider. A full list of REC members can be found on the **REC member directory**.

REC directory

www.rec.uk.com/jobseekers/member-directory

Why should I work with an REC member?

REC members are recognised for their professionalism and the value they provide to schools and supply staff, in particular:

- 1** REC members are part of a membership body that gives them access to a wide range of legal and specialist resources.
- 2** REC members sign up to the REC Code of Professional Practice (“The Code”) which seeks to uphold high standards in the recruitment industry.





- 3** REC members are regularly assessed on relevant recruitment legislation and the Code.

- 4** REC members are expected to have an accessible complaints procedure with a clear step-by-step approach to address any concerns that may arise in relation to their practices.



- 5** REC members are accountable to the REC via the REC Complaints and Disciplinary Procedure.

The REC is committed to raising standards and highlighting excellence throughout the recruitment industry. Schools/clients are encouraged to look out for the REC logo.



- ▶ The REC logo is a highly regarded sign of quality within recruitment. Compliance is a fundamental cornerstone of REC membership. Any supply agency seeking to become and remain a member of the REC is required to sign up to and comply with the REC Code of Professional Practice (the Code). The Code goes further than legal obligations, requiring REC members to act ethically and helps them to get it right.
- ▶ REC members must also pass the REC's Compliance Assessment to become a full member. They must then pass it at least every two years to retain membership. The Compliance Assessment is an online assessment, which assesses a member's knowledge of the relevant industry legislation and the Code.
- ▶ Allegations of breaches of the REC Code can be investigated under the REC's **Complaints and Disciplinary Procedure**. REC members should have their own easily accessible complaints procedure making clear who to complain to, timescales for dealing with a complaint and how to appeal a decision. You should always raise any concerns about an REC member directly with the member first to give them a chance to resolve any issues via their own procedure before contacting the REC.

Further details can be found by visiting **REC compliance**⁶¹

How to locate an REC member

www.rec.uk.com/jobseekers/member-directory

⁶¹ <https://www.rec.uk.com/recruiters/compliance>

REC Audited Education

REC Audited Education is a robust audit that checks an REC member's compliance with safeguarding, legislation, and best practice in the education sector. Schools/clients should look out for the REC Audited Education logo when choosing an agency to work with. It shows that the agency has been audited by the REC and demonstrates their commitment to compliance and best practice.

As part of the audit process, an expert auditor visits the REC member and carries out a detailed onsite audit. In addition to assessing documents, the REC auditors consult with the REC member's staff about processes and systems, providing practical support to help the REC member follow best practice. A sample of supply staff files are also examined as part of the audit to ensure that key checks have been completed e.g. DBS, qualification, right to work/identity checks and referencing. The REC worked closely with CCS to develop the framework standards and continues to work closely with CCS on any ongoing updates to the framework.

For a list of agencies currently holding REC Audited Education accreditation, please view REC Audited Education directory⁶²



“The CCS Supply Teachers and Temporary Staff agreement (STaTS) offers schools an opportunity to source their temporary worker requirements, safe in the knowledge that they are getting value for money and peace of mind that safeguarding is at the heart of delivery.

STaTS offers competitive supplier fees, and any worker can be made permanent without a transfer fee after just 12 weeks (you must give at least 4 weeks’ notice) to help you make the most out of your budgets.

All STaTS suppliers are required to maintain certification from an approved Accreditation Body, such as Audited Education from the REC, where suppliers are audited, providing schools with assurance that the Keeping Children Safe in Education guidance is being followed.”

**John Wilson, Commercial Lead, HR & Workforce Services,
Crown Commercial Service**



This document does not constitute specific legal advice. It is not a substitute for specific advice on related matters and issues that arise and should not be taken as providing legal advice on any of the topics discussed. All legislative references, notes and hyperlinks are correct at the time of writing.

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Recruitment
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Confederation

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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