

**Keeping Children Safe in Education 2023 – Conducting Online Searches**

Keeping Children Safe in Education (KCSIE) 2023 paragraph 221 states:

*“In addition, as part of the shortlisting process schools and colleges should consider carrying out an online search as part of their due diligence on the shortlisted candidates. This may help identify any incidents or issues that have happened, and are publicly available online, which the school or college might want to explore with the applicant at interview.*

**Rationale for the change**

In 2019 there was a case reported in the national media where an Oxford primary school employed a Spanish woman as a teaching assistant, unaware that she had been convicted in Spain for killing a child.

The school had completed the necessary criminal records checks. However, the law in the specific country stated that if a person under the age of 18 commits an offence, the offence is removed from their criminal record after 10 years. Because the individual was under 18 and applied for the job in the UK after 10 years, their criminal record was clear, and the school was not made aware of this issue. While the school did not do anything wrong, an internet search would have revealed this information.

It was recommended that schools consider carrying out online checks as part of their recruitment processes with effect from September 2022.

**Advice for schools**

- ‘should’ in statutory guidance means that you should do it unless you have a good reason not to; if you decide that you have a good reason not to undertake the search, it is recommended that you retain a written rationale for this.
- ‘online search’ is not the same as a search of candidates’ social media activity. It is important to note that the DfE is not encouraging potential employers to search candidates’ social media presence - schools should not be looking at Facebook, Instagram, etc., as this could introduce bias into the recruitment process and result in recruiters discriminating against candidates. There could be information on some candidates and not on others and some candidates may have tighter privacy settings than others, thereby limiting the information available. It would also potentially be a breach of data protection to search an individual’s social media presence, particularly if that search is done covertly.
- Your processing condition under GDPR UK / DPA 2018 is that it is a regulatory requirement; you therefore do not need consent from candidates to undertake the search. However, the applicant has a right to know beforehand that this search will be conducted if they are shortlisted. Schools should therefore consider adding this information to the recruitment information shared with candidates e.g. in the advert, recruitment materials, invitation to interview letter etc, ensuring that the candidate

is informed in advance of the search being undertaken. e.g. *Please note that in line with Keeping Children Safe in Education 2023 an online search will be carried out as part of our due diligence on shortlisted candidates.*

- Schools and colleges should decide who will undertake online searches. Ideally, the online search should not be completed by a member of the recruitment panel as they may find information that is not relevant regarding sexuality, gender, religious views etc which may result in personal bias or may leave the panel open to claims of such bias.
- The person undertaking the searches should be given a clear outline of what they are looking for, how to record it and who to pass the information to. Bearing in mind this is part of a safeguarding check, the search is purely about whether the individual is suitable to work with children, and the individual undertaking the search needs to be clear on what information they should and shouldn't share with the panel.
- Copies of the information should be saved via a screenshot/printing off a hard copy of the information available so that the recruitment panel can see what has been discovered and can justify any recruitment decisions made as a result of the additional information.
- Recruitment panels need to remember that criminal information found via a search engine is still covered by the Ministry of Justice filtering rules – if the conviction / caution would be filtered, it should not be discussed with the candidate and cannot be taken into account in making recruitment decisions. Guidance and criteria on the filtering of cautions and convictions can be found on the [Ministry of Justice](#) website.
- Information recorded by the school regarding an online search (emails from the person conducting the searches to the panel, etc) is subject to data protection legislation and would be disclosable under a Subject Access Request – it is important that schools ensure that the information considered is fair, factual and does not introduce personal bias.
- There is no requirement to add an 'online searches' column to the Single Central Record but schools may choose to do so in the same way that they may record other non-statutory information.
- When conducting online searches the school might wish to consider searching for
  - (candidate current/past names) convicted
  - (candidate current/past names) crown court
  - (candidate current/past names) magistrates court
  - (candidate current/past names) followed by towns/cities in which they have lived/worked
  - (candidate current/past names) guilty
  - (candidate current/past names) investigation

- Schools should also ensure that they ask their preferred supply agencies to confirm that they are now including online searches in their vetting procedures.
- Schools may also wish to consider conducting online searches for those engaged on a self-employed basis, particularly when that person will be working on an unsupervised basis with children.

### **Where information is discovered via an online search**

- If information has been discovered, this should be compared with the candidate's application form, employment history and criminal / suitability self-disclosure and then discussed with the applicant at interview – the questions asked and responses provided by the applicant should be recorded on the interview notes.
- If the information relates to a serious incident or demonstrates that the candidate has been dishonest in their application / self-disclosure, seek advice from the LADO and / or the schools HR Manager before discussing with the candidate at interview.
- Following discussion, the panel will decide whether or not they deem the candidate suitable for appointment.
- Information found as a result of an online search on an unsuccessful candidate should be retained for twelve months after the appointment has been made. This will enable the panel to justify their decisions in the event that a challenge is made in relation to the selection process via a complaint or through an Employment Tribunal.
- Once the recruitment panel are satisfied that information found on a successful candidate does not rule them out of appointment, they should record that decision and the reasoning behind such a decision on the candidate's personal file and retain copies of any information considered. The purpose of the record is to assist in justifying the appointment and to help prevent unnecessary re-investigation if such information resurfaces after a period time. The reasoning behind the retention of such information should be clearly explained to the candidate.