F: References - Group and school-based providers

What do I need to know?

- Legal Framework
  - DBS code of practice
  - Childcare Act 2006
  - Protection of Freedoms Act 2012
  - Police Act 1997
  - The Police Act 1997 (Criminal Records) (Registration) Regulations 2006
  - Safeguarding Vulnerable Groups Act 2006
  - Disqualification under the Childcare Act 2006
  - The Childcare (Disqualification) Regulations 2009
  - Childcare (Disqualification) Regulations 2009
  - Rehabilitation of Offenders Act 1974
  - Data Protection Act 2018
  - Regulation (EU) 2016/679 of the European Parliament and of the Council
  - Human Rights Act 1998
- EYFS statutory framework for group and school-based providers page 27, paragraphs 3.20-3.21

References (pages 18-19 of audit)	Things to consider and discuss
Do you **ensure** you have obtained at least one written reference for any member of staff (including students and volunteers) before they are recruited?	• What are your processes for obtaining a written reference? • Does your recruitment policy and procedure ensure that references are obtained before a person is recruited to a position? • What would you do if somebody did not give permission for references to be sought before recruitment? • Do you make it clear with candidates that you will obtain references before employment commences?

References (pages 18-19 of audit)	Things to consider and discuss
Do you **make sure** you: • do not accept open references e.g. to whom it may concern. • do not rely on applicants to obtain their reference. • ensure any references are from the applicant's current employer, training provider or education setting and have been completed by a senior person with appropriate authority. • do not accept references from a family member. • obtain verification of the individual's most recent relevant period of employment where the applicant is not currently employed. • secure a reference from the relevant employer from the last time the applicant worked with children (if not currently working with children). • ensure a reference is from a current employer, training provider or education setting, if the applicant has never worked with children. • ensure electronic references originate from a legitimate source. • contact referees to clarify content where information is vague or insufficient information is provided. • compare the information on the application form with that in the reference and take up any discrepancies with the applicant. establish the reason for the applicant leaving their current or most recent post, and ensure any concerns are resolved satisfactorily before appointment is confirmed.	• Do you make your application process clear about expectations from references e.g. *'we will not accept open references'* • Do you make your application process clear about how references are obtained and when. • How do you ensure that the reference that you have received has been completed by a senior person with appropriate authority? How can you validate this? • How do you check that references have not come from a family member? • How can you obtain previous employment history if the applicant is not in current employment? • How will you find out whether the applicant has not previously worked with children? • Who is responsible for checking the information provided in a references? What experience do they have for this role? How do they report their findings or share concerns? • How will you check the legitimacy of electronic references? What would you do if your checks proved that the source of the reference was not legitimate? • When will you contact referees to clarify the content of a reference? What questions will you ask when information you have been given is insufficient? • How do you track the information that has been provided on an application form and a reference to check that the information is aligned and factually accurate? • How do you take up discrepancies with the applicant and what information would you seek to become satisfied? • Do you ensure you ask questions relating to reasons for leaving their current or most recent post? Do you explore concerns and how they were resolved?

References (pages 18-19 of audit)	Things to consider and discuss
Do you **make sure** references are provided for current and previous employees upon request in a timely manner?	• What time frame do you have for completion and return of a requested reference for current and previous employees? • If you aren't the person who completes references, how do you ensure they are aware of their responsibility to provide a reference in a timely manner?
Do you **make sure** when asked to provide a reference, that the information confirms whether they are satisfied with the applicant's suitability to work with children and provide the facts (not opinions) of any substantiated safeguarding concerns and, or allegations that meet the harm threshold?	• What information does your reference contain? • How does your reference confirm your satisfaction with the applicants ability to work with children? Do you provide a Yes or No reply or do you provide examples? • How do you ensure facts are provided and not opinions. • Who reviews the information provided in the reference? • Does your reference provide facts of substantiated safeguarding concerns and, or allegations that meet the harm threshold? • Do you know how the harm test is satisfied? Have you referred to: Safeguarding Vulnerable Groups Act 2006
Do you **make sure** any references do not include information about concerns/allegations which are unsubstantiated, unfounded, false, or malicious?	• How do you ensure your references do not include information about concerns and, or allegations which are unsubstantiated, unfounded, false, or malicious? • If you believed information was essential to share but the reference paperwork did not capture the information that you have, how will you ensure that you are able to share this with the perspective new employer?

Useful links and further help:

Disclosure and Barring Service - GOV.UK
Keeping children safe in education
Working together to safeguard children
Safer Recruitment Consortium - Guidance for safer working practice for those working with children and young people in education settings
NSPCC Safer Recruitment advice
Advisory, conciliation and arbitration service (ACAS)
Applying for a Waiver
ICO - Information Commissioner's Office
Applying to waive disqualification: early years and childcare providers
List of offences that will never be filtered from a DBS certificate
DBS filtering guide
DBS barring referral guidance
Early years provider non-compliance: action by Ofsted
Childcare: significant events to notify Ofsted about - GOV.UK

CONTACT INFORMATION:
DBS The East Midlands Regional Outreach Officer: Email DBSRegionaloutreach@dbs.gov.uk / alexandra.honey1@dbs.gov.uk/ Tel: 01325 953 562 / 07867 153 500
Department for Education: email: mailbox.disqualification@education.gov.uk, or telephone: 01325 340 409
Ofsted – waiver application process: email disqualification@ofsted.gov.uk

Derbyshire SchoolsNet - Early Years
Derbyshire Early Years Service - Eventbrite
Email: CS.EYS@derbyshire.gov.uk