



Online searches – taking reasonable steps to discharge this duty.

“221. 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. See Part two - Legislation and the Law for information on data protection and UK GDPR.”

(Keeping Children Safe in Education, Statutory guidance for schools and colleges, p.54, DfE, 2022, at <https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>)

What are we considering?

There is little guidance to schools, however the wording of the KCSiE 2022 guidance quoted above indicates schools should be considering information that is “publicly available online”. This suggests that the information should be freely available to the public as part of a simple online search (for example, using a web browser, website, or social media platform).). Paragraph 211 of the KCSiE 2022 guidance states that the job advert for roles should include the school’s or college’s commitment to safeguarding and promoting the welfare of children and make clear that safeguarding checks will be undertaken. Therefore, in accordance with this guidance all recruitment materials for relevant roles, the policy and recruitment guidance for applicants should be transparent to confirm that online checks will be carried out and outline the purpose of the searches for, anything that.

- **calls into question the candidate’s suitability to work with children**

Policy and Recruitment guidance to applicants should clearly set out.

1. The reason for the searches,

This will be the reasons set out in the KCSiE 2022 guidance, i.e.

- a. To safeguard and promote the welfare of children, and
- b. To identify anything that calls into question the candidate’s suitability to work with children

2. That searches will include social media websites and platforms.

The starting point is likely to be a search of the applicant’s name on a recognised search engine, e.g. Google, followed by a review of the most prominent social media and video networking sites if they are public information– e.g. Facebook, Instagram, LinkedIn, Twitter, Tik Tok and YouTube. Schools must not be asking for access to private information including log in details to social media.

How far back will the searches go? There is no set timeframe this is for the school to decide, however make sure you consistently apply the same timeframe to all candidates and state this in policy and recruitment materials.

Link searches to the LADO criteria. When considering your criteria this should again be agreed before the search and the person undertaking the task should be clear about this. **The criteria should be linked to KCSiE 2022 page 86: that a person has**

- behaved in a way that has harmed a child, or may have harmed a child and/or
- possibly committed a criminal offence against or related to a child, and/or
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children, and/or
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.

Be mindful of avoiding discrimination in relation to information collected, where it reveals information about a candidate’s protected characteristics under the Equality Act 2010.

Who should carry out the search?

It is good practice to consider a separate member of staff to the recruitment panel to carry out the online search. The person undertaking the checks if not involved in the decision-making process, only shares any relevant information (related to suitability) with the individuals who will be interviewing. In this way, the decision-makers will have only the relevant information that may need to be addressed at interview and will not be exposed to other irrelevant information that may increase the risk of discrimination and/or unconscious bias. Search results should be used in the same way as any other information collated as part of the recruitment process – it should be reviewed and, if appropriate, explored with the applicant at interview.

What information should be kept, how should it be stored and how long should it be retained?

Where online searches do not reveal any relevant information, a note of this should be made on the candidate's file along with the search criteria used, the names of the sites and social media platforms that were searched, the date of each of the searches, and the initials of the staff member carrying out the search, in order to demonstrate compliance with KCSiE 2022.

It is not necessary to retain any search results in these circumstances. Where relevant information is retrieved, this should also be retained on the candidate's file along with records of discussions and decisions made with respect to it.

Data relating to online search criteria, results of searches and decisions relating to this data should be held securely and confidentially with other data collected during the recruitment process. It should only be accessible to a limited number of staff as necessary and should only be held for as long as it is needed.

The retention period for this data will depend on whether the candidate is ultimately successful and joins the school; it is likely to mirror the retention periods for criminal records data. A school's data protection policy, recruitment privacy notice and retention schedule, or similar, will likely need to be updated to reflect this.

What are the risks? How to minimise the risks?

Transparency – Inform applicants from the outset that online searches will form part for the recruitment process and outline the reasons for this. The job advert for the post and the school's recruitment policy should make this clear.

Training – Training – in accordance with paragraph 208 of the KCSiE 2022 Guidance, ensure that staff receive appropriate training on the purpose of online searches, and in their responsibilities from an Equality Act 2010, Human Rights Act 1998 and data protection law perspective.

Record-keeping – Keep records of the information collated during a search and clearly document the reason(s) for not progressing a candidate's application, where applicable, which you would be prepared to disclose to the candidate if requested.

Set internal parameters for the searches – to ensure consistency and avoid unnecessary processing of personal data, set parameters in respect of the location of online searches; the information to be searched for (i.e. by the use of key words) and how far back to search.

Due diligence for external providers – Carry out checks as part of the procurement process before engaging an external provider to assist with online searches. These should be recorded. A data processor agreement should be put in place. Schools should be confident the chosen provider is acting in the same way that the school would have acted if it had been kept 'in-house'.

Good practice highlights that a separate person completing the checks shares only relevant information with the decision makers – as noted above, to minimise the risk of discrimination. The person carrying out the online search should not, ideally, be involved in the decision-making process and should ensure that only information that is relevant and of concern is shared with the decision makers.

‘KCSIE 2022: Safer recruitment – the use of online searches: an update

Harrison Clark Rickerbys solicitors blog 12.12. 2022

<https://www.hcrlaw.com/blog/kcsie-2022-safer-recruitment-the-use-of-online-searches-an-update>’