1. Introduction

1.1 The Criminal Justice and Court Services Act 2000 ("the CJCSA") came into force on 1 January 2001. This Act makes it a criminal offence for any person who is disqualified from working with children to "knowingly apply for, offer to do, accept or do work in a regulated position".

1.2 The Act also makes it an offence for any person, in relation to a regulated position, to "knowingly offer to, or procure work for, a person disqualified from working with children".

1.3 The Care Standards Act 2000 ("the CSA") also makes provision for the maintenance by the Department of Health of a register of those who are not considered suitable to work with vulnerable adults or with children.

2. Who is disqualified from working with Children?

2.1 Under the CJCSA, the following persons are disqualified from working with children:

- a person whose name appears on the Protection of Children Act list held by the Department of Health;
- a person deemed to be unfit to work with children under the Education Reform Act 1988;
- a person deemed to be unfit to work with children under the Education Act 1996;
- a person who is subject to any other disqualification order.

3. What is a “regulated position”?  

3.1 Regulated positions are listed in the CJCSA and include employment in the following:

- a care, residential care, nursing or private hospital used solely or mainly for children;
- an institution used solely or mainly to detain children;
- an educational institution;
- a children’s home or voluntary home;
- any home provided under the Children Act;
- substantial supervision or training of children in the course of the children’s employment;
- work on day care premises;
- caring for under 16s in the course of children’s employment;
- caring for, training, supervising or being in sole charge of children;
unsupervised contact with children under arrangements made by a responsible person;
- supervising or managing an individual in a regulated position.

4. What are the consequences of a failure to carry out CRB checks?

4.1 Under the CJCSA it is an offence to knowingly offer to, or procure work in a regulated position working with children for a person disqualified from working with children. It is also an offence for a person disqualified from working with children to knowingly apply for or accept work in a regulated position working with children.

4.2 The Council therefore has a direct legal obligation to conduct CRB checks before employing staff to work with children.

4.3 CRB checks will be carried out on all employees working with children, whether contact is supervised or unsupervised, occasional or frequent. The level of checks, however, will vary, depending on the degree of contact with children and the risk associated with various posts.

5. What are the implications for the Council's schools?

5.1 Schools must ensure that any individuals who come into contact with children are CRB checked. For those who are unlikely to come into contact with children (for example short term contractors) schools should consider whether a check is necessary; for those whose contact with children is likely to be only occasional, a standard level check will suffice. However for those whose contact with children is likely to be regular, an enhanced level check will be required.

5.2 The CRB checking system for the whole Council will be administered by Personnel and schools should liaise with Mr George Bishop, the Director of Personnel and General Services, in order that a check may be requested.

5.3 In accordance with the findings of the Bichard Inquiry the Council, through Personnel, shall be entitled to request photographic proof of identity for existing employees and new starters in the form of a driving licence or passport and reserves the right to make enquiries with bodies such as the Passport Agency and the DVLA in order to check that such documents are genuine. Further the Council will check the details on the completed CRB form and request the necessary supporting documentation required to process a check.

5.4 Schools should ensure that application packs for posts in schools advise applicants that they will be CRB checked if successful. This statement will make it clear that the post is exempt from the Rehabilitation of Offenders Act and that spent convictions will have to be declared. Disclosure will only be requested once the successful applicant has been selected and will be confined to him or her alone. Copies of RBKC and CRB policies relating to CRB checks will be made available to applicants for all relevant posts upon request.

5.5 All teaching staff, classroom volunteers and governors must be CRB checked, as must caretakers, other support staff, and contractors.
working for or at the school. In the case of contractors it is the responsibility of the contracting company to ensure that employees are checked. The School will seek confirmation from a contractor that the necessary checks have been carried out.

5.6 Schools shall take steps to get their employees checked by contacting Personnel.

5.7 The Bichard Report recommended that all individuals coming into contact with children in schools should be checked. In the case of contractors who visit school premises on isolated occasions to carry out maintenance work for example and where it is not anticipated that they will come into unsupervised contact with children, then it is for individual schools to conduct a risk assessment and to determine whether the relevant individuals should be checked. However the recommendations of the Bichard Report should be borne in mind. If such individuals are checked, then a standard level check will suffice: at present, basic level checks are not available: as and when they become available, this level of check may be appropriate where contact is likely to be supervised and occasional.

5.8 Those individuals who come into regular contact with children (whether or not supervised), such as dinner ladies, must undergo a standard check and for the more sensitive positions within this category, where duties involve regular caring for, or training, supervising or being in sole charge of children, enhanced level checks will have to be undertaken. Examples of those who must undergo an enhanced level check include teachers and classroom assistants. Volunteers who go on school trips may be subjected to a standard check.

5.9 School governors must be CRB checked, as must anyone (including a parent volunteer) who accompanies children on school trips. A standard check may be appropriate.

5.10 It is not permissible for individuals to have unsupervised contact with children before the outcome of their CRB check is known.

5.11 If in any case a satisfactory CRB disclosure is not forthcoming and for some reason the individual concerned has started in post then it shall be legitimate, as the case may be, for the employee to be dismissed, the governor replaced or the volunteer denied access to children.

5.12 In any case where a satisfactory disclosure is not forthcoming, the school shall discuss the matter confidentially with the individual concerned.

5.13 Repeat checks shall be carried out every three years.

5.14 Headteachers and school governors interviewing for appointments in schools should receive training on how to ensure that the importance of safeguarding children is taken into account when making appointments. Interviewing panels should include at least one trained panel member.
5.15 All information disclosed by the CRB is sensitive, personal information and will be stored safely in lockable, non-portable storage containers with restricted access. Disclosure information will only be used for the purpose of the protection of children and for which the individual’s full consent has been given.

5.16 Once a recruitment (or retention) decision has been made, disclosure information will be kept for no longer than is absolutely necessary. In general this should be for no more than six months or, in cases where there is a dispute, for no more than six months after the resolution of the dispute. If, in exceptional circumstances, it is felt necessary to keep the disclosure information for a longer period, the CRB will be consulted and full consideration will be given to the data protection and human rights implications for the individual.

5.17 Once the retention period is over, disclosure information will be destroyed immediately by secure means (shredding, pulping or burning). While awaiting destruction, disclosure information will not be kept in any insecure receptacle. No photocopy or other image of disclosure information will be kept. However the following information may be recorded by Personnel:

a) the date of issue of the disclosure;
b) the name of the subject;
c) the type of disclosure requested;
d) the position for which the disclosure was requested;
e) the unique reference number for the disclosure;
f) the recruitment or retention decision that was made.

6. **How does the CRB system work?**

6.1 The Council is registered with the CRB. George Bishop, Director of Personnel and General Services, is the council representative authorised to carry out CRB checks. Personnel will administer the CRB checking system for the whole Council.

6.2 As an organisation using the CRB Disclosure service, the Council is required to work within the CRB Code of Practice and the standards it enforces in the processing of CRB disclosures. The Council is an umbrella body for CRB checks and carries out checks for other organisations such as voluntary organisations and contractors with whom the Council has arrangements for service and is required to ask organisations for which it handles CRB checks to comply with the CRB standards in handling disclosure information.

6.3 When a check is applied for by the Council, a disclosure application form will be completed by the individual, checked by Personnel and a fee will be paid to the CRB, which will be chargeable to the relevant business area, school or organisation.

6.4 The CRB is capable of providing information at three levels:

- **Basic** – this is limited information on a person’s “unspent” convictions – at present, basic level checks are not available;
• **Standard** – information on spent convictions, cautions, reprimands and final warnings is provided, together with list 99 information and data from the Protection of Children Act list of people deemed not suitable to work with children or vulnerable adults;

• **Enhanced** – information on all current and “spent” convictions will be disclosed, including local police records, cautions, List 99 information held by the Department of Health and data from the Protection of Children Act list.

6.5 A “spent” conviction can only be disclosed in limited circumstances. A rehabilitation period is set for all types of conviction, depending on the severity of the sentence. For example, a person aged over 18 when convicted and sentenced to a period of imprisonment of less than six months becomes rehabilitated after seven years: their conviction is then “spent”. A person aged over 18 who is punished by a fine becomes rehabilitated after five years.

6.6 Previous convictions whether or not “spent” must be disclosed in the following cases:

- care, leisure and recreation, schools, social services, supervision or training of persons under the age of 18: this covers teachers, social workers, school caretakers, youth workers, school bus drivers, child minders and the like;
- doctors, lawyers, nurses and accountants;
- justices of the peace, police and probation officers;
- those employed in the care of the elderly, of mentally or physically disabled people, of those dependent on drugs or alcohol and of the chronically sick.

7. **Who do I contact for further guidance?**

Any school, which has any further queries, should contact:
Mr George Bishop, Director of Personnel and General Services, Town Hall, Hornton Street, London W8 7NX.

E-Mail: george.bishop@rbkc.gov.uk
Telephone: 0207 361 2136.

Mrs Keeley Cooper, Recruitment Manager, Personnel Shared Services, Town Hall, Room 346B, Hornton Street, London W8 7NX

E-mail: keeley.cooper@rbkc.gov.uk
Telephone: 0207 361 2645