

Maintained, Independent Schools & Academies Section 128 provisions

Keeping Children Safe in Education requires schools to undertake an additional check for those in management roles at Independent schools, Academies and Free schools, to ensure staff are not prohibited under section 128 provisions. In addition, a person prohibited under section 128 is also disqualified from holding or continuing to hold office as a governor of a maintained school.

What is a Section 128 direction?

A section 128 direction prohibits or restricts a person from taking part in the management of an Independent school, Academy or Free school. A person who is prohibited is unable to participate in any management of an independent school such as:

- a management position in an independent school, academy or free school as an employee;
- a trustee of an academy or free school trust; a governor or member of a proprietor body for an independent school; or
- a governor on any governing body in an independent school, academy or free school that retains or has been delegated any management responsibilities.

This may include individuals

- who are members of proprietor bodies, (including governors if the governing body is the proprietor body for the school)
- head teacher
- any teaching positions on the senior leadership team
- any teaching positions which carry a department headship.

Whether other individuals such as teachers with additional responsibilities could be prohibited from 'taking part in management' depends on the facts of each case.

The grounds on which a section 128 direction may be made by the Secretary of State are found in the relevant regulations.


When did checking for Section 128 directions become a requirement?

The revised standards require that checks be made for the existence of directions made by the Secretary of State under s.128 of the Education and Skills Act 2008 barring individuals from taking part in the management of an independent school. The power to make such directions came into force on 8 September 2014, but a mechanism for carrying out checks was not immediately available. The Department for Education guidance indicated that these checks should be carried out for relevant roles with effect from 11th August 2015.

How do I check for a Section 128 direction?

There are current two methods:

- As part of an enhanced and barred list DBS check.
Where barred list information is requested, and 'children's workforce independent schools' is specified in the parameters for that check, the certificate will also detail whether the applicant is subject to a direction made under section 128 of the Education and Skills Act 2008 or section 167A of the Education Act 2002.
- Separately using the Teaching Regulation Agency (TRA) secure portal access



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- › General Teaching Council for England (GTCE) sanctions
- › Teachers and others prohibited from the profession
- › Teachers sanctioned in other EEA member states
- › **Section 128 barring directions**

Does the Section 128 check need to be recorded on the Single Central Record?

Yes, the date that the check was completed and the name of the person carrying out the check should be recorded on your Single Central Record.

Note: If the check for a section 128 direction has been made via the DBS check, then the date of issue of the DBS certificate should be used.