



Department  
for Education

# **Keeping children safe in education**

**Statutory guidance for schools and  
colleges**

**This is for consultation purposes. Schools and  
colleges should continue to have regard to KCSIE  
2016 until notified otherwise**

**September 2018**

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## Summary

### What is the status of this guidance?

This is statutory guidance from the Department for Education issued under Section 175 of the Education Act 2002, the Education (Independent School Standards) Regulations 2014, and the Non-Maintained Special Schools (England) Regulations 2015. Schools and colleges in England must have regard to it when carrying out their duties to safeguard and promote the welfare of children.

### About this guidance

This document sets out the legal duties with which schools and colleges **must** comply and also contains information on what schools and colleges **should** do (unless they have good reason not to) in order to keep children safe. It should be read alongside statutory guidance [Working together to safeguard children](#), and departmental advice [What to do if you are worried a child is being abused - Advice for practitioners](#).

Unless otherwise specified, 'school' means all schools whether maintained, non-maintained or independent schools (including academies, free schools and alternative provision academies), maintained nursery schools<sup>1</sup> and pupil referral units. 'College' means further education colleges and sixth-form colleges as established under the Further and Higher Education Act 1992, and relates to their responsibilities towards children under the age of 18, but excludes 16-19 academies and free schools (which are required to comply with relevant safeguarding legislation by virtue of their funding agreement).

### Who this guidance is for

This statutory guidance should be read and followed by:

- governing bodies of maintained schools (including maintained nursery schools) and colleges;
- proprietors of independent schools (including academies, free schools and alternative provision academies) and non-maintained special schools. In the case

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<sup>1</sup> The [Early Years Foundation Stage Framework](#) (EYFS) is mandatory for all early years' providers. It applies to all schools, including maintained nursery schools that have early years provision. Maintained nursery schools, like the other schools listed under 'About this guidance', must have regard to Keeping children safe in education 2018 when carrying out duties to safeguard and promote the welfare of children (by virtue of section 175(2) of the Education Act 2002 – see footnote 12 for further detail on this requirement).

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of academies, free schools and alternative provision academies, the proprietor will be the academy trust; and

- management committees of pupil referral units (PRUs).

The above persons should ensure that **all staff** in their school or college **read** at least Part one of this guidance.

The above persons should ensure that mechanisms are in place to assist staff to understand and discharge their role and responsibilities as set out in Part one of this guidance.

### **What this guidance replaces**

This guidance replaces Keeping children safe in education September 2016.

A table of changes is included at Annex H.

## Part one: Safeguarding information for all staff

### What school and college staff should know and do

#### A child centred and coordinated approach to safeguarding

1. Schools and colleges and their staff are an important part of the wider safeguarding system for children. This system is described in statutory guidance [Working together to safeguard children](#).
2. Safeguarding and promoting the welfare of children is **everyone's** responsibility. **Everyone** who comes into contact with children and their families and carers has a role to play in safeguarding children. In order to fulfil this responsibility effectively, all professionals should make sure their approach is child-centred. This means that they should consider, at all times, what is in the **best interests** of the child.
3. No single professional can have a full picture of a child's needs and circumstances. If children and families are to receive the right help at the right time, **everyone** who comes into contact with them has a role to play in identifying concerns, sharing information and taking prompt action.
4. Safeguarding and promoting the welfare of children is defined for the purposes of this guidance as: protecting children from maltreatment; preventing impairment of children's health or development; ensuring that children grow up in circumstances consistent with the provision of safe and effective care; and taking action to enable all children to have the best outcomes.
5. Children includes everyone under the age of 18.

#### The role of school and college staff

6. School and college staff are particularly important as they are in a position to identify concerns early, provide help for children, and prevent concerns from escalating.
7. **All** school and college staff have a responsibility to provide a safe environment in which children can learn.
8. **All** school and college staff should be prepared to identify children who may benefit from early help.<sup>2</sup>

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<sup>2</sup> Detailed information on early help can be found in Chapter 1 of [Working together to safeguard children](#).

9. **Any staff member** who has a concern about a child's welfare should follow the referral processes set out in paragraphs 22-35. Staff may be required to support social workers and other agencies following any referral.

10. Every school and college should have a designated safeguarding lead who will provide support to staff members to carry out their safeguarding duties and who will liaise closely with other services such as children's social care.

11. The Teachers' Standards 2012 state that teachers (which includes headteachers) should safeguard children's wellbeing and maintain public trust in the teaching profession as part of their professional duties.<sup>3</sup>

## What school and college staff need to know

12. **All** staff members should be aware of systems within their school or college which support safeguarding and these should be explained to them as part of staff induction. This should include:

- the child protection policy;
- the staff behaviour policy (sometimes called a code of conduct); and
- the role of the designated safeguarding lead (including the identity of the designated safeguarding lead and any deputies).

Copies of policies and a copy of Part one of this document should be provided to staff at induction.

13. **All** staff members should receive appropriate safeguarding and child protection training which is regularly updated. In addition, all staff members should receive safeguarding and child protection updates (for example, via email, e-bulletins and staff meetings), as required, and at least annually, to provide them with relevant skills and knowledge to safeguard children effectively.

14. **All** staff should be aware of the early help process, and understand their role in it. Early help means providing support as soon as a problem emerges at any point in a child's life, from the foundation years through to the teenage years.

15. **All** staff should be aware of the process for making referrals to children's social care and for statutory assessments under the Children Act 1989, especially section 17 (children in need) and section 47 (a child suffering, or likely to suffer, significant harm)

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<sup>3</sup> The [Teachers' Standards](#) apply to: trainees working towards QTS; all teachers completing their statutory induction period (newly qualified teachers [NQTs]); and teachers in maintained schools, including maintained special schools, who are subject to the Education (School Teachers' Appraisal) (England) Regulations 2012.

that may follow a referral, along with the role they might be expected to play in such assessments.<sup>4</sup>

16. **All** staff should know what to do if a child tells them he/she is being abused or neglected. Staff should know how to manage the requirement to maintain an appropriate level of confidentiality whilst at the same time liaising with relevant professionals such as the designated safeguarding lead and children's social care. Staff should never promise a child that they will not tell anyone about an allegation, as this may ultimately not be in the best interests of the child.

## What school and college staff should look out for

17. Any child may benefit from early help, but all school and college staff should be particularly alert to the potential need for early help for a child who:

- is disabled and has specific additional needs;
- has special educational needs (whether or not they have a statutory education, health and care plan);
- is a young carer;
- is frequently missing/goes missing from care or home;
- is misusing drugs or alcohol;
- is in a family circumstance presenting challenges for the child, such as substance abuse, adult mental health problems or domestic abuse; and/or
- has returned home to their family from care.

18. **All** school and college staff members should be aware of the types of abuse and neglect so that they are able to identify cases of children who may be in need of help or protection. Types of abuse and neglect, and examples of safeguarding issues are described in paragraphs 42-51 of this guidance.

19. Departmental advice [What to do if you are worried a child is being abused - Advice for practitioners](#) provides more information on understanding and identifying abuse and neglect. Examples of potential signs of abuse and neglect are highlighted throughout the advice and will be particularly helpful for school and college staff. The [NSPCC](#) website also provides useful additional information on types of abuse and what to look out for.

20. Staff members working with children are advised to maintain an attitude of '**it could happen here**' where safeguarding is concerned. When concerned about the welfare of a child, staff members should always act in the **best** interests of the child.

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<sup>4</sup> Detailed information on statutory assessments can be found in Chapter 1 of [Working together to safeguard children](#).

21. Knowing what to look for is vital to the early identification of abuse and neglect. If staff members are unsure, they should always speak to the designated safeguarding lead (or deputy).

## What school and college staff should do if they have concerns about a child

22. If staff members have **any concerns** about a child's welfare, they will need to decide what action to take. See page 13 for a flow chart setting out the process for staff when they have concerns about a child.

23. If staff have a concern, they should act on it. They should not assume a colleague or another professional will take action. Staff should also be mindful that early information sharing is vital for effective identification, assessment and allocation of appropriate service provision. Staff should not assume that other professionals will share information that might be critical in keeping children safe. [Information sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers](#) supports school and college staff who have to make decisions about sharing information. This advice includes the seven golden rules for sharing information.

24. Wherever possible, there should be a conversation with the designated safeguarding lead (or deputy) who will help staff decide what to do next. Options include:

- managing any support for the child internally via the school or college's own pastoral support processes;
- an early help assessment;<sup>5</sup> or
- a referral for statutory services,<sup>6</sup> for example as the child is in need or suffering or likely to suffer harm.

25. If, for any reason, the designated safeguarding lead (or deputy) is not available, this should not delay appropriate action being taken. In these circumstances, any action taken should be shared with the designated safeguarding lead (or deputy) as soon as is practically possible.

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<sup>5</sup>Local agencies including the three safeguarding partners should work together to put processes in place for the effective assessment of the needs of individual children who may benefit from early help services. Further information on early help assessments, provision of early help services and accessing services is in Chapter 1 of [Working together to safeguard children](#).

<sup>6</sup> Local authority children's social care has the responsibility for clarifying the process for referrals (Chapter one of [Working together to safeguard children](#)).



## Early help

26. If early help is appropriate, the designated safeguarding lead (or deputy) should support the staff member in liaising with other agencies and setting up an inter-agency assessment as appropriate. Staff may be required to support other agencies and professionals in an early help assessment, in some cases acting as the lead professional. Any such cases should be kept under constant review and consideration given to a referral to children's social care for assessment for statutory services if the child's situation does not appear to be improving or is getting worse.

## Statutory assessments

27. If a child is in need or is suffering, or likely to suffer from harm then a referral should be made to local children's social care to consider a statutory assessment.

## Children in need

A child in need is defined under the Children Act 1989 as a child who is unlikely to achieve or maintain a reasonable level of health or development, or whose health and development is likely to be significantly or further impaired, without the provision of services; or a child who is disabled. Local authorities are required to provide services for children in need for the purposes of safeguarding and promoting their welfare. Children in need may be assessed under section 17 of the Children Act 1989.

## Children suffering or likely to suffer significant harm

Local authorities, with the help of other organisations as appropriate, have a duty to make enquires under section 47 of the Children Act 1989 if they have reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm. Such enquiries enable them to decide whether they should take any action to safeguard and promote the child's welfare and must be initiated where there are concerns about maltreatment, including all forms of abuse and neglect, female genital mutilation or other so called honour based violence, and extra-familial threats like radicalisation and sexual exploitation.

28. In both cases, referrals should be made in accordance with local criteria for action<sup>7</sup> and follow the local authority's referral process.

29. **Where a child is suffering, or is likely to suffer from harm, it is important that a referral to children's social care (and if appropriate the police) is made immediately.**

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<sup>7</sup> Chapter 1 of [Working together to safeguard children](#).

30. The online tool [Report child abuse to local council](#) directs to the relevant local children's social care contact number.

31. The local authority should make a decision, within one working day of a referral being made, about what course of action it is taking and should let the referrer know the outcome. This will include determining whether:

- the child requires immediate protection and urgent action is required;
- whether the child is in need, and should be assessed under section 17;
- there is reasonable cause to suspect the child is suffering, or likely to suffer, significant harm, and whether enquiries must be made and the child assessed under section 47;
- any services required by the child and family and what type of services; and
- further specialist assessments are required in order to help the local authority to decide what further action to take.

32. Staff should follow up on a referral should this information not be forthcoming.

33. If social workers decide to carry out a statutory assessment, school or college staff should do everything they can to support that assessment (supported by the designated safeguarding lead (or deputy) as required).

34. If, after a referral, the child's situation does not appear to be improving, the designated safeguarding lead (or the person who made the referral) should press for re-consideration to ensure their concerns have been addressed and, most importantly, that the child's situation improves.

35. If a **teacher**<sup>8</sup>, in the course of their work in the profession, discovers that an act of female genital mutilation (FGM) appears to have been carried out on a girl under the age of 18, the teacher **must** report this to the police. See Annex A for further details.

## Record keeping

36. All concerns, discussions and decisions made, and the reasons for those decisions, should be recorded in writing. If in doubt about recording requirements, staff should discuss with the designated safeguarding lead (or deputy).

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<sup>8</sup> Under Section 5B(11)(a) of the Female Genital Mutilation Act 2003, "teacher" means, in relation to England, a person within section 141A(1) of the Education Act 2002 (persons employed or engaged to carry out teaching work at schools and other institutions in England).

## **Why is all of this important?**

37. It is important for children to receive the right help at the right time to address risks and prevent issues escalating. Research and serious case reviews have repeatedly shown the dangers of failing to take effective action. Examples of this poor practice include: failing to act on and refer the early signs of abuse and neglect; poor record keeping; failing to listen to the views of the child; failing to re-assess concerns when situations do not improve; sharing information too slowly and a lack of challenge to those who appear not to be taking action.<sup>9</sup>

## **What school and college staff should do if they have concerns about another staff member**

38. If staff members have concerns about another staff member, then:

- this should be referred to the headteacher or principal;
- where there are concerns about the headteacher or principal, this should be referred to the chair of governors, chair of the management committee or proprietor of an independent school; and
- in the event of allegations of abuse being made against the headteacher, where the headteacher is also the sole proprietor of an independent school, allegations should be reported directly to the designated officer(s) at the local authority.

Staff may consider discussing any concerns with the school's designated safeguarding lead (or deputy) and make any referral via them. Full details can be found in Part four of this guidance.

## **What school or college staff should do if they have concerns about safeguarding practices within the school or college**

39. All staff and volunteers should feel able to raise concerns about poor or unsafe practice and potential failures in the school or college's safeguarding regime and know that such concerns will be taken seriously by the senior leadership team.

40. Appropriate whistleblowing procedures, which are suitably reflected in staff training and staff behaviour policies, should be in place for such concerns to be raised with the school or college's senior leadership team.

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<sup>9</sup> An analysis of serious case reviews can be found at [Serious case reviews, 2011 to 2014](#).

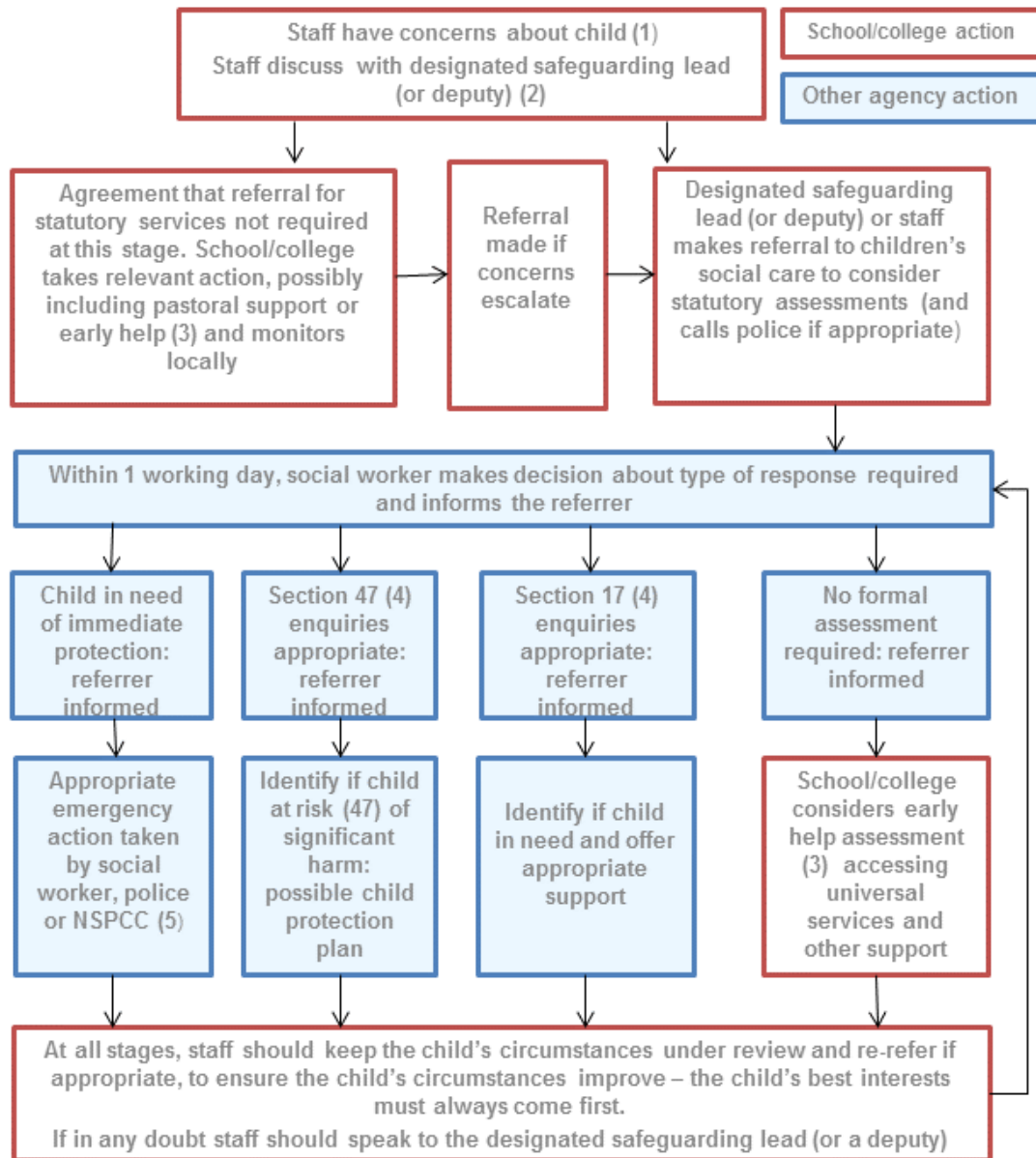
41. Where a staff member feels unable to raise an issue with their employer, or feels that their genuine concerns are not being addressed, other whistleblowing channels may be open to them:

- General guidance can be found at: [Advice on whistleblowing](#).
- The [NSPCC whistleblowing helpline](#) is available as an alternative route for staff who do not feel able to raise concerns regarding child protection failures internally or have concerns about the way a concern is being handled by their school or college. Staff can call 0800 028 0285 – line is available from 8:00 AM to 8:00 PM, Monday to Friday and email: [help@nspcc.org.uk](mailto:help@nspcc.org.uk)<sup>10</sup>

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<sup>10</sup> Alternatively, staff can write to: National Society for the Prevention of Cruelty to Children (NSPCC), Weston House, 42 Curtain, Road, London EC2A 3NH.

## Actions where there are concerns about a child



- (1) In cases which also involve an allegation of abuse against a staff member, see Part four of this guidance.
- (2) If, for any reason, the designated safeguarding lead (or deputy) is not available, this should not delay appropriate action being taken.
- (3) Chapter 1 of [Working together to safeguard children](#) provides detailed guidance on the early help process.
- (4) Under the Children Act 1989, local authorities are required to provide services for children in need for the purposes of safeguarding and promoting their welfare. This can include section 17 and section 47 assessment. Chapter 1 of [Working together to safeguard children](#) provides detailed guidance on statutory assessments.
- (5) This could include applying for an Emergency Protection Order (EPO).

## Types of abuse and neglect

42. All school and college staff should be aware that abuse, neglect and safeguarding issues are rarely standalone events that can be covered by one definition or label. In most cases, multiple issues will overlap with one another.

43. **Abuse:** a form of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm or by failing to act to prevent harm. Children may be abused in a family or in an institutional or community setting by those known to them or, more rarely, by others (e.g. via the internet). They may be abused by an adult or adults or by another child or children.

44. **Physical abuse:** a form of abuse which may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces, illness in a child.

45. **Emotional abuse:** the persistent emotional maltreatment of a child such as to cause severe and adverse effects on the child's emotional development. It may involve conveying to a child that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may include not giving the child opportunities to express their views, deliberately silencing them or 'making fun' of what they say or how they communicate. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond a child's developmental capability as well as overprotection and limitation of exploration and learning, or preventing the child from participating in normal social interaction. It may involve seeing or hearing the ill-treatment of another. It may involve serious bullying (including cyberbullying), causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of maltreatment of a child, although it may occur alone.

46. **Sexual abuse:** involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via the internet). Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children. The sexual abuse of children by other children is a specific safeguarding issue in education (see paragraph 49).

47. **Neglect:** the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development.

Neglect may occur during pregnancy, for example, as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to: provide adequate food, clothing and shelter (including exclusion from home or abandonment); protect a child from physical and emotional harm or danger; ensure adequate supervision (including the use of inadequate care-givers); or ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

## Specific safeguarding issues

48. **All** staff should have an awareness of safeguarding issues, some of which are listed below. Staff should be aware that behaviours linked to issues such as drug taking, alcohol abuse, deliberately missing education and sexting put children in danger.

49. **All** staff should be aware that safeguarding issues can manifest themselves via peer on peer abuse. This is most likely to include, but may not be limited to, bullying (including cyberbullying), sexual violence, sexual harassment and sexting. Staff should be clear as to the school or college's policy and procedures with regards to peer on peer abuse. Additional information regarding peer on peer abuse is in Annex A.

50. Expert and professional organisations are best placed to provide up-to-date guidance and practical support on specific safeguarding issues. For example, information for schools and colleges can be found on the [TES](#), [MindEd](#) and the [NSPCC](#) websites. School and college staff can access government guidance as required on the issues listed below via GOV.UK and other government websites:

- [abuse](#) (DfE advice for practitioners)
- [bullying including cyberbullying](#) (DfE advice for headteachers, staff and governing bodies)
- [criminal exploitation of children and vulnerable adults county lines](#) (Home office guidance) and Annex A
- [children missing education](#) (DfE advice for schools) and Annex A
- [child missing from home or care](#) (DfE statutory guidance)
- [child sexual exploitation advice for practitioners](#) (DfE advice for practitioners) and Annex A
- [domestic abuse](#) (Home Office advice) and Annex A
- [drugs](#) (DfE and ACPO advice for schools)

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- [fabricated or induced illness](#) (DfE, Department for Health and Home Office statutory guidance)
- [faith based abuse](#) (national action plan)
- [female genital mutilation](#) (multi agency statutory guidance) and Annex A  
[female genital mutilation](#) (Home Office advice)
- [forced marriage](#) (Foreign and Commonwealth Office and Home Office advice) and Annex A
- [gangs and youth violence](#) (Home Office advice)
- [gender based violence/violence against women and girls](#) (Home Office strategy)  
[gender-based violence/violence against women and girls](#) (Home Office information)
- [hate](#) (educate against hate website)
- [mental health](#) (DfE advice for schools)
- [missing children and adults](#) (Home Office strategy)
- [private fostering](#) (28 days or more- Children Act 1989- statutory guidance for local authorities)
- [preventing radicalisation](#) (Home Office Statutory Prevent guidance) and Annex A  
[protecting children from radicalisation](#) (DfE Prevent advice for schools)
- [relationship abuse](#) (disrespect nobody website)
- [sexual violence and sexual harassment between children in schools and colleges](#) (DfE advice for schools and colleges)
- [sexting](#) (UK Council for Child Internet Safety advice for schools and colleges)
- [trafficking and modern slavery](#) (DfE and Home Office guidance)

51. Annex A contains important additional information about specific forms of abuse and safeguarding issues. School and college leaders and those staff who work directly with children should read the annex.



## Part two: The management of safeguarding

### The responsibility of governing bodies, proprietors and management committees

#### Legislation and the law

52. Governing bodies and proprietors<sup>11</sup> (in Part two, unless otherwise stated, this includes management committees) must ensure that they comply with their duties under legislation. They must have regard to this guidance to ensure that the policies, procedures and training in their schools or colleges are effective and comply with the law at all times.<sup>12</sup>

53. Governing bodies and proprietors should have a senior board level (or equivalent) lead to take **leadership** responsibility for their school's or college's safeguarding arrangements.<sup>13</sup>

#### Safeguarding policies and procedures

54. Governing bodies and proprietors should ensure that there are appropriate policies and procedures in place in order for appropriate action to be taken in a timely manner to safeguard and promote children's welfare.

55. This should include:

- Individual schools and colleges having an effective child protection policy. The child protection policy should describe procedures which are in accordance with government guidance and refer to locally agreed inter-agency procedures, be

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<sup>11</sup> In the case of academies, free schools and alternative provision academies the proprietor will be the academy trust.

<sup>12</sup> Section 175 of the Education Act 2002 requires governing bodies of maintained schools and further education colleges (including sixth form colleges) in relation to their functions relating to the conduct of the school or the institution to make arrangements for ensuring that such functions are exercised with a view to safeguarding and promoting the welfare of children who are either pupils at the school or who are students under 18 years of age attending the further education institution. The Education (Independent School Standards) Regulations 2014 apply a duty to proprietors of independent schools (which in the case of academies and free schools is the Academy Trust) to ensure that arrangements are made to safeguard and promote the welfare of children. The Non-Maintained Special Schools (England) Regulations 2015 oblige non-maintained special schools to comply with certain requirements as a condition of their approval and whilst approved by the Secretary of State. One condition of approval is that the proprietor must make arrangements for safeguarding and promoting the health, safety and welfare of pupils, which have regard to any guidance including where appropriate, the National Minimum Standards, about safeguarding and promoting the health, safety and welfare of pupils and, in the case of schools already approved, that these arrangements at the school with respect to these matters are in accordance with the approval given by the Secretary of State. For colleges, non-maintained special schools and independent schools: the definition of 'children' applies to the statutory responsibilities for safeguarding and promoting the welfare of children i.e. those under 18.

<sup>13</sup> Chapter 2 of [Working together to safeguard children](#).

updated annually (as a minimum), and be available publicly either via the school or college website or by other means.

- A staff behaviour policy (sometimes called the code of conduct) which should, amongst other things, include - acceptable use of technologies, staff/pupil relationships and communications including the use of social media.<sup>14</sup>
- Governing bodies and proprietors should put in place appropriate safeguarding responses to children who go missing from education, particularly on repeat occasions.
  - Going missing, particularly repeatedly, can act as a vital warning sign of a range of safeguarding risks, including abuse and neglect, which may include sexual abuse or exploitation; child criminal exploitation; mental health problems; substance abuse and other issues. Early intervention is necessary to identify the existence of any underlying safeguarding risk and to help prevent the risks of them going missing in future.
  - Where reasonably possible, schools and colleges should hold more than one emergency contact number for each pupil. This goes beyond the legal minimum<sup>15</sup> and is good practice to give the school or college additional options to make contact with a responsible adult when a child missing education is also identified as a welfare and/or safeguarding concern.
  - The government's [missing children and adults strategy](#), the department's [children missing education](#) guidance and additional information at Annex A provide information that governing bodies and proprietors will find useful when considering children who go missing from education.

This is not intended to be an exhaustive list. These policies and procedures, along with Part one of this guidance and information regarding the role of the designated safeguarding lead, should be provided to all staff on induction. Governing bodies and proprietors should take a proportionate risk-based approach to the level of information that is provided to temporary staff and volunteers.

56. Headteachers and principals should ensure that the above policies and procedures, adopted by governing bodies and proprietors, and particularly concerning referrals of cases of suspected abuse and neglect, are followed by all staff.

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<sup>14</sup> When drafting the staff behaviour policy, schools and colleges should bear in mind the offence under section 16 of The Sexual Offences Act 2003, which provides that it is an offence for a person aged 18 or over (e.g. teacher, youth worker) to have a sexual relationship with a child under 18 where that person is in a position of trust in respect of that child, even if the relationship is consensual. A situation where a person is in a position of trust could arise where the child is in full-time education and the person looks after children under 18 in the same establishment as the child, even if s/he does not teach the child.

<sup>15</sup> [legislation.gov.uk](http://legislation.gov.uk)

## The designated safeguarding lead

57. Governing bodies and proprietors should ensure an appropriate **senior member** of staff, from the school or college **leadership team**, is appointed to the role of designated safeguarding lead. The designated safeguarding lead should take **lead responsibility** for safeguarding and child protection. This should be explicit in the role-holder's job description (see Annex B, which describes the broad areas of responsibility and activities related to the role).

58. It is a matter for individual schools and colleges as to whether they choose to have one or more deputy designated safeguarding leads. Any deputies should be trained to the same standard as the designated safeguarding lead.

59. Whilst the activities of the designated safeguarding lead can be delegated to appropriately trained deputies, the ultimate **lead responsibility** for safeguarding and child protection, as set out above, remains with the designated safeguarding lead. This responsibility should not be delegated.

60. The designated safeguarding lead and any deputies should liaise with the local authority and work with other agencies in line with [Working together to safeguard children](#).

61. During term time, the designated safeguarding lead and/or a deputy should always be available (during school or college hours) for staff in the school or college to discuss any safeguarding concerns. It is a matter for individual schools and colleges and the designated safeguarding lead to arrange adequate and appropriate cover arrangements for any out of hours/out of term activities.

62. The designated safeguarding lead and any deputies should undergo training to provide them with the knowledge and skills required to carry out the role. The training should be updated every two years.

63. In addition to their formal training as set out above, their knowledge and skills should be updated, (for example via e-bulletins, meeting other designated safeguarding leads, or taking time to read and digest safeguarding developments), at regular intervals, and at least annually, to keep up with any developments relevant to their role.

## Multi-agency working<sup>16</sup>

64. Schools and colleges have an important role to play in multi-agency safeguarding

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<sup>16</sup> The Children and Social Work Act 2017 introduces new multi-agency safeguarding arrangements. Schools and colleges should continue to work with their local safeguarding children board (LSCB) until the new arrangements, led by the safeguarding partners, are introduced. Chapter 3 of [Working together to safeguard children](#) provides detailed information.

arrangements.

65. Governing bodies and proprietors should ensure that the school or college contributes to multi-agency working in line with statutory guidance [Working together to safeguard children](#).

66. The duty to make local safeguarding arrangements rests with **the three safeguarding partners**. A safeguarding partner is defined under the Children Act 2004 as:

- A. the local authority;
- B. a clinical commissioning group for an area (any part of which falls within the local authority area); and
- C. the chief officer of police for an area any part of which falls within the local authority area.

67. The three safeguarding partners must make arrangements, which set out how they and local relevant agencies will work together, to safeguard and promote the welfare of children in their area. Once agreed the safeguarding partners must publish the arrangements.

68. The safeguarding partners should set out how all schools and colleges will be included in the new safeguarding arrangements, including how they will be fully engaged and involved. Once designated as a relevant agency,<sup>17</sup> schools and colleges, in the same way as other relevant agencies, are under a statutory duty to work in line with the arrangements published by the safeguarding partners.

69. Schools and colleges should work with social care, the police, health services and other services to promote the welfare of children and protect them from harm. This includes providing a coordinated offer of early help when additional needs of children are identified and contributing to inter-agency plans to provide additional support to children subject to child protection plans. All schools and colleges should allow access for children's social care from the host local authority and, where appropriate, from a placing local authority, for that authority to conduct, or to consider whether to conduct, a section 17 or a section 47 assessment.<sup>18</sup>

70. Governing bodies and proprietors of all schools and colleges should ensure that their safeguarding arrangements take into account the procedures and practice established by the multi-agency arrangements for their area This should include

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<sup>17</sup>Chapter 3 of [Working together to safeguard children](#) provides information on relevant agencies.

<sup>18</sup> For further information see Chapter 1 of [Working together to safeguard children](#).

understanding local criteria for action<sup>19</sup> and local criteria regarding information requests.<sup>20</sup>

## Information sharing

71. As part of meeting a child's needs, it is important for governing bodies and proprietors to recognise the importance of information sharing between professionals and local agencies. This should include ensuring arrangements are in place that set out clearly the process and principles for sharing information. Further details on information sharing can be found in Chapter one of [Working together to safeguard children](#) and at [Information sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers](#). Whilst, among other obligations, the Data Protection Act 1998 places duties on organisations and individuals to process personal information fairly and lawfully and to keep the information they hold safe and secure, this is **not** a barrier to sharing information where the failure to do so would result in a child being placed at risk of harm. Fears about sharing information **cannot** be allowed to stand in the way of the need to promote the welfare and protect the safety of children.

72. Where children leave the school or college, the designated safeguarding lead should ensure their child protection file is transferred to the new school or college as soon as possible. This should be transferred separately from the main pupil file, ensuring secure transit, and confirmation of receipt should be obtained.

73. Although multi-agency working and information sharing are vital in identifying and tackling all forms of abuse, it is clear that they are especially important to identify and prevent child sexual exploitation (see Annex A for further information).

## Staff training

74. Governing bodies and proprietors should ensure that all staff members undergo safeguarding and child protection training at induction. The training should be regularly updated. Induction and training should be in line with any published local multi-agency safeguarding arrangements.

75. In addition, all staff members should receive regular safeguarding and child protection updates (for example, via email, e-bulletins, staff meetings) as required, and at least annually, to provide them with relevant skills and knowledge to safeguard children effectively.

76. Governing bodies and proprietors should recognise the expertise staff build by

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<sup>19</sup> As per Part 1, paragraph 20 (TBC in new version) of [Working together to safeguard children](#).

<sup>20</sup> As per Part 3, paragraph 32 (TBC in new version) of [Working together to safeguard children](#).

undertaking safeguarding training and managing safeguarding concerns on a daily basis. Opportunity should therefore be provided for staff to contribute to and shape safeguarding arrangements and child protection policy.

## Online safety

77. As schools and colleges increasingly work online, it is essential that children are safeguarded from potentially harmful and inappropriate online material. As such, governing bodies and proprietors should ensure appropriate filters and appropriate monitoring systems are in place. Additional information to support governing bodies and proprietors is provided in Annex C.

## Opportunities to teach safeguarding

78. As part of providing a broad and balanced curriculum, governing bodies and proprietors should ensure that children are taught about safeguarding, including online safety, through teaching and learning opportunities. This may include covering relevant issues through personal, social, health and economic (PSHE), education tutorials (in FE colleges) and/or, for maintained schools and colleges, through sex and relationship education (SRE).

79. Whilst it is essential that governing bodies and proprietors ensure that appropriate filters and monitoring systems are in place, they should be careful that “over blocking” does not lead to unreasonable restrictions as to what children can be taught with regard to online teaching and safeguarding.

## Inspection

80. From September 2015, all inspections by Ofsted have been made under: [A new common inspection framework: education, skills and early years](#). Inspectors will always report on whether or not arrangements for safeguarding children and learners are effective. Ofsted has published a document setting out the approach inspectors should take to inspecting safeguarding: [Inspecting safeguarding in early years, education and skills settings](#). Individual inspectorates will also report on safeguarding arrangements and have published frameworks which inform how they inspect the independent schools that are not inspected by Ofsted at: [School Inspection Service](#) and [Independent Schools Inspectorate](#).

## Safer recruitment

81. In line with Part three of this guidance, governing bodies and proprietors should prevent people who pose a risk of harm from working with children by adhering to statutory responsibilities to check staff who work with children, taking proportionate

decisions on whether to ask for any checks beyond what is required and ensuring volunteers are appropriately supervised. The school or college should have written recruitment and selection policies and procedures in place.

82. The School Staffing (England) Regulations 2009 require governing bodies of maintained schools to ensure that at least one person on any appointment panel has completed safer recruitment training.<sup>21</sup> Where there is not a panel, the person interviewing must have completed the training. Governing bodies of maintained schools may choose appropriate training and may take advice from those responsible for multi-agency safeguarding arrangements in doing so. The training should cover, as a minimum, the content of this guidance.

## **Allegations of abuse made against teachers, headteachers, principals, volunteers and other staff**

83. Governing bodies and proprietors should ensure there are procedures in place to handle allegations against teachers, headteachers, principals, volunteers and other staff. Such allegations should be referred to the designated officer(s) at the local authority by the appropriate person as set out in Part four of this guidance.

84. There must be procedures in place to make a referral to the Disclosure and Barring Service (DBS) if a person in regulated activity has been dismissed or removed due to safeguarding concerns, or would have been had they not resigned.<sup>22</sup>

85. **This is a legal duty and failure to refer when the criteria are met is a criminal offence.**<sup>23</sup> More detail is provided at paragraph 143.

## **Peer on peer abuse**

86. All staff should recognise that children are capable of abusing their peers. Additional information to support schools and colleges is included in Annex A, to which reference should be made. Governing bodies and proprietors should ensure that their child protection policy includes:

- procedures to minimise the risk of peer on peer abuse;
- how allegations of peer on peer abuse will be investigated and dealt with;
- clear processes as to how victims, perpetrators and any other child affected by peer on peer abuse will be supported;
- a clear statement that abuse is abuse and should never be tolerated or passed off

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<sup>21</sup> Regulation 9 of the School Staffing (England) Regulations 2009.

<sup>22</sup> Section 35 of the Safeguarding Vulnerable Groups Act 2006.

<sup>23</sup> Section 38 of the Safeguarding Vulnerable Groups Act 2006.

as “banter”, “just having a laugh” or “part of growing up”;

- recognition of the gendered nature of peer on peer abuse (i.e. that it is more likely that girls will be victims and boys perpetrators), but that all peer on peer abuse is unacceptable and will be taken seriously; and
- the different forms peer on peer abuse can take, such as:
  - sexual violence and sexual harassment (departmental advice: [here](#));
  - physical abuse such as hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm;
  - sexting: the policy should include the school or college’s approach to it. The department provides [searching screening and confiscation advice](#) for schools. The UK Council for Child Internet Safety (UKCCIS) Education Group has recently published [sexting advice](#) for schools and colleges; and
  - initiating/hazing type violence and rituals.

## The child’s wishes

87. Where there is a safeguarding concern, governing bodies, proprietors and school or college leaders should ensure the child’s wishes and feelings are taken into account when determining what action to take and what services to provide. Systems should be in place for children to express their views and give feedback. Ultimately, all systems and processes should operate with the **best** interests of the child at their heart.

## Boarding schools, residential special schools and children’s homes

88. Boarding schools, residential special schools and children’s homes have additional factors to consider with regards to safeguarding. Schools and colleges that provide such residential accommodation and/or are registered as children’s homes should be alert to inappropriate pupil relationships and the potential for peer on peer abuse, particularly in schools and colleges with a significant gender imbalance. Further details can be found at Annex D.

## Looked after children and previously looked after children

89. The most common reason for children becoming looked after<sup>24</sup> is as a result of abuse and/or neglect. Governing bodies and proprietors should ensure that staff have the

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<sup>24</sup> A child who is looked after by a local authority (referred to as a looked-after-child) as defined in section 22 Children Act 1989, means a child who is subject to a care order (interim or full care order) or who is voluntarily accommodated by a local authority.



skills, knowledge and understanding to keep looked after children safe.

90. In particular, they should ensure that appropriate staff have the information they need in relation to a child's looked after legal status (whether they are looked after under voluntary arrangements with consent of parents or on an interim or full care order) and contact arrangements with birth parents or those with parental responsibility. They should also have information about the child's care arrangements and the levels of authority delegated to the carer by the authority looking after him/her. The designated safeguarding lead<sup>25</sup> should have details of the child's social worker and the name of the virtual school head in the authority that looks after the child.

91. A previously looked after child potentially remains vulnerable and all staff should have the skills, knowledge and understanding to keep previously looked after children safe. When dealing with looked after children and previously looked after children, it is important that all agencies work together and prompt action is taken on concerns to safeguard these children, who are a particularly vulnerable group.

## The designated teacher

92. Governing bodies of maintained schools and proprietors of academies and free schools must appoint a designated teacher<sup>26</sup> to promote the educational achievement of registered pupils who are looked after. On commencement of sections 4 to 6 of the Children and Social Work Act 2017, designated teachers will have responsibility for promoting the educational achievement of certain previously looked after children.<sup>27</sup> This designated teacher must have appropriate training and the relevant qualifications and experience.<sup>28</sup> In other schools and colleges, an appropriately trained teacher should take the lead.

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<sup>25</sup> In maintained schools and academies the designated safeguarding lead should work closely with the designated teacher.

<sup>26</sup> Section 20 of the Children and Young Persons Act 2008 sets this requirement for maintained schools. This legislation and accompanying statutory guidance on [the role of designated teacher](#) applies to academies through their funding agreements.

<sup>27</sup> For the purposes of the role of the virtual school head and designated teacher, under the Children and Social Work Act 2017, previously looked-after children are those who: are no longer looked after by a local authority in England and Wales (as defined by the Children Act 1989 or Part 6 of the Social Services and Well-being (Wales) Act 2014) because they are the subject of an adoption, special guardianship or child arrangements order; or were adopted from 'state care' outside England and Wales.

<sup>28</sup> Section 20(3) of the Children and Young Persons Act 2008 and regulation 3 of the Designated Teacher (Looked After Pupils etc) (England) Regulations 2009.

## Virtual school heads

93. Virtual school heads<sup>29</sup> manage pupil premium plus for looked after children;<sup>30</sup> they receive this funding based on the latest published number of children looked after by the local authority. In maintained schools and academies, the designated teacher should work with the virtual school head to discuss how funding can be best used to support the progress of looked after children in the school and meet the needs identified in the child's personal education plan.<sup>31</sup> The designated teacher should also work with the virtual school head to promote the educational achievement of previously looked after children. In other schools and colleges, an appropriately trained teacher should take the lead.

94. As with designated teachers, on commencement of sections 4 to 6 of the Children and Social Work Act 2017 virtual school heads will have responsibilities towards certain previously looked after children. Their primary role for this group will be the provision of information and advice to relevant parties.<sup>32</sup>

## Care leavers

95. Local authorities are the corporate parent to care leavers<sup>33</sup> and are under a duty to help further the education and career aspirations and ambitions of care leavers in their area, including through participation in further education. Designated safeguarding leads in colleges should therefore have details of the local authority Personal Advisor that has been appointed to guide and support the care leaver, and should liaise with them as necessary regarding any issues of concern affecting the care leaver.

## Children with special educational needs and disabilities

96. Children with special educational needs (SEN) and disabilities can face additional safeguarding challenges. Governing bodies and proprietors should ensure their child protection policy reflects the fact that additional barriers can exist when recognising abuse and neglect in this group of children. These can include:

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<sup>29</sup> Section 22(3B) of the Children Act 1989 requires local authorities in England to appoint at least one person for the purpose of discharging the local authority's duty to promote the educational achievement of its looked after children. That person (known as the virtual school head) must be an officer employed by the authority or another local authority in England.

<sup>30</sup> Pupil premium plus for previously looked after children is managed by their school.

<sup>31</sup> All looked after children must have a personal education plan (PEP). This is part of the care plan that the local authority looking after the child must have in place and review regularly.

<sup>32</sup> Any person that has parental responsibility for the child; providers of funded early years education, designated teachers for previously looked-after children in maintained schools and academies, and any other person the authority considers appropriate for promoting the educational achievement of relevant children.

<sup>33</sup> A care leaver is defined in para 19B of Schedule 2 to the Children Act 1989 and reg 40 of the Care Planning Regs as a child who is looked after; aged 16 or 17 and has been looked after by a local authority for a period of 13 weeks or periods amounting in total to 13 weeks which began before he reached 14 and ended after he reached 16 years of age.

## Draft for consultation

- assumptions that indicators of possible abuse such as behaviour, mood and injury relate to the child's disability without further exploration;
- being more prone to peer group isolation than other children;
- the potential for children with SEN and disabilities being disproportionately impacted by behaviours such as bullying, without outwardly showing any signs; and
- communication barriers and difficulties in overcoming these barriers.

To address these additional challenges, schools and colleges should consider extra pastoral support for children with SEN and disabilities.

97. When applying disciplinary measures such as restraint or isolation in response to incidents involving children with SEN and disabilities, schools and colleges should consider the risks carefully, given the additional vulnerability of the group. To safeguard a pupil or student and others, it may be necessary to use restraint and yet restraint is likely to impact on the well-being of the child. By planning positive and proactive behaviour support, schools and colleges can reduce the occurrence of risky behaviour and the need to use restraint. Guidance is available here: [use-of-reasonable-force-in-schools](#).

## Part three: Safer recruitment

### Recruitment, selection and pre-employment vetting

98. It is vital that schools and colleges create a culture of safe recruitment and, as part of that, adopt recruitment procedures that help deter, reject or identify people who might abuse children, (see also paragraphs 81-82 about safer recruitment). This part of the guidance describes in detail those checks that are, or may be, required for any individual working in any capacity at, or visiting, the school or college. Governing bodies and proprietors must act reasonably in making decisions about the suitability of the prospective employee based on checks and evidence, including criminal record checks (DBS checks), barred list checks and prohibition checks, together with references and interview information.<sup>34 35</sup>

99. As outlined in this guidance, the level of DBS certificate required, and whether a check for any prohibition, direction, sanction, or restriction is required (see paragraphs 109-116), will depend on the role that is being offered and duties involved.

100. As the majority of staff will be engaging in regulated activity, an enhanced DBS certificate which includes barred list information, will be required for most appointments. In summary, a person will be considered to be engaging in regulated activity if, as a result of their work, they:

- will be responsible, on a regular basis in a school or college, for teaching, training instructing, caring for or supervising children; or
- will carry out paid, or unsupervised unpaid, work regularly in a school or college where that work provides an opportunity for contact with children;<sup>36</sup> or

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<sup>34</sup> Regulations 12 and 24 of the School Staffing (England) Regulations 2009 for maintained schools, apply also to the management committee of pupil referral units through the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007. Part 4 of the Schedule to the Education (Independent School Standards) (England) Regulations 2014, applies to independent schools, including free schools and academies. Regulation 3 and paragraphs 4, 5 and 6 of Part 1 and paragraphs 15, 16 and 17 of Part 2 of the Schedule to the Non-Maintained Special Schools (England) Regulations 2015 apply to non-maintained special schools. Regulation 5 of the Further Education (Providers of Education) (England) Regulations 2006 apply to further education colleges.

<sup>35</sup> The Teachers' Disciplinary (England) Regulations 2012 apply to schools and sixth form colleges and any person that is subject to a prohibition order is prohibited from carrying out teaching work in those establishments. By virtue of their Conditions of Funding in respect of funding received from the Education and Skills Funding Agency, before employing a person to carry out teaching work in relation to children, colleges must take reasonable steps to establish whether that person is subject to a prohibition order made under section 141B, and may not employ or engage a person who is subject to a prohibition order in such a role. The School Staffing (England) Regulations 2009, the Non-Maintained Special Schools (England) Regulations 2015 and the Education (Independent School Standards) Regulations 2014 require governing bodies or proprietors to check that a person to be appointed is not subject to an interim prohibition order.

<sup>36</sup> Applies to any college that provides, exclusively or mainly, full-time education to children, i.e. persons under the age of 18.

- engage in intimate or personal care or overnight activity, even if this happens only once.

A more detailed description of regulated activity is provided at page 30.

101. For all other staff who have an opportunity for regular contact with children who are not engaging in regulated activity, an enhanced DBS certificate, which does not include a barred list check, will be appropriate. See paragraphs 159-162 for further information about contractors who would have the opportunity for contact with children and who work under a temporary or occasional contract.<sup>37</sup>

102. In a school or college, a **supervised** volunteer who regularly teaches or looks after children is not in regulated activity.<sup>38</sup> The government has published separate statutory guidance on supervision and regulated activity (see Annex F). When schools and colleges are considering which checks should be undertaken on volunteers, they should have regard to that guidance, together with paragraphs 147-152. However, schools and colleges may choose to carry out an enhanced DBS check, without barred list information, in certain circumstances (see paragraph 121).

103. In addition to obtaining the DBS certificate described, anyone who is appointed to carry out teaching work will require an additional check to ensure they are not prohibited from teaching.<sup>39</sup> For those engaged in management roles (in independent schools - including academies and free schools) an additional check is required to ensure they are not prohibited under section 128 provisions.<sup>40</sup> See the 'Pre-appointment checks' section from page 34.

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<sup>37</sup> Temporary or occasional is not further defined by legislation. Employers should apply the ordinary meaning of these terms, i.e. occasional - 'a particular occasion or on an irregular basis'; temporary services - 'lasting only for a limited period, not permanent'.

<sup>38</sup> 'Supervised' and 'unsupervised' have a particular meaning in relation to regulated activity.

<sup>39</sup> The Teachers' Disciplinary (England) Regulations 2012 apply to schools and sixth form colleges and any person that is subject to a prohibition order is prohibited from carrying out teaching work in those establishments. By virtue of their Conditions of Funding in respect of funding received from the Education and Skills Funding Agency, before employing a person to carry out teaching work in relation to children, colleges must take reasonable steps to establish whether that person is subject to a prohibition order made under section 141B, and may not employ or engage a person who is subject to a prohibition order in such a role. The School Staffing (England) Regulations 2009, the Non-Maintained Special Schools (England) Regulations 2015 and the Education (Independent School Standards) Regulations 2014 require governing bodies or proprietors to check that a person to be appointed is not subject to an interim prohibition order.

<sup>40</sup> Section 128 of the Education and Skills Act 2008 provides for the Secretary of State to direct that a person may be prohibited or restricted from participating in the management of an independent school (which includes academies and free schools).

## Regulated activity

The full legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012. HM Government has produced a [Factual note on regulated activity in relation to children: scope](#).

Regulated activity includes:

- a) teaching, training, instructing, caring for (see (c) below) or supervising children if the person is unsupervised, or providing advice or guidance on physical, emotional or educational well-being, or driving a vehicle only for children;
- b) work for a limited range of establishments (known as 'specified places', which include schools and colleges), with the opportunity for contact with children, but not including work done by supervised volunteers.

Work under (a) or (b) is regulated activity only if done regularly.<sup>41</sup> Some activities are always regulated activities, regardless of frequency or whether they are supervised or not. This includes:

- c) relevant personal care, or health care provided by or provided under the supervision of a health care professional:
  - personal care includes helping a child with eating and drinking for reasons of illness or disability or in connection with toileting, washing, bathing and dressing for reasons of age, illness or disability;<sup>42</sup>
  - health care means care for children provided by, or under the direction or supervision of, a regulated health care professional.

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<sup>41</sup> The Safeguarding Vulnerable Groups Act 2006 provides that the type of work referred to at (a) or (b) will be regulated activity if "it is carried out frequently by the same person" or if "the period condition is satisfied". Paragraph 10 of Schedule 4 to this Act says the period condition is satisfied if the person carrying out the activity does so at any time on more than three days in any period of 30 days and, for the purposes of the work referred to at (a), apart from driving a vehicle only for children, it is also satisfied if it is done at any time between 2am and 6am and it gives the person the opportunity to have face to face contact with children.

<sup>42</sup> It is not intended that personal care includes such activities as, for example, parent volunteers helping with costumes for school plays or helping a child lace up football boots.

## Types of check

### Disclosure and Barring Service (DBS) checks

104. Three types of DBS checks are referred to in this guidance (see Annex G for more information):

- **Standard:** this provides information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC), regardless or not of whether they are spent under the Rehabilitation of Offenders Act 1974. The law allows for certain old and minor matters to be filtered out;
- **Enhanced:** this provides the same information as a standard check, plus any approved information held by the police which a chief officer reasonably believes to be relevant and considers ought to be disclosed; and
- **Enhanced with barred list check:** where people are working or seeking to work in regulated activity with children, this allows for an additional check to be made as to whether the person appears on the children's barred list.<sup>43</sup>

A more detailed description of the three types of DBS checks is provided on the [DBS website](#).

105. Once the checks are complete, the DBS will send a certificate (the DBS certificate) to the applicant. The applicant must show the original DBS certificate to their potential employer before they take up post or as soon as practicable afterwards.

106. Where a school or college allows an individual to start work in regulated activity before the DBS certificate is available, they should ensure that the individual is appropriately supervised and that all other checks, including a separate barred list check, have been completed.

107. For staff who work in childcare provision or who are directly concerned with the management of such provision, the school needs to ensure that appropriate checks are carried out to ensure that individuals are not disqualified under the Childcare (Disqualification) Regulations 2009. Further information on the staff to whom these regulations apply, the checks that should be carried out, and the recording of those checks can be found in [Disqualification under the Childcare Act 2006](#) statutory guidance.

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<sup>43</sup> The DBS maintains 'barred lists' of individuals who are unsuitable to work with children and vulnerable adults. In addition, where an enhanced DBS certificate is obtained, and this includes a barred list check, the certificate will also detail whether the applicant is subject to a direction under section 128 of the Education and Skills Act 2008 or section 167A of the Education Act 2002 prohibiting that individual from taking part in the management of independent educational institutions in England and/or Wales respectively.

108. If a school or college knows or has reason to believe that an individual is barred, it commits an offence if it allows the individual to carry out any form of regulated activity.<sup>44</sup> There are penalties of up to five years in prison if a barred individual is convicted of attempting to engage or engaging in such work.<sup>45</sup>

## Prohibitions, directions, sanctions and restrictions

### Secretary of State teacher prohibition orders

109. Teacher prohibition orders prevent a person from carrying out teaching work in schools, sixth form colleges, 16 to 19 academies, relevant youth accommodation and children's homes in England.<sup>46</sup> A person who is prohibited from teaching must not be appointed to work as a teacher in such a setting.

110. Teacher prohibition orders are made by the Secretary of State following consideration by a professional conduct panel convened by the National College for Teaching and Leadership (NCTL). Pending such consideration, the Secretary of State may issue an interim prohibition order if it is considered to be in the public interest to do so. Prohibition orders and the process used to impose them are described in more detail in the NCTL's publication [Teacher misconduct: the prohibition of teachers](#).

### Secretary of State section 128 direction

111. A section 128 direction prohibits or restricts a person from taking part in the management of an independent school, including academies and free schools. 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.

A section 128 direction also prohibits a person from taking up a position as governor of a maintained school.<sup>47</sup>

112. The grounds on which a section 128 direction may be made by the Secretary of

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<sup>44</sup> Section 9, Safeguarding Vulnerable Groups Act 2006.

<sup>45</sup> Section 7, Safeguarding Vulnerable Groups Act 2006.

<sup>46</sup> Prohibition orders are made by the Secretary of State under section 141B of the Education Act 2002.

<sup>47</sup> School Governance (Constitution) (England) Regs 2012 (schedule 4, para 13(ba)).



State are found in the relevant regulations.<sup>48</sup>

### **Historic General Teaching Council for England (GTCE) sanctions and restrictions**

113. There remain a number of individuals who are still subject to disciplinary sanctions, which were imposed by the GTCE (prior to its abolition in 2012).

### **European Economic Area (EEA) regulating authority teacher sanctions or restrictions**

114. These sanctions and restrictions are imposed by EEA professional regulating authorities on or after 18 January 2016 and which have been notified to the NCTL (see also paragraphs 136-137).

### **Teacher Services checking system**

115. **Checks for those prohibitions, sanctions and restrictions described at paragraphs 109-114 can be carried out by logging onto the Secure Access Portal via the [Teacher Services' webpage](#).** Secure Access is a free service available to all schools and colleges. Registration is required for first time users and can be requested from Teacher Services. Further information about using this system to carry out a range of 'teacher status checks'<sup>49</sup> including verification of qualified teacher status (QTS) and the completion of teacher induction or teacher probation can be found at [GOV.UK](#).

116. Any section 128 direction will also be disclosed as additional information on an enhanced DBS certificate, which includes a barred list check.

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<sup>48</sup> The Independent Educational Provision in England (Prohibition on Participation in Management) Regulations 2014.

<sup>49</sup> The Teacher Services' system can also be used to check for the award of qualified teacher status (QTS) and the completion of teacher induction or probation.

## Pre-appointment checks

### All new appointments

117. Any offer of appointment made to a successful candidate, including one who has lived or worked abroad, must be conditional on satisfactory completion of the necessary pre-employment checks.

118. When appointing new staff, schools and colleges must (subject to para 121):

- verify a candidate's identity. Identification checking guidelines can be found on the [GOV.UK](#) website;
- obtain (via the applicant) an enhanced DBS certificate (including barred list information, for those who will be engaging in regulated activity);<sup>50 51</sup>
- obtain a separate barred list check if an individual will start work in regulated activity before the DBS certificate is available;
- verify the candidate's mental and physical fitness to carry out their work responsibilities.<sup>52</sup> A job applicant can be asked relevant questions about disability and health in order to establish whether they have the physical and mental capacity for the specific role;<sup>53</sup>
- verify the person's right to work in the UK. If there is uncertainty about whether an individual needs permission to work in the UK, then prospective employers, or volunteer managers, should follow advice on the [GOV.UK](#) website;
- if the person has lived or worked outside the UK, make any further checks the school or college consider appropriate (see paragraph 136);

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<sup>50</sup> Where the individual will be or is engaging in regulated activity, schools will need to ensure that they confirm on the DBS application that they have the right to barred list information.

<sup>51</sup> Regulations 12 and 24 of the School Staffing (England) Regulations 2009 for maintained schools also apply to the management committee of pupil referral units through the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007. Part 4 of the Schedule to The Education (Independent School Standards) (England) Regulations 2014 applies to independent schools, including free schools and academies. The Schedule to the Non-Maintained Special Schools (England) Regulations 2015 applies to non-maintained special schools. Regulation 5 of the Further Education (Providers of Education) (England) Regulations 2006 applies to further education institutions. Further Education providers should also note Regulation 10 of the Further Education (Providers of Education) (England) Regulations 2006, which requires that members of staff who move [within a college] from positions not involving the provision of education into a position involving the provision of education are to be treated as new staff members.

<sup>52</sup> Education (Health Standards) (England) Regulations 2003 - see also [fitness to teach circular](#).

<sup>53</sup> Section 60 of the Equality Act 2010.

- verify professional qualifications, as appropriate; and
- independent schools, including academies and free schools, must check that a person taking up a management position as described at paragraph 111 is not subject to a section 128 direction made by the Secretary of State.

119. Schools and colleges should use the [Teacher Services'](#) checking system to ensure that a candidate to be employed as a teacher is not subject to a prohibition order issued by the Secretary of State, or any sanction or restriction imposed (that remains current) by the GTCE before its abolition in March 2012.<sup>54</sup> The Teacher Services' system should also be used to verify any award of qualified teacher status (QTS), completion of teacher induction or probation.

120. Where an enhanced DBS certificate is required, it must be obtained from the candidate before, or as soon as practicable after, the person's appointment.

121. There is **no requirement** to obtain an enhanced DBS certificate or carry out checks for events that may have occurred outside the UK if, during a period which ended not more than three months before the person's appointment, the applicant has worked:

In a school in England in a post:

- which brought the person regularly into contact with children or young persons; or
- to which the person was appointed on or after 12th May 2006 and which did not bring the person regularly into contact with children or young persons; or
- in an institution within the further education sector in England in a post which involved the provision of education which brought the person regularly into contact with children or young persons.

All other pre-appointment checks must still be completed, including where the individual is engaging in regulated activity, a barred list check. Schools or colleges **may** also choose to request an enhanced DBS certificate.

122. The DBS cannot provide barred list information on any person, including volunteers, who are not in or seeking to enter in regulated activity.

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<sup>54</sup> By virtue of their Conditions of Funding in respect of funding received from the Education and Skills Funding Agency, before employing a person to carry out teaching work in relation to children, colleges must take reasonable steps to establish whether that person is subject to a prohibition order made under section 141B. The School Staffing (England) Regulations 2009, the Non-Maintained Special Schools (England) Regulations 2015 and the Education (Independent School Standards) Regulations 2014 require governing bodies or proprietors to check that a person to be appointed is not subject to an interim prohibition order.

## DBS Update Service

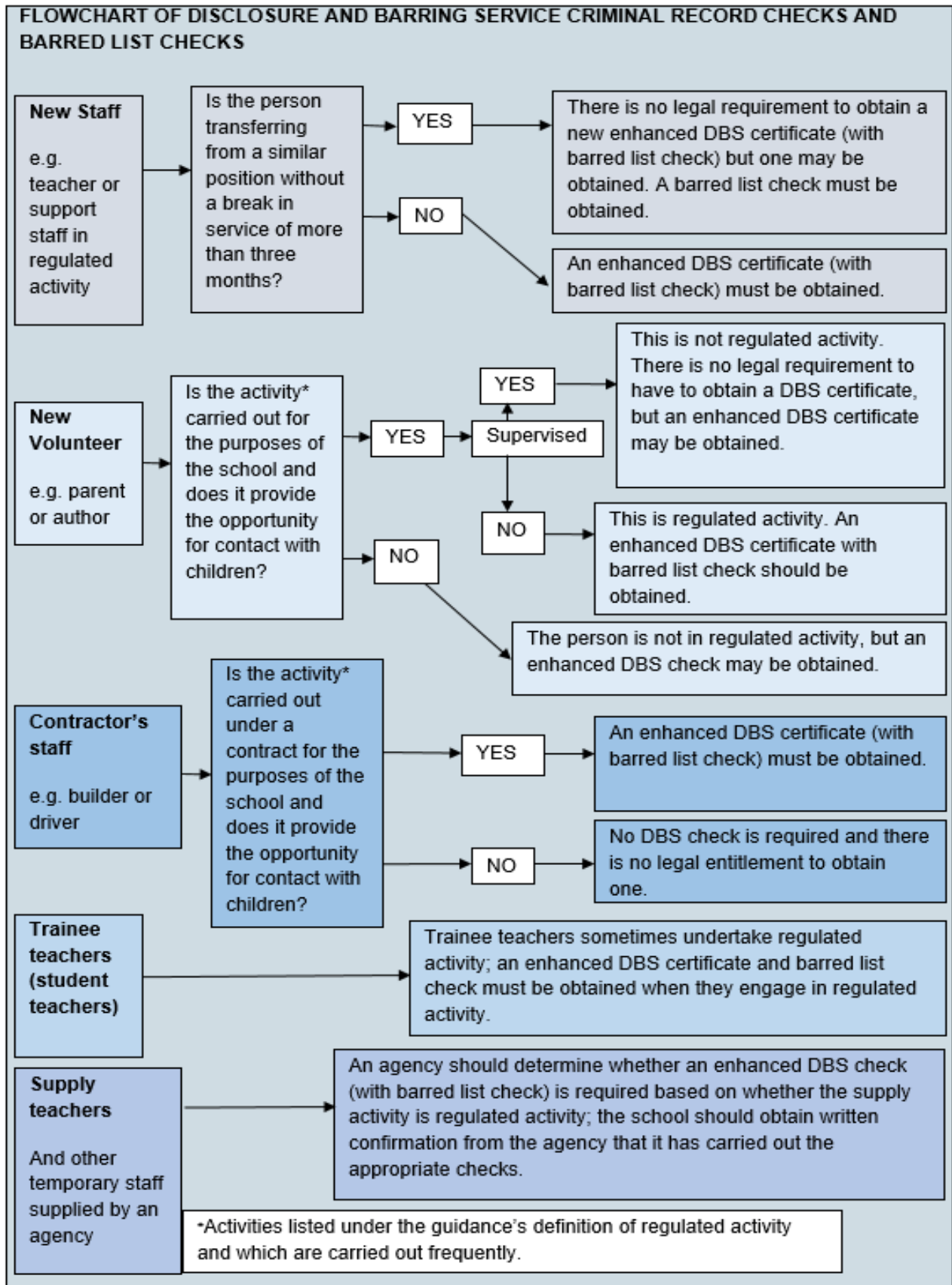
123. Individuals can join the DBS Update Service<sup>55</sup> at the point an application for a new DBS check is made, enabling future status checks to be carried out to confirm that no new information has been added to the certificate since its issue. This allows for portability of a certificate across employers. Before using the Update Service, schools or colleges must:

- obtain consent from the applicant to do so;
- confirm the certificate matches the individual's identity; and
- examine the original certificate to ensure that it is for the appropriate workforce and level of check, e.g. enhanced certificate/enhanced including barred list information.

The school or college can subsequently carry out a free online check. This would identify whether there has been any change to the information recorded, since the initial certificate was issued and advise whether the individual should apply for a new certificate. Individuals will be able to see a full list of those organisations that have carried out a status check on their account. Further information about the update service, including when updated information can be used, can be found at [GOV.UK](https://www.gov.uk).

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<sup>55</sup> There is an annual fee for applicants using the update service.



## Employment history and references

124. Employers should always ask for written information about previous employment history and check that information is not contradictory or incomplete. References should be sought on all short-listed candidates, including internal ones, before interview, so that any issues of concern they raise can be explored further with the referee and taken up with the candidate at interview.

125. The purpose of seeking references is to obtain objective and factual information to support appointment decisions. References should always be obtained and scrutinised and any concerns resolved satisfactorily, before the appointment is confirmed. They should always be requested directly from the referee and preferably from a senior person with appropriate authority, not just a colleague. Employers should not rely on open references, for example in the form of 'to whom it may concern' testimonials, nor should they only rely on information provided by the candidate as part of the application process without verifying that the information is correct. If a candidate is not currently employed, verification of their most recent period of employment and reasons for leaving should be obtained from the school, college or local authority at which they were employed.

126. On receipt, references should be checked to ensure that all specific questions have been answered satisfactorily. The referee should be contacted to provide further clarification as appropriate, for example if the answers are vague. They should also be compared for consistency with the information provided by the candidate on their application form. Any discrepancies should be taken up with the candidate.

127. Any information about past disciplinary action or allegations should be considered carefully when assessing the applicant's suitability for the post (including information obtained from the Teacher Services' checks referred to previously). Further help and advice can be found on the [Advisory, Conciliation and Arbitration Service \(ACAS\) website](#).

## Single central record (SCR)

128. Schools and colleges must maintain a single central record of pre-appointment checks, referred to in the Regulations (listed in paragraph 134) as the register. The single central record must cover the following people:

- all staff (including supply staff, and teacher trainees on salaried routes) who work at the school. In colleges, this means those providing education to children; and
- for independent schools, all members of the proprietor body. In the case of academies and free schools, this means the members and trustees of the academy trust.

129. The bullet points below set out the minimum information that must be recorded in respect of staff members (including teacher trainees on salaried routes). The record must

indicate whether the following checks have been carried out or certificates obtained, and the date on which each check was completed/certificate obtained:

- an identity check;
- a barred list check;
- an enhanced DBS check/certificate;
- a prohibition from teaching check;
- a section 128 check (for management positions as set out in paragraph 111-112 for independent schools (including academies and free schools));
- further checks on people who have lived or worked outside the UK (see paragraphs 136-137); this would include recording checks for those European Economic Area (EEA) teacher sanctions and restrictions described in paragraph 114;
- a check of professional qualifications; and
- a check to establish the person's right to work in the United Kingdom.

130. For supply staff, schools should also include whether written confirmation has been received that the employment business supplying the member of supply staff has carried out the relevant checks and obtained the appropriate certificates, and the date that confirmation was received and whether any enhanced DBS certificate check has been provided in respect of the member of staff.<sup>56</sup>

131. Whilst there is no statutory duty to include on the single central record details of any other checks, schools are free to record any other information they deem relevant. For example, checks for childcare disqualification, volunteers, and safeguarding and safer recruitment training dates. Schools may also wish to record the name of the person who carried out each check.

132. There is no requirement for multi-academy trusts (MATs) to have separate single central records, but schools should ensure the record is easily available to Ofsted inspectors.

133. The single central record can be kept in paper or electronic form.

134. Details of the records that must be kept are set out in the following Regulations:

- for maintained schools: Regulations 12(7) and 24(7) and Schedule 2 to the School Staffing (England) Regulations 2009 and the School Staffing (England)

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<sup>56</sup> Independent schools and non-maintained special schools should also include the date on which any certificate was obtained.

(Amendment) Regulations 2013 (applied to pupil referral units through the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007);

- for independent schools, (including academies and free schools and alternative provision academies and free schools): Part 4 of the Schedule to the Education (Independent School Standards) Regulations 2014;
- for colleges: Regulations 20-25 and the Schedule to the Further Education (Providers of Education) (England) Regulations 2006;<sup>57</sup> and
- for non-maintained special schools: Regulation 3 and paragraph 7 of Part 1 and paragraph 18 of Part 2 of the Schedule to the Non-Maintained Special Schools (England) Regulations 2015.

135. Schools and colleges do not have to keep copies of DBS certificates in order to fulfil the duty of maintaining the single central record. To help schools and colleges comply with the requirements of the Data Protection Act, when a school or college chooses to retain a copy, it should not be retained for longer than six months. A copy of the other documents used to verify the successful candidate's identity, right to work and required qualifications should be kept for the personnel file. Further information on handling DBS certificate information can be found on [GOV.UK](http://GOV.UK).

## Individuals who have lived or worked outside the UK

136. Individuals who have lived or worked outside the UK must undergo the same checks as all other staff in schools or colleges. In addition, schools and colleges must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered. The Home Office guidance on [criminal records checks for overseas applicants](#) can be found on GOV.UK. These further checks should include a check for information about any teacher sanction or restriction that an EEA professional regulating authority has imposed, using the NCTL [Teacher Services](#) system. See para 115 for further information on using this service. Although restrictions imposed by another EEA regulating authority do not prevent a person from taking up teaching positions in England, schools and colleges should consider the circumstances that led to the restriction or sanction being imposed when considering a candidate's suitability for employment.

137. The department has issued [guidance on the employment of overseas - trained teachers](#). This gives information on the requirements for overseas-trained teachers from the EEA to teach in England, and the award of qualified teacher status for teachers qualified in Australia, Canada, New Zealand and the United States of America.

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<sup>57</sup> 16-19 academies and free schools are covered through their funding agreements.



## Agency and third-party staff

138. Schools and colleges must obtain written notification from any agency, or third-party organisation they use that the organisation has carried out the checks (in respect of the enhanced DBS certificate, written notification that confirms the certificate has been obtained by either the employment business or another such business), on an individual who will be working at the school or college that the school or college would otherwise perform.<sup>58</sup>

139. Where the position requires a barred list check, this must be obtained by the agency or third-party prior to appointing the individual. The school must also check that the person presenting themselves for work is the same person on whom the checks have been made.

## Trainee/student teachers

140. Where applicants for initial teacher training are salaried by the school or college, the school or college must ensure that all necessary checks are carried out. As trainee teachers are likely to be engaging in regulated activity, an enhanced DBS certificate (including barred list information) must be obtained.

141. Where trainee teachers are fee-funded, it is the responsibility of the initial teacher training provider to carry out the necessary checks. Schools should obtain written confirmation from the provider that it has carried out all pre-appointment checks that the school or college would otherwise be required to perform, and that the trainee has been judged by the provider to be suitable to work with children.<sup>59</sup> There is no requirement for the school to record details of fee-funded trainees on the single central record.

## Existing staff

142. If a school or college has concerns about an existing staff member's suitability to work with children, the school or college should carry out all relevant checks as if the person were a new member of staff. Similarly, if a person working at the school or college moves from a post that was not regulated activity into work which is considered to be

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<sup>58</sup> Further Education colleges must comply with regulations 11 to 19 of The Further Education (Providers of Education) (England) Regulations 2006 in respect of agency workers; maintained schools must comply with regulations 18 and 30 of the School Staffing (England) Regulations 2009; non-maintained special schools must comply with paragraphs 5 and 16 of the Schedule to The Non-Maintained Special Schools (England) Regulations 2015; and independent schools (including academies and free schools) must comply with paragraph 19 of the Schedule to The Education (Independent School Standards) Regulation 2014.

<sup>59</sup> National College for Teaching and Leadership - [Initial teacher training provider supporting advice and initial teacher training criteria](#).

regulated activity, the relevant checks for that regulated activity must be carried out.<sup>60</sup> Apart from these circumstances, the school or college is not required to request a DBS check or barred list check.

**143. Schools and colleges have a legal duty to refer to the DBS anyone who has harmed, or poses a risk of harm, to a child or vulnerable adult where:**

- **the harm test is satisfied in respect of that individual;**
- **the individual has received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence; and**
- **the individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.**<sup>61</sup>

144. The legal duty to refer applies equally in circumstances where an individual is deployed to another area of work that is not regulated activity, or they are suspended.

145. The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation, removal or redeployment of the individual. Guidance on referrals can be found on [GOV.UK](https://www.gov.uk).

146. Where a teacher's employer, including an agency, dismisses or ceases to use the services of a teacher because of serious misconduct, or might have dismissed them or ceased to use their services had they not left first, they must consider whether to refer the case to the Secretary of State, as required by sections 141D and 141E of the Education Act 2002. The Secretary of State may investigate the case, and if s/he finds there is a case to answer, must then decide whether to make a prohibition order in respect of the person.<sup>62</sup>

## Volunteers

147. Under no circumstances should a volunteer in respect of whom no checks have been obtained be left unsupervised or allowed to work in regulated activity.

148. Volunteers who, on an unsupervised basis teach or look after children regularly, or provide personal care on a one-off basis in schools and colleges, will be in regulated

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<sup>60</sup> Schools and colleges will wish to consider the offence of allowing individuals to engage in regulated activity whilst barred. It is intended that, at a date to be announced, any regulated activity provider will have a duty to request a barred list check before allowing any individuals to engage in regulated activity (section 34ZA Safeguarding Vulnerable Groups Act 2006) and for it to be possible to obtain such a check independently from the enhanced check from the DBS.

<sup>61</sup> The list of offences is set out in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (SI 2009 No. 37) (amended).

<sup>62</sup> Sections 141D and 141E of the Education Act 2002 do not apply to further education colleges (other than sixth form colleges).

activity. The school or college should obtain an enhanced DBS certificate (which should include barred list information) for all volunteers who are new to working in regulated activity. Existing volunteers in regulated activity do not have to be re-checked if they have already had a DBS check (which includes barred list information). However, schools and colleges may conduct a repeat DBS check (which should include barred list information) on any such volunteer should they have concerns.

149. There are certain circumstances where schools and colleges may obtain an enhanced DBS certificate (not including barred list information), for volunteers who are not engaging in regulated activity. This is set out in DBS workforce guides, which can be found on [GOV.UK](https://www.gov.uk). Employers are not legally permitted to request barred list information on a supervised volunteer as they are not considered to be engaged in regulated activity.

150. The school or college should undertake a risk assessment and use their professional judgement and experience when deciding whether to obtain an enhanced DBS certificate for any volunteer not engaging in regulated activity. In doing so they should consider:

- the nature of the work with children;
- what the establishment knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers;
- whether the volunteer has other employment or undertakes voluntary activities where referees can advise on suitability;
- whether the role is eligible for an enhanced DBS check; and

Details of the risk assessment should be recorded.<sup>63</sup>

151. It is for schools and colleges to determine whether a volunteer is considered to be supervised. In making this decision, and where an individual is supervised, to help determine the appropriate level of supervision schools must have regard to the statutory guidance issued by the Secretary of State (replicated at Annex F). This guidance requires that, for a person to be considered supervised, the supervision must be:

- by a person who is in regulated activity;<sup>64</sup>
- regular and day to day; and
- “reasonable in all the circumstances to ensure the protection of children.”

152. The DBS cannot provide barred list information on any person, including

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<sup>63</sup> Schools are free to determine where to store this information.

<sup>64</sup> It should be noted that if the work is in a specified place such as a school, paid workers remain in regulated activity even if supervised.

volunteers, who are not in, or seeking to engage in regulated activity.

## Maintained school governors

153. Governors in maintained schools are required to have an enhanced criminal records certificate from the DBS.<sup>65</sup> It is the responsibility of the governing body to apply for the certificate for any of their governors who do not already have one. Governance is not a regulated activity and so governors do not need a barred list check unless, in addition to their governance duties, they also engage in regulated activity.

## Other school and sixth form college governors

154. Governors who are volunteers should be treated on the same basis as other volunteers, that is, an enhanced DBS certificate (which will include a barred list check) should only be requested if the governor will be engaging in regulated activity. Governing bodies can request an enhanced DBS certificate without a barred list check on an individual as part of the appointment process for governors.

## Proprietors of independent schools, including academies and free schools or alternative provision academies and free schools<sup>66</sup>

155. Before an individual becomes either the proprietor of an independent school or the chair of a body of people which is the proprietor of an independent school, the Secretary of State will:<sup>67 68</sup>

- carry out an enhanced DBS check; where relevant, and where such a check is made, obtain an enhanced DBS certificate (either including or not including barred list information as appropriate);<sup>69</sup>
- confirm the individual's identity; and
- if the individual lives or has lived outside of the UK, where making an enhanced check is insufficient, such other checks as the Secretary of State considers appropriate.

The Secretary of State also undertakes these checks in respect of the chair of governing bodies of non-maintained special schools.<sup>70</sup>

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<sup>65</sup> The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016.

<sup>66</sup> The proprietor of an academy or free school or alternate provision academy or free school is the academy trust.

<sup>67</sup> Paragraph 20 of the Schedule to the Education (Independent School Standards) Regulations 2014.

<sup>68</sup> This will include an academy trust of any academy or free school, other than for 16 – 19 academies or free schools.

<sup>69</sup> Regulation 2(5) of the Education (Independent School Standards) Regulations 2014 sets out when such checks are considered relevant.

<sup>70</sup> Paragraphs 6 and 17 of the Schedule to The Non-Maintained Special Schools (England) Regulations 2015.

156. The requirement for an enhanced DBS check and certificate is disapplied for the chair of an academy trust if the academy is converting from a maintained school and the person has already been subject to a check carried out by the local authority.<sup>71</sup>

157. Where the proprietor is a body of people, the chair must ensure that enhanced DBS checks are undertaken, where relevant, for the other members of the body and that where such a check has been undertaken, an enhanced DBS certificate is obtained, and that identity checks are completed before, or as soon as practicable after, any individual takes up their position. The chair must also ensure that other members are not subject to a section 128 direction that would prevent them from taking part in the management of an independent school (including academies and free schools). Further checks, as the chair considers appropriate, should be undertaken where, by reason of the individual's living or having lived overseas, obtaining an enhanced DBS certificate is not sufficient to establish his or her suitability to work in a school.

158. In the case of an academy trust, including those established to operate a free school, the trust must require enhanced DBS checks on all members of the academy trust, individual charity trustees, and the chair of the board of charity trustees.<sup>72</sup> Academy trusts, including those established to run a free school, have the same responsibilities as all independent schools in relation to requesting enhanced DBS certificates for permanent and supply staff.<sup>73</sup> Where an academy trust delegates responsibilities to any delegate or committee (including a local governing body), the trust must require DBS checks on all delegates and all member of such committees.<sup>74</sup> Academy trusts must also check that members are not barred from taking part in the management of the school as a result of a section 128 direction (see paragraph 111).

## Contractors

159. Schools and colleges should ensure that any contractor, or any employee of the contractor, who is to work at the school or college, has been subject to the appropriate level of DBS check. Contractors engaging in regulated activity will require an enhanced DBS certificate (including barred list information). For all other contractors who are not engaging in regulated activity, but whose work provides them with an opportunity for regular contact with children, an enhanced DBS check (not including barred list information) will be required. In considering whether the contact is regular, it is irrelevant whether the contractor works on a single site or across a number of sites.

160. Under no circumstances should a contractor in respect of whom no checks have

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<sup>71</sup> Paragraph 20(7) of the Schedule to the Education (Independent School Standards) Regulations 2014.

<sup>72</sup> As required in the funding agreement.

<sup>73</sup> The Education (Independent School Standards) Regulations 2014. The regulations do not apply to 16-19 free schools and academies.

<sup>74</sup> As required in an academy trust's articles of association.

been obtained be allowed to work unsupervised, or engage in regulated activity. Schools and colleges are responsible for determining the appropriate level of supervision depending on the circumstances.

161. If a contractor working at a school or college is self-employed, the school or college should consider obtaining the DBS check, as self-employed people are not able to make an application directly to the DBS on their own account.

162. Schools and colleges should always check the identity of contractors and their staff on arrival at the school or college.

## Visitors

163. Schools and colleges do not have the power to request DBS checks and barred list checks, or ask to see DBS certificates, for visitors (for example children's relatives or other visitors attending a sports day). Headteachers and principals should use their professional judgment about the need to escort or supervise visitors.

## Alternative Provision

164. Where a school places a pupil with an alternative provision provider, the school continues to be responsible for the safeguarding of that pupil, and should be satisfied that the provider meets the needs of the pupil. Schools should obtain written confirmation from the alternative provider that appropriate safeguarding checks have been carried out on individuals working at the establishment, i.e. those checks that the school would otherwise perform in respect of its own staff.

## Adults who supervise children on work experience

165. Schools and colleges organising work experience placements should ensure that the placement provider has policies and procedures are in place to protect children from harm.<sup>75</sup>

166. Barred list checks by the DBS might be required on some people who supervise a child under the age of 16 on a work experience placement.<sup>76</sup> The school or college should consider the specific circumstances of the work experience. Consideration must be given in particular to the nature of the supervision and the frequency of the activity being supervised, to determine what, if any, checks are necessary. These considerations would include whether the person providing the teaching/training/instruction/supervision

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<sup>75</sup> [Guidance on work experience.](#)

<sup>76</sup> Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, which came into force on 10 September 2012.

to the child on work experience will be:

- unsupervised themselves; and
- providing the teaching/training/instruction frequently (more than three days in a 30 day period, or overnight).

167. If the person working with the child is unsupervised and the same person is in frequent contact with the child, the work is likely to be regulated activity. If so, the school or college could ask the employer providing the work experience to ensure that the person providing the instruction or training is not a barred person.

168. Schools and colleges are not able to request an enhanced DBS check with barred list information for staff supervising children aged 16 to 17 on work experience.<sup>77</sup>

169. If the activity undertaken by the child on work experience takes place in a 'specified place', such as a school or college, and gives the opportunity for contact with children, this may itself be considered to be regulated activity. In these cases and where the child is 16 years of age or over, the work experience provider should consider whether a DBS enhanced check should be requested for the child/young person in question. DBS checks cannot be requested for children/young people under the age of 16.<sup>78</sup>

### **Children staying with host families (homestay)**

170. Schools and colleges quite often make arrangements for their children to have learning experiences where, for short periods, the children may be provided with care and accommodation by a host family to whom they are not related. This might happen, for example, as part of a foreign exchange visit or sports tour, often described as 'homestay' arrangements (see Annex E for further details). In some circumstances the arrangement where children stay with UK families could amount to "private fostering" under the Children Act 1989 see para 171 for further information about action that should be taken to alert the local authority in those circumstances.

### **Private fostering- LA notification when identified**

171. Private fostering<sup>79</sup> occurs when a child under the age of 16 (under 18, if disabled) is provided with care and accommodation by a person who is not a parent, person with parental responsibility for them or a relative in their own home. A child is not privately

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<sup>77</sup> The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 was amended by the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2012 so that employers may no longer request checks in these circumstances.

<sup>78</sup> Under the Police Act 1997, an individual must be 16 or over to be able to make an application for a DBS check.

<sup>79</sup> Part 9 of the Children Act 1989.

## Draft for consultation

fostered if the person caring for and accommodating them has done so for less than 28 days and does not intend to do so for longer. Such arrangements may come to the attention of school staff through the normal course of their interaction, and promotion of learning activities, with children. Where a member of staff or volunteer at a school or college identifies that a private fostering arrangement is planned, or is in place, this should be raised with the designated safeguarding lead (or deputy). The school or college should then notify the local authority to allow the local authority to check the arrangement is suitable and safe for the child.

172. A link to comprehensive guidance on the circumstance in which private fostering may arise can be found at para 50 of this guidance.



## Part four: Allegations of abuse made against teachers and other staff

### Duties as an employer and an employee

173. This part of the guidance is about managing cases of allegations that might indicate a person would pose a risk of harm<sup>80</sup> if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) in a school or college that provides education for children under 18 years of age has:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children.

174. This part of the guidance relates to members of staff and volunteers who are currently working in any school or college regardless of whether the school or college is where the alleged abuse took place. Allegations against a teacher who is no longer teaching should be referred to the police. Historical allegations of abuse should also be referred to the police.

175. Employers have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended. It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in a school or college is dealt with very quickly, in a fair and consistent way that provides effective protection for the child and, at the same time supports the person who is the subject of the allegation.

### Initial considerations

176. The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out above, or may do so without warranting consideration of either a police investigation or enquiries by local authority children's social care services. In these cases, local arrangements should be followed to resolve cases without delay.

177. Some rare allegations will be so serious they require immediate intervention by

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<sup>80</sup> The harm test is explained on the Disclosure and Barring service website on [GOV.UK](https://www.gov.uk).

children's social care services and/or police. The designated officer(s) should be informed of all allegations that come to a school or college's attention and appear to meet the criteria so they can consult police and children's social care services as appropriate.

178. The following definitions should be used when determining the outcome of allegation investigations:

- **Substantiated:** there is sufficient evidence to prove the allegation;
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence;
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.

179. In the first instance the designated safeguarding lead (see Annex B), the headteacher or principal or (where the headteacher or principal is the subject of an allegation) the chair of governors, or the chair of the management committee or proprietor of an independent school (the 'case manager'), should discuss the allegation immediately with the designated officer(s). The purpose of an initial discussion is for the designated officer(s) and the case manager to consider the nature, content and context of the allegation and agree a course of action. The designated officer(s) may ask the case manager to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and about the individual's current contact with children. There may be situations when the case manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence. Where there is no such evidence, the case manager should discuss the allegations with the designated officer(s) in order to help determine whether police involvement is necessary.

180. The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern, in which case this decision and a justification for it should be recorded by both the case manager and the designated officer(s), and agreement reached on what information should be put in writing to the individual concerned and by whom. The case manager should then consider with the designated officer(s) what action should follow both in respect of the individual and those who made the initial allegation.

181. The case manager should inform the accused person about the allegation as soon as possible after consulting the designated officer(s). It is extremely important that the case manager provides them with as much information as possible at that time.

However, where a strategy discussion<sup>81</sup> is needed, or police or children's social care services need to be involved, the case manager should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or college or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step (see paragraph 208 for information about suspension).

182. If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with the statutory guidance [Working together to safeguard children](#). If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school and college staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

183. Where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the designated officer(s) should discuss the next steps with the case manager. In those circumstances, the options open to the school or college depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in future. Suspension should not be the default position: an individual should be suspended only if there is no reasonable alternative.

184. In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the designated officer(s) should discuss with the case manager how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of the school or college's staff.

185. However, in other circumstances, such as lack of appropriate resource within the school or college, or the nature or complexity of the allegation, the allegation will require an independent investigator. Many local authorities already provide for an independent investigation of allegations, often as part of the personnel services that maintained schools and colleges can buy in from the authority. It is important that local authorities ensure that schools and colleges have access to an affordable facility for independent investigation where that is appropriate.

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<sup>81</sup> The purpose of a strategy discussion and those likely to be involved is described in [Working together to safeguard children](#).

## Supporting those involved

186. Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children's social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to welfare counselling or medical advice where this is provided by the employer.

187. The case manager should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. For staff in maintained schools and colleges, that may include support via the local authority occupational health or employee welfare arrangements. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

188. Parents or carers of the child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed but the parents or carers of the child should be told the outcome in confidence.<sup>82</sup>

189. Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing as set out in section 141F of the Education Act 2002 (see paragraph 192). If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

190. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care services, or the police as appropriate, should

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<sup>82</sup> In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.

consider what support the child or children involved may need.

## Confidentiality

191. It is extremely important that when an allegation is made, the school or college makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State<sup>83</sup> or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions are disapplied if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. The provisions commenced on 1 October 2012.

192. The legislation imposing restrictions makes clear that “publication” of material that may lead to the identification of the teacher who is the subject of the allegation is prohibited. “Publication” includes “any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public”. This means that a parent who, for example, published details of the allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).

193. In accordance with the [Authorised Professional Practice](#) published by the College of Policing in May 2017, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. (In exceptional cases where the police would like to depart from that rule, for example an appeal to trace a suspect, they must apply to a magistrates’ court to request that reporting restrictions be lifted.)

194. The case manager should take advice from the designated officer(s), police and children’s social care services to agree the following:

- who needs to know and, importantly, exactly what information can be shared;
- how to manage speculation, leaks and gossip;

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<sup>83</sup> Carried out by the National College for Teaching and Leadership.

- what, if any, information can be reasonably given to the wider community to reduce speculation; and
- how to manage press interest if, and when, it should arise.

## Managing the situation and exit arrangements

### Resignations and ‘settlement agreements’

195. If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. **A referral to the DBS *must* be made, if the criteria are met - see paragraphs 143-144.** Schools and sixth form colleges must also consider whether a referral to the National College Teaching Leadership (NCTL) is appropriate - see paragraph 110. If the accused person resigns or their services cease to be used and the criteria are met, it will not be appropriate to reach a settlement/compromise agreement. Any settlement/compromise agreement that would prevent a school or college from making a DBS referral even though the criteria for referral are met, is likely to result in a criminal offence being committed. This is because the school or college would not be complying with its legal duty to make the referral.

196. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible, the accused should be given a full opportunity to answer the allegation and make representations about it. But the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person’s period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

197. ‘Settlement agreements’ (sometimes referred to as compromise agreements), by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person’s notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

### Record keeping

198. Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that a clear and

comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.

199. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.

200. The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention.<sup>84</sup>

## References

201. Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious should also not be included in any reference. See paragraphs 124-127 for further information on references.

## Timescales

202. It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay. Target timescales are shown below: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all but truly exceptional cases. It is expected that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.

203. For those cases where it is clear immediately that the allegation is unsubstantiated or malicious, they should be resolved within one week. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child

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<sup>84</sup> Information Commissioner's Office – [Guidance on employment records in its Employment Practices Code and supplementary guidance.](#)

protection, the employer should discuss them with the designated officer(s). In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should instigate appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

## Oversight and monitoring

204. The designated officer(s) has overall responsibility for oversight of the procedures for dealing with allegations, for resolving any inter-agency issues, and for liaison on the subject with those responsible for local multi-agency safeguarding arrangements. The designated officer(s) will provide advice and guidance to the case manager, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

205. Police forces should also identify officers who will be responsible for:

- liaising with the designated officer(s);
- taking part in the strategy discussion or initial evaluation;
- subsequently reviewing the progress of those cases in which there is a police investigation; and
- sharing information on completion of the investigation or any prosecution.

206. If the strategy discussion or initial assessment decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

## Suspension

207. The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases that will require the case manager to consider suspending the accused until the case is resolved. Suspension should not be an automatic response when an allegation is reported: all options to avoid suspension should be considered prior to taking that step. If the case manager is concerned about the welfare of other children in the community or the teacher's family, those concerns should be reported to the designated officer(s), children's social care or the police. But suspension is highly unlikely



to be justified on the basis of such concerns alone.

208. Suspension should be considered only in a case where there is cause to suspect a child or other children at the school or college is/are at risk of harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically: the case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or college or until the allegation is resolved, and may wish to seek advice from their personnel adviser and the designated officer(s). In cases where the school or college is made aware that the Secretary of State has made an interim prohibition order in respect of an individual at the school or college, it will be necessary to immediately suspend that person from teaching pending the findings of the NCTL investigation.

209. The case manager should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the designated officer(s), police and children's social care services have no objections to the member of staff continuing to work during the investigation, the case manager should be as inventive as possible to avoid suspension. Based on assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:

- redeployment within the school or college so that the individual does not have direct contact with the child or children concerned;
- providing an assistant to be present when the individual has contact with children;
- redeploying to alternative work in the school or college so the individual does not have unsupervised access to children;
- moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and parents have been consulted; or
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school or college or work for the local authority or academy trust.

210. These alternatives allow time for an informed decision regarding the suspension and possibly reduce the initial impact of the allegation. This will, however, depend upon the nature of the allegation. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

211. If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the case manager and the designated officer(s). This should also include what alternatives to suspension

have been considered and why they were rejected.

212. Where it has been deemed appropriate to suspend the person, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the organisation and provided with their contact details.

213. Children's social care services or the police cannot require the case manager to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the proprietor of the school, or governing bodies of the school or college who are the employers of staff at the school or college. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children's social care services and/or an investigation by the police, the designated officer(s) should canvass police and children's social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the school or college consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.

## **Information sharing**

214. In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

215. Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

216. Children's social care services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer without delay.

## **Specific actions**

### **Following a criminal investigation or a prosecution**

217. The police should inform the employer and designated officer(s) immediately

when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after person has been charged. In those circumstances, the designated officer(s) should discuss with the case manager whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care services should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

## On conclusion of a case

218. If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the designated officer(s) should discuss with the case manager and their personnel adviser whether the school or college will decide to make a referral to the DBS for consideration of whether inclusion on the barred lists is required; and, in the case of a member of teaching staff, whether to refer the matter to the NCTL to consider prohibiting the individual from teaching.<sup>85</sup>

219. **There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. See paragraph 143**

220. Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The case manager should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still a pupil at the school or college.

## In respect of malicious or unsubstantiated allegations

221. If an allegation is determined to be unsubstantiated or malicious, the designated officer(s) should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the headteacher, principal or proprietor should consider whether any disciplinary action is

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<sup>85</sup> Disclosure and Barring Service – guidance on [Referrals to the DBS](#).

appropriate against the pupil who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she were not a pupil.

## Learning lessons

222. At the conclusion of a case in which an allegation *is* substantiated, the designated officer(s) should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school or college's procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The designated officer(s) and case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

## Further information

223. See the Crown Prosecution Service published [guidance for the police under the Protection from Harassment Act 1997](#).

## Annex A: Further information

### Further information on a child missing from education

All children, regardless of their circumstances, are entitled to a full time education, which is suitable to their age, ability, aptitude and any special educational needs they may have. Local authorities have a duty to make arrangements to establish, as far as it is possible to do so, the identity of children of compulsory school age who are missing education in their area. Effective information sharing between parents, schools, colleges and local authorities is critical to ensuring that all children are safe and receiving suitable education.

A child going missing from education is a potential indicator of abuse or neglect and such children are at risk of being victims of harm, exploitation or radicalisation. School and college staff should follow their procedures for unauthorised absence and for dealing with children that go missing from education, particularly on repeat occasions, to help identify the risk of abuse and neglect, including sexual or criminal exploitation, and to help prevent the risks of going missing in future.

Schools and colleges should put in place appropriate safeguarding policies, procedures and responses for children who go missing from education, particularly on repeat occasions. It is essential that all staff are alert to signs to look out for and the individual triggers to be aware of when considering the risks of potential safeguarding concerns such as travelling to conflict zones, female genital mutilation and forced marriage. Further information about children at risk of missing education can be found in the [Children Missing Education](#) guidance.

### Schools

The law requires all schools to have an admission register and, with the exception of schools where all pupils are boarders, an attendance register. All pupils must be placed on both registers. Schools must place pupils on the admission register at the beginning of the first day on which the school has agreed, or been notified, that the pupil will attend the school. If a pupil fails to attend on the agreed or notified date, the school should consider notifying the local authority at the earliest opportunity to prevent the child from going missing from education.

It is important that the admission register is accurate and kept up to date. Schools should regularly encourage parents to inform them of any changes whenever they occur. This can assist the school and local authority when making enquiries to locate children missing education.

Schools should monitor attendance and address it when it is poor or irregular. All schools must inform the local authority of any pupil who fails to attend school regularly,

or has been absent without the school's permission<sup>86</sup> for a continuous period of 10 school days or more, at such intervals as are agreed between the school and the local authority.<sup>87</sup>

Where a parent notifies a school that a pupil will live at another address, all schools are required<sup>88</sup> to record in the admission register:

- the full name of the parent with whom the pupil will live;
- the new address; and
- the date from when it is expected the pupil will live at this address.<sup>89</sup>

Where a parent of a pupil notifies the school that the pupil is registered at another school or will be attending a different school in future, schools must record<sup>90</sup> in the admission register<sup>91</sup>:

- the name of the new school; and
- the date on which the pupil first attended or is due to start attending that school.

Schools are required<sup>92</sup> to notify the local authority **within five days** when a pupil's name is added to the admission register. Schools will need to provide the local authority with all the information held within the admission register about the pupil. This duty does not apply to pupils who are registered at the start of the school's youngest year, unless the local authority requests for such information to be provided.

Schools must also notify the local authority when a pupil's name is to be deleted from the admission register **under any of the grounds set out in the Education (Pupil Registration) (England) Regulations 2006 as amended,<sup>93</sup> as soon as the ground for deletion is met and no later than the time at which the pupil's name is deleted from the register.** This duty does not apply where the pupil has completed the school's final year, unless the local authority requests for such information to be provided.

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<sup>86</sup> Or by reason of sickness or unavoidable cause or on a day exclusively set apart for religious observance by the religious body to which their parent belongs or because the school is not within walking distance of the pupil's home and no suitable arrangements have been made by the local authority either for their transport to and from the school or for boarding accommodation for them at or near the school or for enabling them to become a registered pupil at a school nearer their home.

<sup>87</sup> In default of such agreement, at intervals determined by the Secretary of State.

<sup>88</sup> Under regulation 5 of the Education (Pupil Registration) (England) Regulations 2006 as amended.

<sup>89</sup> Where schools can reasonably obtain this information.

<sup>90</sup> Under regulation 5 of the Education (Pupil Registration) (England) Regulations 2006 as amended.

<sup>91</sup> Where schools can reasonably obtain this information.

<sup>92</sup> Under regulation 12 of the Education (Pupil Registration) (England) Regulations 2006 as amended.

<sup>93</sup> Regulation 8 of the Education (Pupil Registration) (England) Regulations 2006.

A pupil's name can only be deleted from the admission register under regulation 8(1), sub-paragraph (f)(iii) or (h)(iii) if the school and the local authority have failed to establish the pupil's whereabouts after jointly making reasonable enquiries. Advice on carrying out reasonable enquiries can be found in the [Children Missing Education](#) guidance.

Where a school notifies a local authority that a pupil's name is to be deleted from the admission register, the school must provide<sup>94</sup> the local authority with:

- the full name of the pupil;
- the full name and address of any parent with whom the pupil lives;
- at least one telephone number of the parent with whom the pupil lives;
- the full name and address of the parent with whom the pupil is going to live, and the date the pupil is expected to start living there, if applicable;
- the name of pupil's destination school and the pupil's expected start date there, if applicable; and
- the ground in regulation 8 under which the pupil's name is to be deleted from the admission register.

Schools and local authorities should work together to agree on methods of making returns. When making returns, the school should highlight to the local authority where they have been unable to obtain the necessary information from the parent, for example in cases where the child's destination school or address is unknown. Schools should also consider whether it is appropriate to highlight any contextual information of a vulnerable child who is missing education, such as any safeguarding concerns.

**It is essential that schools comply with these duties, so that local authorities can, as part of their duty to identify children of compulsory school age who are missing education, follow up with any child who might be at risk of not receiving an education and who might be at risk of being harmed, exploited or radicalised.**

The department provides a secure internet system - [School2School](#), to allow schools to transfer pupil information to another school when the child moves. All schools maintained by local authorities are required, when a pupil ceases to be registered at their school and becomes a registered pupil at another school in England, Wales, Scotland or Northern Ireland to send a Common Transfer File (CTF) to the new school. Academies (including free schools) are also strongly encouraged to send

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<sup>94</sup> Under regulation 12 of the Education (Pupil Registration) (England) Regulations 2006 as amended.

CTFs when a pupil leaves to attend another school. Independent schools can be given access to School2School by the department.

The School2School website also contains a searchable area, commonly referred to as the 'Lost Pupil Database', where schools can upload CTFs of pupils who have left but their destination or next school is unknown or the child has moved abroad or transferred to a non-maintained school. If a pupil arrives in a school and the previous school is unknown, schools should contact their local authority who will be able to search the database.

## Colleges

Where a college is providing education for a child of compulsory school age, the college shall work collaboratively with the appropriate local authority in order to share information about the attendance and/or absences of that child as the local authority deems necessary, as set out in departmental advice [Full-time enrolment of 14 to 16 year-olds in further education and sixth-form colleges](#). The college should also inform the relevant local authority immediately if that child is removed from the roll so that the local authority can as part of their duty identify children of compulsory school age who are missing education.

## Further information on child sexual exploitation

Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact: it can also occur through the use of technology. Like all forms of child sex abuse, child sexual exploitation:

- can affect any child or young person (male or female) under the age of 18 years, including 16 and 17 year olds who can legally consent to have sex;
- can still be abuse even if the sexual activity appears consensual;
- can include both contact (penetrative and non-penetrative acts) and non-contact sexual activity;
- can take place in person or via technology, or a combination of both;
- can involve force and/or enticement-based methods of compliance and may, or may not, be accompanied by violence or threats of violence;



## Draft for consultation

- may occur without the child or young person's immediate knowledge (e.g. through others copying videos or images they have created and posted on social media);
- can be perpetrated by individuals or groups, males or females, and children or adults. The abuse can be a one-off occurrence or a series of incidents over time, and range from opportunistic to complex organised abuse; and
- is typified by some form of power imbalance in favour of those perpetrating the abuse. Whilst age may be the most obvious, this power imbalance can also be due to a range of other factors including gender, sexual identity, cognitive ability, physical strength, status, and access to economic or other resources.

Some of the following signs may be indicators of child sexual exploitation:

- children who appear with unexplained gifts or new possessions;
- children who associate with other young people involved in exploitation;
- children who have older boyfriends or girlfriends;
- children who suffer from sexually transmitted infections or become pregnant;
- children who suffer from changes in emotional well-being;
- children who misuse drugs and alcohol;
- children who go missing for periods of time or regularly come home late; and
- children who regularly miss school or education or do not take part in education.

### **Further information on child criminal exploitation: county lines**

Criminal exploitation of children is a geographically widespread form of harm that is a typical feature of county lines criminal activity: drug networks or gangs groom and exploit children and young people to carry drugs and money from urban areas to suburban and rural areas, market and seaside towns. Key to identifying potential involvement in county lines are missing episodes, when the victim may have been trafficked for the purpose of transporting drugs and a referral to the National Referral Mechanism<sup>95</sup> should be considered. Like other forms of abuse and exploitation, county lines exploitation:

- can affect any child or young person (male or female) under the age of 18 years;
- can affect any vulnerable adult over the age of 18 years;

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<sup>95</sup> [national crime agency human-trafficking](#)

- can still be exploitation even if the activity appears consensual;
- can involve force and/or enticement-based methods of compliance and is often accompanied by violence or threats of violence;
- can be perpetrated by individuals or groups, males or females, and young people or adults; and
- is typified by some form of power imbalance in favour of those perpetrating the exploitation. Whilst age may be the most obvious, this power imbalance can also be due to a range of other factors including gender, cognitive ability, physical strength, status, and access to economic or other resources.

## **Further information on domestic abuse**

The cross-government definition of domestic violence and abuse is:

Any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to:

- psychological
- physical
- sexual
- financial
- emotional

Exposure to domestic abuse and/or violence can have a serious, long lasting emotional and psychological impact on children. In some cases, a child may blame themselves for the abuse or may have had to leave the family home as a result. Advice on identifying children who are affected by domestic abuse and how they can be helped is available at:

[NSPCC- UK domestic-abuse signs symptoms effects](#)

[Refuge what is domestic violence/effects of domestic violence on children](#)

## **Further information on so-called ‘honour-based’ violence**

So-called ‘honour-based’ violence (HBV) encompasses incidents or crimes which have been committed to protect or defend the honour of the family and/or the community, including female genital mutilation (FGM), forced marriage, and practices such as breast ironing. Abuse committed in the context of preserving “honour” often involves a

wider network of family or community pressure and can include multiple perpetrators. It is important to be aware of this dynamic and additional risk factors when deciding what form of safeguarding action to take. All forms of HBV are abuse (regardless of the motivation) and should be handled and escalated as such. If in any doubt, staff should speak to the designated safeguarding lead (or deputy). Professionals in all agencies, and individuals and groups in relevant communities, need to be alert to the possibility of a child being at risk of HBV, or already having suffered HBV.

## Actions

If staff have a concern regarding a child that might be at risk of HBV, they should activate local safeguarding procedures, using existing national and local protocols for multiagency liaison with police and children's social care. Where FGM has taken place, since 31 October 2015 there has been a mandatory reporting duty placed on **teachers**<sup>96</sup> that requires a different approach (see following section).

## FGM mandatory reporting duty

FGM comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs. It is illegal in the UK and a form of child abuse with long-lasting harmful consequences.

Section 5B of the Female Genital Mutilation Act 2003 (as inserted by section 74 of the Serious Crime Act 2015) places a statutory duty upon **teachers** along with regulated health and social care professionals in England and Wales, to report to the police where they discover (either through disclosure by the victim or visual evidence) that FGM appears to have been carried out on a girl under 18. Those failing to report such cases will face disciplinary sanctions. It will be rare for teachers to see visual evidence, and they should **not** be examining pupils, but the same definition of what is meant by "to discover that an act of FGM appears to have been carried out" is used for all professionals to whom this mandatory reporting duty applies. Information on when and how to make a report can be found at [Mandatory reporting of female genital mutilation procedural information](#).

Teachers **must** personally report to the police cases where they discover that an act of FGM appears to have been carried out.<sup>97</sup> Unless the teacher has good reason not to, they should still consider and discuss any such case with the school or college's

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<sup>96</sup> Section 5B(11) of the FGM Act 2003 (as inserted by section 74 of the Serious Crime Act 2015) provides the definition for the term 'teacher': "teacher" means – (a) in relation to England, a person within section 141A(1) of the Education Act 2002 (persons employed or engaged to carry out teaching work at schools and other institutions in England).

<sup>97</sup> Section 5B(6) of the Female Genital Mutilation Act 2003 states teachers need not report a case to the police if they have reason to believe that another teacher has already reported the case.

designated safeguarding lead (or deputy) and involve children's social care as appropriate. The duty does not apply in relation to at risk or suspected cases (i.e. where the teacher does not discover that an act of FGM appears to have been carried out, either through disclosure by the victim or visual evidence) or in cases where the woman is 18 or over. In these cases, teachers should follow local safeguarding procedures. The following is a useful summary of the FGM mandatory reporting duty: [FGM Fact Sheet](#).

### **Forced marriage**

Forcing a person into a marriage is a crime in England and Wales. A forced marriage is one entered into without the full and free consent of one or both parties and where violence, threats or any other form of coercion is used to cause a person to enter into a marriage. Threats can be physical or emotional and psychological. A lack of full and free consent can be where a person does not consent or where they cannot consent (if they have learning disabilities, for example). Nevertheless, some communities use religion and culture as a way to coerce a person into marriage. Schools and colleges can play an important role in safeguarding children from forced marriage.

The Forced Marriage Unit has published [Multi-agency guidelines](#), with pages 32-36 focusing on the role of schools and colleges. School and college staff can contact the Forced Marriage Unit if they need advice or information: Contact: 020 7008 0151 or email [fm@fco.gov.uk](mailto:fm@fco.gov.uk).

### **Further information on preventing radicalisation**

Protecting children from the risk of radicalisation should be seen as part of schools' and colleges' wider safeguarding duties, and is similar in nature to protecting children from other forms of harm and abuse. During the process of radicalisation it is possible to intervene to prevent vulnerable people being radicalised.

Radicalisation refers to the process by which a person comes to support terrorism and forms of extremism.

Extremism goes beyond terrorism and is defined in the Government's Counter Extremism Strategy as vocal or active opposition to our fundamental values, including the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs. We also regard calls for the death of members of armed forces as extremism. Extremists often target the vulnerable – including the young – by seeking to sow divisions between communities on the basis of race, faith or denomination; justifying discrimination towards women and girls; seeking to persuade others that minorities are inferior; or arguing against the primacy of democracy and the rule of law in our society.

There is no single way of identifying an individual who is likely to be susceptible to an extremist ideology. It can happen in many different ways and settings. Specific background factors may contribute to vulnerability which are often combined with specific influences such as family, friends or online, and with specific needs for which an extremist or terrorist group may appear to provide an answer. The internet and the use of social media in particular has become a major factor in the radicalisation of young people.

As with other safeguarding risks, staff should be alert to changes in children's behaviour which could indicate that they may be in need of help or protection. Staff should use their judgement in identifying children who might be at risk of radicalisation and act proportionately, which may include making a referral to the Channel programme.

## Prevent

From 1 July 2015, specified authorities, including all schools (and, since 18 September 2015, all colleges) as defined in the summary of this guidance, are subject to a duty under section 26 of the Counter-Terrorism and Security Act 2015 (the CTSA 2015), in the exercise of their functions, to have “due regard<sup>98</sup> to the need to prevent people from being drawn into terrorism”.<sup>99</sup> This duty is known as the Prevent duty. It applies to a wide range of public-facing bodies. Bodies to which the duty applies must have regard to statutory guidance issued under section 29 of the CTSA 2015. Paragraphs 57-76 of the [Revised Prevent duty guidance: for England and Wales](#) are specifically concerned with schools (but also cover childcare). The guidance is set out in terms of four general themes: Risk assessment, working in partnership, staff training, and IT policies. The Prevent duty should be seen as part of schools' wider safeguarding obligations and does not require schools to take any specific action in any given circumstances, but schools should be able to demonstrate activity in the following areas.

- Schools are expected to assess the risk of children being drawn into terrorism, including support for extremist ideas that are part of terrorist ideology. This means being able to demonstrate both a general understanding of the risks affecting children and young people in the area and a specific understanding of how to identify individual children who may be at risk of radicalisation and what to do to support them. Schools should have clear procedures in place for protecting children at risk of radicalisation. These procedures may be set out in existing

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<sup>98</sup> According to the Prevent duty guidance 'having due regard' means that the authorities should place an appropriate amount of weight on the need to prevent people being drawn into terrorism when they consider all the other factors relevant to how they carry out their usual functions.

<sup>99</sup> "Terrorism" for these purposes has the same meaning as for the Terrorism Act 2000 (section 1(1) to (4) of that Act).

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safeguarding policies. It is not necessary for schools to have distinct policies on implementing the Prevent duty.

- The Prevent duty builds on existing local partnership arrangements. For example, governing bodies and proprietors of all schools should ensure that their safeguarding arrangements take into account the policies and procedures established for local multi-agency safeguarding. Effective engagement with parents / the family should also be considered as they are in a key position to spot signs of radicalisation. It is important to assist and advise families who raise concerns and be able to point them to the right support mechanisms. Schools should also discuss any concerns in relation to possible radicalisation with a child's parents in line with the individual school's safeguarding policies and procedures unless they have specific reason to believe that to do so would put the child at risk.
- The Prevent guidance refers to the importance of Prevent awareness training to equip staff to identify children at risk of being drawn into terrorism and to challenge extremist ideas. Individual schools are best placed to assess the training needs of staff in the light of their assessment of the risk to pupils at the school of being drawn into terrorism. As a minimum, however, schools should ensure that the designated safeguarding lead undertakes Prevent awareness training and is able to provide advice and support to staff on protecting children from the risk of radicalisation.
- Schools should ensure that children are safe from terrorist and extremist material when accessing the internet in schools.

The department has also published advice for schools on the [Prevent duty](#). The advice is intended to complement the Prevent guidance and signposts other sources of advice and support.

There is additional guidance: [Prevent duty guidance: for further education institutions in England and Wales](#) that applies to colleges.

The Government has launched [educate against hate](#), a website designed to equip school and college leaders, teachers and parents with the information, tools and resources they need to recognise and address extremism and radicalisation in young people. The website provides information on training resources for teachers, staff and school and college leaders, such as Prevent e-learning, via the Prevent Training catalogue.

## Channel

School and college staff should understand when it is appropriate to make a referral to the Channel programme.<sup>100</sup> Channel guidance is available at: [Channel guidance](#). An e-learning channel awareness programme for staff is available at: [Channel General Awareness](#). Channel is a programme which focuses on providing support at an early stage to people who are identified as being vulnerable to being drawn into terrorism. It provides a mechanism for schools to make referrals if they are concerned that an individual might be vulnerable to radicalisation. An individual's engagement with the programme is entirely voluntary at all stages. In addition to information sharing, if a staff member makes a referral to Channel, they may be asked to attend a Channel panel to discuss the individual referred to determine whether support is required.

Section 36 of the CTSA 2015 places a duty on local authorities to ensure Channel panels are in place. The panel must be chaired by the local authority and include the police for the relevant local authority area. Following a referral, the panel will assess the extent to which identified individuals are vulnerable to being drawn into terrorism and, where considered appropriate and the necessary consent is obtained, arrange for support to be provided to those individuals. Section 38 of the CTSA 2015 requires partners of Channel panels to co-operate with the panel in the carrying out of its functions and with the police in providing information about a referred individual. Schools and colleges that are required to have regard to Keeping children safe in education are listed in the CTSA 2015 as partners required to cooperate with local Channel panels.<sup>101</sup>

## Further information on peer on peer abuse

### What is it?

Children can abuse other children. This is generally referred to as peer on peer abuse. Peer on peer abuse can take many forms. This can include (but is not limited to) bullying (including cyberbullying); sexual violence and sexual harassment; physical abuse such as hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm; sexting and initiating/hazing type violence and rituals.

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<sup>100</sup> Guidance issued under section 36(7) and section 38(6) of the CTSA 2015.

<sup>101</sup> Such partners are required to have regard to guidance issued under section 38(6) of the CTSA 2015 when cooperating with the panel and police under section 38 of the CTSA 2015.

## Sexual violence and sexual harassment between children in schools and colleges

The Department for Education has published detailed advice on sexual violence and sexual harassment between children in schools and colleges. It is available [here](#). Below is a summary of that advice.

### Context

Sexual violence and sexual harassment can occur between two children of any sex. They can also occur through a group of children sexually assaulting or sexually harassing a single child or group of children.

Children who are victims of sexual violence and sexual harassment will likely find the experience stressful and distressing. This will, in all likelihood, adversely affect their educational attainment. Sexual violence and sexual harassment exist on a continuum and may overlap, they can occur online and offline (both physical and verbal) and are never acceptable. It is important that all victims are taken seriously and offered appropriate support. Schools and colleges should consider the following:

- It is more likely that girls will be the victims of sexual violence<sup>102</sup> and more likely that sexual harassment will be perpetrated by boys. Schools and colleges should be aware of the importance of:
  - making clear that sexual violence and sexual harassment is not acceptable, will never be tolerated and is not an inevitable part of growing up;
  - not tolerating or dismissing sexual violence or sexual harassment as “banter”, “part of growing up”, “just having a laugh” or “boys being boys”; and
  - challenging behaviours (which are potentially criminal in nature), such as grabbing bottoms, breasts, vaginas and penises. Dismissing or tolerating such behaviours risks normalising them.
- Children with Special Educational Needs and Disabilities (SEND) can be especially vulnerable. Disabled and deaf children are three times<sup>103</sup> more likely to be abused than their peers. Additional barriers can sometimes exist when recognising abuse in SEND children (see paragraph 96 in Part 2 of this guidance).

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<sup>102</sup> [Girlguiding's Girls' Attitudes Survey 2017](#) found 64% of girls aged 13-21 had experienced sexual violence or sexual harassment at school or college in the past year.

The Women and Equalities committee (WEC) found a number of large scale surveys find girls consistently reporting high levels of sexual harassment and sexual violence in school: [WEC report- paragraph 13](#).

<sup>103</sup> Jones, L et al. (2012) Prevalence and risk of violence against children with disabilities: a systematic review and meta-analysis of observational studies. The Lancet July 2012.



## **What do we mean by sexual violence and sexual harassment between children?**

The departmental advice, when referring to sexual violence refers to sexual offences as described under the Sexual Offences Act 2003.<sup>104</sup> This includes: rape, assault by penetration and sexual assault. The advice sets out that sexual harassment is ‘unwanted conduct of a sexual nature’ that can occur online and offline. It is likely to violate a child’s dignity, and/or makes them feel intimidated, degraded or humiliated and/or creates a hostile, offensive or sexualised environment.

### **Legal responsibilities and equality policies**

Schools and colleges should be aware of their obligations under the Human Rights Act 1998 (HRA).

Schools and colleges are required to comply with relevant requirements as set out in the Equality Act 2010 (the Equality Act): [advice-for-schools](#) and [advice for further-and-higher-education](#).

The Equality and Human Rights Commission provides the following general guidance for schools that are subject to the [public-sector-equality-duty](#).

### **A whole school or college approach to safeguarding and child protection**

The best schools and colleges take a whole school approach to safeguarding and child protection. This means involving everyone in the school or college, including the governing body or proprietor, all the staff, all the children and their parents or carers.

Safeguarding and child protection should be a recurrent theme running through policies and procedures. The school’s or college’s approach to sexual violence and sexual harassment should reflect and be part of the broader approach to safeguarding.

Schools and colleges can play an important role in preventative education.

### **Responding to reports of sexual violence and sexual harassment**

#### **Introduction**

Reports of sexual violence and sexual harassment are likely to be complex and require difficult professional decisions to be made, often quickly and under pressure. Pre-planning, effective training and effective policies will provide schools and colleges the

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<sup>104</sup> [legislation.gov.uk](http://legislation.gov.uk)

foundation for a calm, considered and appropriate response to any reports.

### **Support for schools and colleges**

Effective safeguarding practice is for schools and colleges to be clear, in advance, as to what local processes are in place and what local support can be accessed when sexual violence or sexual harassment has occurred. It is important to prepare for this in advance of a reported incident and review this information on a regular basis to ensure it is up to date. As such:

- if required, the designated safeguarding lead (or a deputy) should discuss the local response to sexual violence and sexual harassment with police and children's social care colleagues in order to prepare the school or college's policies (especially the child protection policy) and responses; and
- the designated safeguarding lead (and their deputies) should be confident as to what local specialist support is available to support all children involved (including the victims and perpetrators) in sexual violence and sexual harassment and be confident as to how to access this support when required.

Detailed information on support for schools and colleges is included in the departmental advice.

### **Managing the disclosure**

The school or college's initial response to a disclosure from a child is important. It is essential that victims are reassured that they are being taken seriously and that they will be supported and kept safe. A victim should never be given the impression that they are creating a problem by reporting sexual violence or sexual harassment. Nor should a victim ever be made to feel ashamed for making a report.

### **Anonymity**

Where an allegation of sexual violence or sexual harassment is progressing through the criminal justice system, schools and colleges should be aware of anonymity, witness support and the criminal process in general so they can offer support and act appropriately.<sup>105</sup> Information is at: [CPS: children as victims and witnesses](#).

In addition to the legal protections, as a matter of effective safeguarding practice, schools and colleges should do all they reasonably can to protect the anonymity of any children involved in any report of sexual violence or sexual harassment. Amongst other things this will mean carefully considering, based on the nature of the report, which staff should

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<sup>105</sup>It is not the role of schools and colleges to provide legal advice or support to victims, alleged perpetrators or parents in respect of a criminal justice process. Rather, schools and colleges should be aware of their own position and responsibilities.

know about the report and any support that will be in place for the children involved.

### **Action following a report: What to consider**

Schools and colleges should carefully consider any report of sexual violence and/or sexual harassment. The designated safeguarding lead (or deputy) is likely to have a complete safeguarding picture and be the most appropriate person to decide on the school or college's initial response. Important considerations will include:

- the wishes of the victim in terms of how they want to proceed. This is especially important in the context of sexual violence and sexual harassment. Victims should be given as much control as is reasonably possible over decisions regarding how any investigation will be progressed and any support that they will be offered.
- the nature of the alleged incident(s), including: might a crime have been committed and consideration of harmful sexual behaviour;
- the ages of the children involved;
- the developmental stages of the children involved;
- any power imbalance between the children (e.g. is the alleged perpetrator significantly older);
- is the alleged incident a one off or a sustained pattern of abuse;
- are their ongoing risks; and
- other related issues and wider context. Where incidents and or behaviours are associated with factors outside the school or college and/or occur between children outside the school or college the designated safeguarding lead (or deputy) should be considering contextual safeguarding. This simply means assessments of children in such cases should consider whether wider environmental factors are present in a child's life that are a threat to their safety and/or welfare. Children's social care assessments should consider such factors and so, it is important that schools and colleges provide as much information as possible as part of the referral process. This will allow any assessment to consider all the evidence and the full context of any abuse. Supporting information regarding contextual safeguarding, and where schools and colleges fit into the wider environment, is available here: [Contextual safeguarding](#).

### **Children sharing a classroom: Initial considerations when the report is made**

Any report of sexual violence is likely to be traumatic for the victim.

However, reports of rape and assault by penetration are likely to be especially difficult with regard to the victim and close proximity with the alleged perpetrator is likely to be

especially distressing. Whilst the school or college establishes the facts of the case and starts the process of liaising with children's social care and the police, the alleged perpetrator should be removed from any classes they share with the victim. The school or college should also consider how best to keep the victim and alleged perpetrator a reasonable distance apart on school or college premises and on transport to and from the school or college where appropriate. These actions are in the best interests of both children and should not be perceived to be a judgment on the guilt of the alleged perpetrator.

For other reports of sexual violence and sexual harassment the proximity of the victim and alleged perpetrator and considerations regarding shared classes, sharing school or college premises and school or college transport, should be considered immediately.

In all cases the initial report should be carefully evaluated, reflecting the considerations set out in the "Action following a report" section above. The wishes of the victim, the nature of the allegations and the protection of all children in the school or college will be especially important when considering any immediate actions.

### **Safeguarding and supporting the victim**

The following principles are based on effective safeguarding practice and should help shape any decisions regarding safeguarding and supporting the victim.

- Consider the age and the developmental stage of the victim, the nature of the allegations and the potential risk of further abuse. Schools and colleges should be aware that by the very nature of sexual violence and sexual harassment a power imbalance is likely to have been created between the victim and alleged perpetrator.
- The needs and wishes of the victim should be paramount (along with protecting the child) in any response. It is important they feel in as much control of the process as is possible. Wherever possible, the victim, if they wish, should be able to continue in their normal routine. Overall, the priority should be to make the victim's daily experience as normal as possible, so that the school or college is a safe space for them.
- The victim should never be made to feel they are the problem for making a report or made to feel ashamed for making a report.
- Consider the proportionality of the response. Support should be tailored on a case-by-case basis. The support required regarding a one-off incident of sexualised name-calling is likely to be vastly different from that for a report of rape.

### **Ongoing Considerations: Victim and alleged perpetrator sharing classes**

Page 75 considered the immediate response to a report. Once the designated safeguarding lead (or a deputy) have decided what the next steps will be in terms of

progressing the report, they should consider again, the question of the victim and alleged perpetrator sharing classes and sharing space at school or college. This will inevitably involve complex and difficult professional decisions, including considering their duty to safeguard children and their duty to educate them. It is important each report is considered on a case-by-case basis and risk assessments are updated as appropriate. As always when concerned about the welfare of a child, the best interests of the child should come first. In all cases, schools and colleges should follow general safeguarding principles.

Where there is a criminal investigation into a rape, assault by penetration or sexual assault the alleged perpetrator should be removed from any classes they share with the victim. The school or college should also consider how best to keep the victim and alleged perpetrator a reasonable distance apart on school or college premises and on transport to and from school or college where appropriate. This is in the best interests of both children and should not be perceived to be a judgement on the guilt of the alleged perpetrator. Close liaison with the police is essential.

Where a criminal investigation into a rape or assault by penetration leads to a conviction or caution, the school or college should take suitable action, if they have not already done so. In all but the most exceptional of circumstances, the rape or assault is likely to constitute a serious breach of discipline and lead to the view that allowing the perpetrator to remain in the same school or college would seriously harm the education or welfare of the victim (and potentially other pupils).

Where a criminal investigation into sexual assault leads to a conviction or caution, the school or college should, if it has not already, consider any suitable sanctions in light of their behaviour policy, including consideration of permanent exclusion.<sup>106</sup> Where the perpetrator is going to remain at the school or college, the principle would be to continue keeping the victim and perpetrator in separate classes and continue to consider the most appropriate way to manage potential contact on school and college premises and transport. The nature of the conviction or caution and wishes of the victim will be especially important in determining how to proceed in such cases.

In all cases, schools and colleges should record and be able to justify their decision making.

Reports of sexual assault and sexual harassment will, in some cases, not lead to a report to the police (for a variety of reasons). In some cases rape, assault by penetration, sexual assault or sexual harassment are reported to the police and the case is not progressed or are reported to the police and ultimately result in a not guilty verdict. None

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<sup>106</sup> Maintained schools, academies and pupil referral units should follow the statutory guidance [here](#). Independent schools and colleges should consider excluding as per their own policies.

of this means the offence did not happen or that the victim lied. The process will have affected both victim and alleged perpetrator. Appropriate support should be provided to both as required and consideration given to sharing classes and potential contact as required on a case-by-case basis. In all cases schools and colleges should record and be able to justify their decision making.

All the above should be considered with the needs and wishes of the victim at the heart of the process (supported by parents and carers as required). Any arrangements should be kept under review.

### **Safeguarding and supporting the alleged perpetrator**

The following principles are based on effective safeguarding practice and should help shape any decisions regarding safeguarding and supporting the alleged perpetrator:

- The school or college will have a difficult balancing act to consider. On the one hand to safeguard the victim (and the wider student body) and on the other hand providing the alleged perpetrator with an education, safeguarding support as appropriate and implementing any disciplinary sanctions.
- Consider the age and the developmental stage of the alleged perpetrator and nature of the allegations. Any child will likely experience stress as a result of being the subject of allegations and/or negative reactions by their peers to the allegations against them.
- Consider the proportionality of the response. Support (and sanctions) should be considered on a case-by-case basis. An alleged perpetrator may potentially have unmet needs (in some cases these may be considerable) as well as potentially posing a risk of harm to other children. Harmful sexual behaviour in young children may be a symptom of either their own abuse or exposure to abusive practices and or materials. Advice should be taken, as appropriate, from children's social care, specialist services and the police.

## Annex B: Role of the designated safeguarding lead

Governing bodies, proprietors and management committees should ensure an appropriate **senior member** of staff, from the school or college **leadership team**, is appointed to the role of designated safeguarding lead.<sup>107</sup> The designated safeguarding lead should take **lead responsibility** for safeguarding and child protection. This should be explicit in the role holder's job description. This person should have the appropriate status and authority within the school to carry out the duties of the post. They should be given the time, funding, training, resources and support to provide advice and support to other staff on child welfare and child protection matters, to take part in strategy discussions and inter-agency meetings, and/or to support other staff to do so, and to contribute to the assessment of children.

### Deputy designated safeguarding leads

It is a matter for individual schools and colleges as to whether they choose to have one or more deputy designated safeguarding leads. Any deputies should be trained to the same standard as the designated safeguarding lead and the role should be explicit in their job description.

Whilst the activities of the designated safeguarding lead can be delegated to appropriately trained deputies, the ultimate **lead responsibility** for child protection, as set out above, remains with the designated safeguarding lead, this **lead responsibility** should not be delegated.

### Manage referrals

The designated safeguarding lead is expected to:

- refer cases of suspected abuse to the local authority children's social care as required;
- support staff who make referrals to local authority children's social care;
- refer cases to the Channel programme where there is a radicalisation concern as required;

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<sup>107</sup> When a school has a sole proprietor rather than a governing body, appropriate steps should be taken to ensure that the member of the senior leadership team who is appointed as DSL is able to discharge that role with sufficient independence, particularly in relation to any allegations involving the proprietor or members of the proprietor's family. This may involve including in the appointment as DSL, written confirmation that part of the duties of the post involve contacting the Local Authority Designated Officer on any matter that the DSL considers cannot be properly dealt with internally. Consideration could also be given to providing the DSL with access to external advice from an appropriate company or legal service.

- support staff who make referrals to the Channel programme;
- refer cases where a person is dismissed or left due to risk/harm to a child to the Disclosure and Barring Service as required; and
- refer cases where a crime may have been committed to the Police as required.

## Work with others

The designated safeguarding lead is expected to:

- liaise with the headteacher or principal to inform him or her of issues especially ongoing enquiries under section 47 of the Children Act 1989 and police investigations;
- as required, liaise with the “case manager” (as per Part four) and the designated officer(s) at the local authority for child protection concerns in cases which concern a staff member;
- liaise with staff (especially pastoral support staff, school nurses and SENCOs) on matters of safety and safeguarding and when deciding whether to make a referral by liaising with relevant agencies; and
- act as a source of support, advice and expertise for all staff.

## Training

The designated safeguarding lead (and any deputies) should undergo training to provide them with the knowledge and skills required to carry out the role. This training should be updated at least every two years.

The designated safeguarding lead should undertake Prevent awareness training.

In addition to the formal training set out above, their knowledge and skills should be refreshed (this might be via e-bulletins, meeting other designated safeguarding leads, or simply taking time to read and digest safeguarding developments) at regular intervals, as required, and at least annually, to allow them to understand and keep up with any developments relevant to their role so they:

- understand the assessment process for providing early help and statutory intervention, including local criteria for action and local authority children’s social care referral arrangements.<sup>108</sup>

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<sup>108</sup> Full details in Chapter one of [Working together to safeguard children](#).



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- have a working knowledge of how local authorities conduct a child protection case conference and a child protection review conference and be able to attend and contribute to these effectively when required to do so;
- ensure each member of staff has access to, and understands, the school or college's child protection policy and procedures, especially new and part time staff;
- are alert to the specific needs of children in need, those with special educational needs and young carers;<sup>109</sup>
- are able to keep detailed, accurate, secure written records of concerns and referrals;
- understand and support the school or college with regards to the requirements of the Prevent duty and are able to provide advice and support to staff on protecting children from the risk of radicalisation;
- are able to understand the unique risks associated with online safety and be confident that they have the relevant knowledge and up to date capability required to keep children safe whilst they are online at school or college;
- can recognise the additional risks that children with SEN and disabilities (SEND) face online, for example, from online bullying, grooming and radicalisation and are confident they have the capability to support SEND children to stay safe online;
- obtain access to resources and attend any relevant or refresher training courses; and
- encourage a culture of listening to children and taking account of their wishes and feelings, among all staff, in any measures the school or college may put in place to protect them.

## Raise Awareness

The designated safeguarding lead should:

- ensure the school or college's child protection policies are known, understood and used appropriately;
- ensure the school or college's child protection policy is reviewed annually (as a minimum) and the procedures and implementation are updated and reviewed regularly, and work with governing bodies or proprietors regarding this;

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<sup>109</sup> Section 17(10) Children Act 1989: those unlikely to achieve a reasonable standard of health and development without local authority services, those whose health and development is likely to be significantly impaired without the provision of such services, or disabled children.

- ensure the child protection policy is available publicly and parents are aware of the fact that referrals about suspected abuse or neglect may be made and the role of the school or college in this; and
- link with the three safeguarding partners to make sure staff are aware of any training opportunities and the latest local policies on local safeguarding arrangements.

## **Child protection file**

Where children leave the school or college ensure their child protection file is transferred to the new school or college as soon as possible. This should be transferred separately from the main pupil file, ensuring secure transit, and confirmation of receipt should be obtained.

## **Availability**

During term time the designated safeguarding lead (or a deputy) should always be available (during school or college hours) for staff in the school or college to discuss any safeguarding concerns. Whilst generally speaking the designated safeguarding lead (or deputy) would be expected to be available in person, it is a matter for individual schools and colleges, working with the designated safeguarding lead, to define what “available” means and whether in exceptional circumstances availability via phone and or Skype or other such media is acceptable.

It is a matter for individual schools and colleges and the designated safeguarding lead to arrange adequate and appropriate cover arrangements for any out of hours/out of term activities.

## Annex C: Online safety

The use of technology has become a significant component of many safeguarding issues. Child sexual exploitation; radicalisation; sexual predation: technology often provides the platform that facilitates harm. An effective approach to online safety empowers a school or college to protect and educate the whole school or college community in their use of technology and establishes mechanisms to identify, intervene in and escalate any incident where appropriate.

The breadth of issues classified within online safety is considerable, but can be categorised into three areas of risk:

- content: being exposed to illegal, inappropriate or harmful material;
- contact: being subjected to harmful online interaction with other users; and
- conduct: personal online behaviour that increases the likelihood of, or causes, harm.

### Filters and monitoring

Governing bodies and proprietors should be doing all that they reasonably can to limit children's exposure to the above risks from the school or college's IT system. As part of this process, governing bodies and proprietors should ensure their school or college has appropriate filters and monitoring systems in place. Whilst considering their responsibility to safeguard and promote the welfare of children, and provide them with a safe environment in which to learn, governing bodies and proprietors should consider the age range of their pupils, the number of pupils, how often they access the IT system and the proportionality of costs vs risks.

The appropriateness of any filters and monitoring systems are a matter for individual schools and colleges and will be informed in part by the risk assessment required by the Prevent Duty (see page 61 for additional information about this duty).<sup>110</sup>

The UK Safer Internet Centre has published guidance as to what "appropriate" might look like: [UK Safer Internet Centre: appropriate filtering and monitoring](#)

Guidance on e-security is available from the [National Education Network](#). Support for schools is available via the: [schools' buying strategy](#) with specific advice on procurement here: [buying for schools](#).

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<sup>110</sup> [The Prevent duty Departmental advice for schools and childcare providers](#).

Whilst filtering and monitoring are an important part of the online safety picture for schools and colleges to consider, it is only one part. Governors and proprietors should consider a whole school approach to online safety. This will include a clear policy on the use of mobile technology in the school. Many children have unlimited and unrestricted access to the internet via 3G and 4G in particular and the school and college should carefully consider how this is managed on their premises.

Whilst it is essential that governing bodies and proprietors ensure that appropriate filters and monitoring systems are in place, they should be careful that “over blocking” does not lead to unreasonable restrictions as to what children can be taught with regard to online teaching and safeguarding.

## **Staff training**

Governors and proprietors should ensure that, as part of the requirement for staff to undergo regularly updated safeguarding training (paragraph 74) and the requirement to ensure children are taught about safeguarding, including online (paragraph 78), that online safety training for staff is integrated, aligned and considered as part of the overarching safeguarding approach.

## **Information and support**

There is a wealth of information available to support schools and colleges to keep children safe online. The following is not exhaustive but should provide a useful starting point:

- [www.thinkuknow.co.uk](http://www.thinkuknow.co.uk)
- [www.disrespectnobody.co.uk](http://www.disrespectnobody.co.uk)
- [www.saferinternet.org.uk](http://www.saferinternet.org.uk)
- [www.internetmatters.org](http://www.internetmatters.org)
- [www.childnet.com/cyberbullying-guidance](http://www.childnet.com/cyberbullying-guidance)
- [www.pshe-association.org.uk](http://www.pshe-association.org.uk)
- <http://educateagainsthate.com/>
- [www.gov.uk/government/publications/the-use-of-social-media-for-online-radicalisation](http://www.gov.uk/government/publications/the-use-of-social-media-for-online-radicalisation)
- [www.gov.uk/UKCCIS- external visitors and online safety](http://www.gov.uk/UKCCIS-external-visitors-and-online-safety)

## Annex D: Boarding schools, residential special schools and children's homes

There are additional requirements for boarding schools, residential special schools, and children's homes to consider with regards to safeguarding. These are set out in National Minimum Standards and regulations for the relevant setting. All schools and colleges that provide such residential accommodation and/or are registered as children's homes must comply with the relevant National Minimum Standards and/or regulations for their sector. Such schools and colleges should be particularly alert to the signs of abuse in such settings and work closely with the host local authority and, where relevant, any local authorities that have placed their children there. The relevant guidance for each sector is on GOV.UK and the relevant links are listed below:

- [The National Minimum Standards for Boarding Schools](#)
- [The National Minimum Standards for Residential Special Schools](#)
- [The National Minimum Standards for FE Colleges which accommodate under 18s](#)
- [Guide to the Children's Homes Regulations](#)

In addition, the Visits to Children in Long-Term Residential Care Regulations 2011<sup>111</sup> apply to children and young people living away from home in residential settings for periods of 3 months or more (including those placed in residential schools and colleges). An appropriate representative from the accommodating Local Authority must visit these settings to ensure the welfare of these children.

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<sup>111</sup> [www.legislation.gov.uk](http://www.legislation.gov.uk)

## **Annex E: Host families - homestay during exchange visits**

Schools and colleges often make arrangements for foreign exchange visits. These visits can enrich the languages curriculum and provide exciting opportunities for pupils to develop their confidence and expertise in the use of other languages. Schools and colleges have a responsibility for the safety and welfare of children during any exchange visit they arrange and for considering how best to minimise risk of harm to those children involved. This would include when organising for the care and accommodation of a child with a host family (known as homestays) as part of the exchange.

### **School/college arranged homestay – suitability of adults in UK host families**

When arranging a homestay, schools should consider the suitability of the adults in the respective families who will be responsible for the visiting child during the stay.

In circumstances where a school or college arrange for a visiting child to be provided with care and accommodation in the UK (including where they engage a company to make those arrangements) in the home of a family to which the child is not related<sup>112</sup> the responsible adults will be engaging in regulated activity for the period of the stay.<sup>113</sup> In such cases and where the school or college has the power to terminate such a homestay the school or college would be the regulated activity provider.<sup>114</sup> A regulated activity provider commits a criminal offence if it knows, or has reason to believe that, an individual is barred by the Disclosure and Barring Service (DBS) from engaging in regulated activity but allows that individual to carry out any form of regulated activity.<sup>115</sup> It should be noted that where the child's parent(s) or a student themselves arranges their own homestay, this would be a private arrangement therefore the school or college would not be the regulated activity provider.

Whilst there is no legal requirement for schools or colleges, as regulated activity providers to check the barred list status of an adult who will provide homestay (in the circumstances described above), schools and colleges should obtain a DBS enhanced certificate with barred list information. This check will not only establish whether the adults are barred from engaging in regulated activity relating to children, but will also allow the school or college to consider whether any criminal record information shown on the certificate would indicate the adult was an unsuitable host for a child.

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<sup>112</sup> This includes where a person has parental responsibility for the visiting child.

<sup>113</sup> Paragraph 1(5) of Schedule 4 and Section 53 of the Safeguarding Vulnerable Groups Act 2006. Where an adult is providing homestay in circumstances other than as described in this section, the school or college should seek advice from the DBS about whether the individual will be in regulated activity.

<sup>114</sup> Section 53(3) and (4) of the Safeguarding Vulnerable Groups Act 2006.

<sup>115</sup> Section 9 of the Safeguarding Vulnerable Groups Act 2006.

DBS enhanced certificates with barred list information for volunteer roles<sup>116</sup> can be obtained free of charge. In respect of an adult who provides UK homestay and receives no remuneration in respect of the stay or where schools reimburse families only for expenses incurred, to enable a DBS application to be considered as a volunteer role the 'Position Applied For' field will need to make clear that the position is unpaid.

In addition to those engaging in regulated activity, schools and colleges may choose to also obtain a DBS enhanced certificate in respect of anyone aged 16 or over in the household where the child will be staying.

### **Homestay – suitability of adults in host families abroad**

It is not possible for schools and colleges to obtain criminality information from the DBS about adults who provide homestays abroad. Schools and colleges should liaise with partner schools abroad, to establish a shared understanding of the arrangements in place both before and during the visit. They should also satisfy themselves that these are appropriate and sufficient to safeguard effectively every child who will take part in the exchange. Schools and colleges are also free to contact the relevant foreign embassy or High Commission of the country in question to discuss what checks may be possible in respect of those providing homestay outside of the UK.

### **Additional action for extended homestays**

Where a period of UK homestay lasts 28 days or more, for a child aged under 16 years of age (under 18 years of age if the child has disabilities), this may amount to private fostering under the Children Act 1989<sup>117</sup>. In these cases the school or college should notify the local authority of the arrangements. Private fostering legislation places a duty on local authorities to satisfy themselves that the welfare of a child who is being, or proposed to be, privately fostered in their area is being or will be satisfactorily safeguarded and promoted. By notifying the local authority, the school and college will be assisting the local authority in discharging its duty. See paragraph 171 for additional information about private fostering and local authority notifications.

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<sup>116</sup> Volunteer is defined as "Any person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party and not a close relative."

<sup>117</sup> Private fostering occurs when a child under the age of 16 (under 18, if disabled) is provided with care and accommodation by a person who is not a parent, person with parental responsibility for them or a relative in their own home. A child is not privately fostered if the person caring for and accommodating them has done so for less than 28 days and does not intend to do so for longer.

## **Annex F: Statutory guidance - Regulated activity (children) - Supervision of activity with children which is regulated activity when unsupervised**

This statutory guidance on the supervision of activity with children which is regulated activity when unsupervised is also published separately on [GOV.UK](https://www.gov.uk).

1. This document fulfils the duty in legislation <sup>i,ii</sup> that the Secretary of State must publish statutory guidance on supervision of activity by workers with children, which when unsupervised is regulated activity. This guidance applies in England, Wales and Northern Ireland. It covers settings including but not limited to schools, childcare establishments, colleges, youth groups and sports clubs.
2. For too long child protection policy has been developed in haste and in response to individual tragedies, with the well-intentioned though misguided belief that every risk could be mitigated and every loophole closed. The pressure has been to prescribe and legislate more. This has led to public confusion, a fearful workforce and a dysfunctional culture of mistrust between children and adults. This Government is taking a different approach.
3. We start with a presumption of trust and confidence in those who work with children, and the good sense and judgment of their managers. This guidance applies when an organisation decides to supervise with the aim that the supervised work will not be regulated activity (when it would be, if not so supervised). In such a case, the law makes three main points:
  - there must be supervision by a person who is in regulated activity <sup>iii</sup>
  - the supervision must be regular and day to day; and
  - the supervision must be “reasonable in all the circumstances to ensure the protection of children”.

The organisation must have regard to this guidance. This gives local managers the flexibility to determine what is reasonable for their circumstances. While the precise nature and level of supervision will vary from case to case, guidance on the main legal points above is as follow.

4. Supervision by a person in regulated activity/regular and day to day: supervisors must be in regulated activity themselves <sup>iv</sup>. The duty that supervision must take place “on a regular basis” means that supervision must not, for example, be concentrated during the first few weeks of an activity and then tail off thereafter, becoming the exception not the rule. It must take place on an ongoing basis, whether the worker has just started or has been doing the activity for some time.
5. Reasonable in the circumstances: within the statutory duty, the level of supervision



may differ, depending on all the circumstances of a case. Organisations should consider the following factors in deciding the specific level of supervision a person will require:

- ages of the children, including whether their ages differ widely;
  - number of children that the individual is working with;
  - whether or not other workers are helping to look after the children;
  - the nature of the individual's work (or, in a specified place such as a school, the individual's opportunity for contact with children);
  - how vulnerable the children are (the more they are, the more an organisation might opt for workers to be in regulated activity);
  - how many workers would be supervised by each supervising worker.
6. An organisation is not entitled to request a barred list check on a worker who, because they are supervised, is not in regulated activity.

## EXAMPLES

### ***Volunteer, in a specified place***

Mr Jones, a new volunteer, helps children with reading at a local school for two mornings a week. Mr Jones is generally based in the classroom, in sight of the teacher. Sometimes Mr Jones takes some of the children to a separate room to listen to them reading, where Mr Jones is supervised by a paid classroom assistant, who is in that room most of the time. The teacher and classroom assistant are in regulated activity. The head teacher decides supervision is such that Mr Jones is not in regulated activity.

### ***Volunteer, not in a specified place***

Mr Wood, a new entrant volunteer, assists with the coaching of children at his local cricket club. The children are divided into small groups, with assistant coaches such as Mr Wood assigned to each group. The head coach oversees the coaching, spends time with each of the groups, and has sight of all the groups (and the assistant coaches) for most of the time. The head coach is in regulated activity. The club's managers decide whether the coach's supervision is such that Mr Wood is not in regulated activity.

### ***Employee, not in a specified place***

Mrs Shah starts as a paid activity assistant at a youth club. She helps to instruct a group of children, and is supervised by the youth club leader who is in regulated

activity. The youth club's managers decide whether the leader's supervision is such that Mrs Shah is not in regulated activity.

In each example, the organisation uses the following steps when deciding whether a new worker will be supervised to such a level that the new worker is not in regulated activity:

- Consider whether the worker is doing work that, if unsupervised, would be regulated activity. (Note: If the worker is not engaging in regulated activity, the remaining steps are unnecessary. If the worker is engaging in regulated activity the remaining steps should be followed);
- consider whether the worker will be supervised by a person in regulated activity, and whether the supervision will be regular and day to day, bearing in mind paragraph 4 of this guidance;
- consider whether the supervision will be reasonable in all the circumstances to ensure the protection of children, bearing in mind the factors set out in paragraph 5 of this guidance above; and if it is a specified place such as a school; and
- consider whether the supervised worker is a volunteer v .

i Safeguarding Vulnerable Groups Act 2006, amended by Protection of Freedoms Act 2012: Schedule 4, paragraph 5A: guidance must be "for the purpose of assisting" organisations "in deciding whether supervision is of such a kind that" the supervisee is not in regulated activity.

ii Safeguarding Vulnerable Groups (Northern Ireland) Order 2007, Schedule 2, paragraph 5A, is as above on guidance on "supervision" for Northern Ireland.

iii If the work is in a specified place such as a school, paid workers remain in regulated activity even if supervised.

iv The Protection of Freedoms Act 2012 includes provisions for a statutory duty on an organisation arranging regulated activity (under the 2006 Act or 2007 Order, both as amended) to check that a person entering regulated activity is not barred from regulated activity and a stand-alone barring check. These are as yet not commenced.

v A volunteer is: in England and Wales, a person who performs an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives. In Northern Ireland, a volunteer is: a person engaged, or to be engaged, in an activity for a non-profit organisation or person which involves spending time unpaid (except for travel and other approved out-of-pocket expenses) doing something which amounts to a benefit to some third party other than, or in addition to, a close relative.

## Annex G: Disclosure and Barring Service checks

These are the types of checks available to those working with children:

Type of check	What the check involves	Positions eligible for this level of check
<b>Standard check</b>	Check of the Police National Computer records of convictions, cautions, reprimands and warnings.	The position being applied for must be covered by an exempted question in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.
<b>Enhanced check</b>	Check of the Police National Computer records <b>plus</b> additional information held by police such as interviews and allegations. Additional information will only be disclosed where a chief police officer reasonably believes it to be relevant and considers that it ought to be disclosed.	The position being applied for must be covered by an exempted question in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and by provisions in the Police Act 1997 (Criminal Records) Regulations 2002.*
<b>Enhanced criminal record check with children's and/or adult's barred list information</b>	Check of the Police National Computer records <b>plus</b> additional information held by police <b>plus</b> check of the DBS Children's Barred List <b>plus</b> check of the DBS Adults' Barred List.	The position must be eligible for an enhanced level criminal record check as above and be for a purpose listed in the Police Act 1997 (Criminal Records) (No2) Regulations 2009 as qualifying for a barred list(s) check.

\*This legislation does not provide a list of job roles that are eligible for this check – such a list does not exist. Instead, the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 sets out the 'exempted questions' for which a standard check can be obtained. Similarly, the Police Act 1997 (Criminal Records) Regulations 2002 set out the purposes for which an enhanced check can be obtained, and the Police Act 1997 (Criminal Records) (No 2) Regulations 2009 list the circumstances in which an enhanced check will automatically include a barred list check. It is important to note that the Regulations can also remove roles, duties or activities through the removal of an exempted question or of a particular purpose. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, the Police Act 1997 (Criminal Records) Regulations 2002 and the Police Act 1997 (Criminal Records) (No 2) Regulations 2009 can all be found on the [legislation website](#).

Any individual (including an applicant for a job which does not involve working with children) can be asked to apply for a basic criminal record check. This will show only unspent convictions and cautions. This service is currently provided via the Disclosure and Barring Service. Further details can be found on gov.uk

## Annex H: Table of substantive changes from September 2016

Where	What
<b>Summary</b>	
Whole of the document	<p>The guidance is amended throughout to make references to acronyms consistent and to correct minor typos e.g. missing punctuation.</p> <p>Also replaced reference to LSCB with local multi-agency safeguarding arrangements as required to reflect forthcoming changes in <i>Working together to safeguard children</i>.</p>
Page 3 - About this guidance	Explained the terms used within Keeping children safe in education and their legal status, making this section consistent with the definition of statutory guidance published on <a href="http://GOV.UK">GOV.UK</a> .
Page 3/4- Who this guidance is for	Moved the footnote about academy trusts into the main body of the guidance. This clarifies that for the purposes of Keeping children safe in education, in the case of academies, free schools and alternative provision academies, the proprietor is the academy trust.
<b>Part one</b>	
Paragraph 12	Made clear that information about the role of the DSL should include who it is and the identity of any deputies.
Paragraph 15	Removed detailed information from one of the two footnotes and combined into one simple footnote. Feedback suggested the original level of information is too much for Part 1. However, cross-reference to detailed information remains.
Paragraph 17	Provided additional information on children who may especially benefit from early help.
Paragraphs 22-34	The policy intent of these paragraphs have not changed. Following feedback we have removed duplication from the “What school and college staff should do if they have concerns about a child” and “What school and college staff should do if a child is in danger or at risk of harm” sections. Also provided additional information where we think it will be helpful for staff.
Paragraph 35	Updated the footnote to make it easier to understand.
Paragraph 41	Added additional information for staff to consider with regard to when they might call the hotline.
Page 13	Updated table to reflect changes elsewhere in Part 1.

Draft for consultation

Paragraph 49	Updated to reflect sexual violence and sexual harassment.
Paragraph 50	Links updated to be clearer what they relate to. Additional links added for domestic abuse, county lines and sexual violence and sexual harassment.
<b>Part two</b>	
Paragraph 53	Updated to make clear the Board level leadership lead should sit at governing body or proprietor level.
Paragraph 55	<p>Updated to make clear that all schools and colleges should have their own individual child protection policy. This is important, as it will reflect local circumstances.</p> <p>This does not stop a proprietor of multiple schools from having an overarching child protection policy. We would simply expect that to be built on locally to ensure local procedures and protocols can be reflected.</p> <p>Moved the old paragraph 49 into this paragraph to bring the child protection information together in one place.</p>
Paragraph 55	<p>Added additional information with regards to children missing education and the consideration of safeguarding concerns.</p> <p>Moved the old paragraph 51 into this paragraph to bring the children missing education information together in one place.</p> <p>Added that where reasonably possible schools and colleges should hold more than one emergency contact number for their pupils.</p>
Paragraph 57	To be clear the important thing is the designated safeguarding lead is appointed and is from the school or colleges senior leadership team. Who actually appoints them is a matter for the governing body or proprietor.
Paragraph 64-73	Updated to reflect Working together to safeguard children. Also reflected the designated safeguarding lead responsibilities with regards to the child protection file. This is already set out in Annex B but it deserves prominence in the main body of the guidance.
Paragraph 78	Reordered the wording of this paragraph to improve readability and have added the word “safety”. This addition is to make clear that “safeguarding” in this context includes “online safety”.
Paragraph 82	Clarified safer recruitment requirements when an individual is interviewing rather than a panel.
Paragraph 86	Updated this paragraph to reflect the importance of school and college child protection policies reflecting peer on peer abuse.

Draft for consultation

	This is cross-referenced with additional advice from the department.
Paragraph 91-94	Updated to reflect new requirements regarding previously looked after children.
Paragraph 95	Added to reflect colleges responsibilities with regards to care leavers.
Paragraph 97	Updated to reflect the importance of considering safeguarding in the context of using restraint.
<b>Part three</b>	
Paragraph 98	Amended footnote 35 to reflect changes to college Conditions of Funding Agreements that, before employing a person to carry out teaching work in relation to children, require colleges to take reasonable steps to establish whether that person is subject to a prohibition order made under section 141B, and prevent the employment or engagement of any person who is subject to a prohibition order in such a role.
Paragraph 99	Revised the wording of this paragraph to make direct reference to prohibitions, directions, sanctions and restrictions.
Paragraph 102	Moved the position of the reference to Annex F within the paragraph to improve readability.
Paragraph 103	Amended footnote 39 to reflect changes to college Conditions of Funding Agreements that, before employing a person to carry out teaching work in relation to children, require colleges to take reasonable steps to establish whether that person is subject to a prohibition order made under section 141B.
Regulated Activity shaded box page 30	Clarified the position on personal care.
Page 32 Prohibitions, directions, sanctions and restrictions Paras 109-112	New heading inserted. Paragraphs in this section have been relocated from elsewhere in document and additional information inserted to bring all information together, and provide clarity about, prohibitions, sanctions and restrictions. Paragraph 111 now references the effect of a s128 direction on governors of maintained schools.
Paragraph 113	Added new paragraph to reflect previous GTCE sanctions.
Paragraph 114	Paragraph moved from previous footnote 47 into body of document.
Paragraph 115	New paragraph, which includes text from previous footnote 38 into main body of text to explain the use of the Teacher Services system. New footnote is inserted to explain the Teacher Services system can also be used to verify qualified teacher status (QTS) and the completion of teacher induction and teacher probation periods.

Draft for consultation

Paragraph 119	Added information to this paragraph to better explain the Teacher Services' system and that schools and all colleges should use the system to check for prohibitions, directions, sanctions and restrictions, (including old GTCE restrictions). We have also inserted a new footnote to explain that, where necessary, the system should also be used to verify the award of qualified teacher status (QTS), and the completion of teacher induction or probation.
Paragraph 121	This paragraph is amended to reflect accurately the wording of regulations and to add clarity. There has been no change to policy.
Paragraph 123	Explained what is in the GOV.UK link.
Page 37 - Flowchart of Disclosure and Barring service Criminal Record Checks and Barred List Checks	A revised flowchart has been inserted to make the information about checks for contractors consistent with the information contained in the body of the guidance.
Paragraph 124-127 Employment History and References	Provided further context about the information schools should consider when seeking and obtaining references. A link to the Advisory, Conciliation and Arbitration Service (ACAS) website has been added to signpost to additional information about references.
Paragraph 128-134 Single Central Record (SCR)	Clarified the minimum information that must be recorded on the SCR. Additional advice has been added to: clarify the option to use the SCR to record other non-statutory information; the requirements for multi-academy trusts; that in the case of an academy, a proprietor means the members and trustees of the academy trust; and the format of the SCR.
Paragraph 135	Added paragraph number as this section of text not previously shown as a numbered paragraph.
Paragraphs 136-137 Overseas checks	Moved the reference to the Home Office guidance from paragraph below to this paragraph.
Paragraph 141- ITT trainees	In respect of fee-funded ITT trainees, clarified that the school or college should obtain written confirmation from the provider that it (the provider) has carried out all pre-appointment checks that the school or college would otherwise be required to perform.
Paragraph 144	Added paragraph number as this section of text not previously shown as a numbered paragraph. Also revises the original text, providing clarification that ensures schools are clear that they must refer to the DBS when an individual is suspended or moved out of regulated activity to another post, if they meet the 'harm' criteria.

Draft for consultation

Paragraph 149 - Volunteers	Provided a link that signposts to the DBS workforce guides. This is to assist schools and colleges to identify whether the position they are recruiting into fits the 'child workforce' criteria, used when completing the "Position Applied For" field on a DBS application form and which allows a children's barred list check to be requested.
Paragraph 150	This paragraph has been revised and footnote added to remind schools to record risk assessments.
Paragraph 151	Revised text to signpost to guidance to be used by schools and colleges when determining when a volunteer should be supervised.
Paragraph 158	Provided clarification for academy trusts about the requirement to carry out checks for section 128 directions, which prohibit or restrict a person from taking part in the management of an independent school (including academies and free schools) and DBS checks.
Paragraph 164	New information clarifying the responsibility on schools when working with alternative provision providers.
Paragraph 165-166 Work experience	Minor drafting clarification.
Paragraph 170	Paragraph amended to introduce the term "homestay".
Paragraph 171-172	Paragraphs moved from Annex E and amended to clarify that staff and volunteers should remain alert to, and, when it comes to their attention report, to the local authority, information which suggests a child is being privately fostered.
<b>Part four</b>	
Paragraph 173 - Duties as an employer	An additional footnote 80 has been added to provide a link to Disclosure and Barring Service website explanation of the 'harm test'.  The 3 <sup>rd</sup> bullet in this paragraph is amended to replace 'would' with 'may', providing consistency with the terminology within 'Working Together to Safeguard Children' statutory guidance
Paragraph 174	Added 'volunteers' to this paragraph to make clear this part of the guidance is also applicable to them.
Paragraph 178 - Initial considerations	In response to feedback we have moved the term 'unfounded' from a footnote back into the main text.
Paragraph 179	Inserted 'the designated safeguarding lead' to clarify that where the allegation is about the safeguarding of a child/children the 'designated safeguarding lead' should be involved.



Draft for consultation

Paragraph 181	Signposted to footnote on more information on strategy discussion and a paragraph that provides further information about suspensions.
Paragraph 191 - Confidentiality	This revision clarifies that reporting restrictions apply only to teachers in schools.
Paragraph 193	Updated link.
Paragraph 195 - Resignations and settlement agreements	Additional text is inserted to remind schools and sixth form colleges of the requirement to consider a teacher misconduct referral to NCTL in certain circumstances.
Paragraph 201 - References	This paragraph now provides signposts to paragraphs that provide information about references.
Paragraph 203 - Timescales	Revision to this paragraph corrects a typo; replaces 'institute' with 'instigate'.
Paragraph 204	Updated to reflect new multi-agency arrangements.
Paragraph 207	Inserted 'children's social care' because where the allegation is about the welfare of a child then 'children's social care' should be contacted directly.
<b>Annex A</b>	CME- minor changes and a correction to clarify all instances should be considered, not "15" as suggested in last iteration County Lines- new information Domestic abuse- new information HBV- additional context Preventing radicalisation- information regarding extremism Peer on peer abuse- new information with a particular focus on sexual violence and sexual harassment (linked to new departmental advice).
<b>Annex B</b>	New footnote 107 includes considerations for sole proprietors to ensure their designated safeguarding lead is a suitable person for the role. Added online safety and SEND as considerations when training designated safeguarding leads. This reflects the importance of these two areas as set out in Part 2 of the guidance. Also bringing deputy DSL in line with DSL and setting out that the role should be explicit in any job description.
<b>Annex C</b>	Links to additional support added.
<b>Annex D</b>	Added reference to the Visits to Children in Long-term Residential Care Regulation 2011, as it applies to schools and colleges.
<b>Annex E - Host Families</b>	In response to stakeholder feedback, revised this Annex to provide clarity on obtaining DBS checks for UK host families who provide homestay to pupils during exchange visits.

**Annex G**

Updated footnote to reflect DBS now provide this service and not Disclosure Scotland.



Department  
for Education

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