Department for Education

Keeping children safe in education 2022

Statutory guidance for schools and colleges

For information only, this guidance does not come into force until 1 September 2022

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Summary

What is the status of this guidance

This is statutory guidance from the Department for Education ('the Department') issued under Section 175 of the Education Act 2002 (as amended), the Education (Independent School Standards) Regulations 2014, the Non-Maintained Special Schools (England) Regulations 2015 and the Apprenticeships, Skills, Children and Learning Act 2009 (as amended). Schools and colleges in England **must** have regard to it when carrying out their duties to safeguard and promote the welfare of children. For the purposes of this guidance children includes everyone under the age of 18.

About this guidance

We use the terms **"must"** and **"should**" throughout the guidance. We use the term "**must**" when the person in question is legally required to do something and "**should**" when the advice set out should be followed unless there is good reason not to. The guidance **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[1] and pupil referral units.
- '**college**' means further education colleges and sixth-form colleges as established under the Further and Higher Education Act 1992 and institutions designated as being within the further education sector.[2] College also means providers of post 16 Education as set out in the Apprenticeships, Skills, Children and Learning Act 2009 (as amended)[3]: 16-19 Academies, Special Post-16 institutions and Independent Training Providers. For colleges, the guidance relates to their

[1] 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 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 19 for further detail on this requirement).
[2] Under section 28 of the Further and Higher Education Act 1992 ('designated institutions').
[3] Apprenticeships, Skills, Children and Learning Act 2009 (as amended)

responsibilities towards children who are receiving education or training at these institutions.

Victims and alleged perpetrator(s)

For the purposes of this guidance, we, in places, use the term '**victim**'. It is a widely recognised and understood term. It is important that schools and colleges recognise that not everyone who has been subjected to abuse considers themselves a victim or would want to be described in this way. Ultimately, schools and colleges should be conscious of this when managing any incident and be prepared to use any term with which the individual child is most comfortable.

For the purpose of this advice, we, in places, use the term '**alleged perpetrator(s)**' and where appropriate '**perpetrator(s)**'. These are widely used and recognised terms and the most appropriate to aid effective drafting of guidance. However, schools and colleges should think very carefully about terminology, especially when speaking in front of children, not least because in some cases the abusive behaviour will have been harmful to the perpetrator as well. As above, the use of appropriate terminology will be for schools and colleges to determine, as appropriate, on a case-by-case basis.

Who is this guidance for?

This statutory guidance should be read and followed by:

- governing bodies of maintained schools (including maintained nursery schools) and colleges which includes providers of post 16 Education as set out in the Apprenticeships, Skills, Children and Learning Act 2009 (as amended) : 16-19 Academies, Special Post-16 institutions and Independent Training Providers.
- proprietors of independent schools (including academies, free schools and alternative provision academies) and non-maintained special schools. In the case of academies, free schools and alternative provision academies, the proprietor will be the academy trust
- management committees of pupil referral units (PRUs), and
- senior leadership teams

Throughout the guidance, reference to "governing bodies and proprietors" includes management committees unless otherwise stated.

School and college staff

It is essential that **everybody** working in a school or college understands their safeguarding responsibilities. Governing bodies and proprietors should ensure that those staff who work directly with children read **at least** Part one of this guidance.

Governing bodies and proprietors, working with their senior leadership teams and especially their designated safeguarding lead, should ensure that those staff who do not work directly with children read either Part one or Annex A (a condensed version of Part one) of this guidance. This is entirely a matter for the school or college and will be based on their assessment of which guidance will be most effective for their staff to safeguard and promote the welfare of children.

Governing bodies and proprietors should ensure that mechanisms are in place to assist staff to understand and discharge their role and responsibilities as set out in Part one (or Annex A if appropriate) of this guidance.

What does this guidance replace?

This guidance replaces Keeping children safe in education 2021. A table of substantive changes is included at Annex F.

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 the 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 has a role to play. In order to fulfil this responsibility effectively, all practitioners should make sure their approach is child-centred. This means that they should consider, at all times, what is in the **best interest** of the child.

3. No single practitioner 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 the impairment of children's mental and physical 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, promote children's welfare and prevent concerns from escalating.

7. **All** staff have responsibility to provide a safe environment in which children can learn.

8. **All** staff should be prepared to identify children who may benefit from early help.[4] 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.

9. **Any staff member** who has **any** concerns about a child's welfare should follow the processes set out in paragraphs 51-67. Staff should expect 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 to carry out their safeguarding duties and who will liaise closely with other services such as local authority children's social care.

11. The designated safeguarding lead (and any deputies) are most likely to have a complete safeguarding picture and be the most appropriate person to advise on the response to safeguarding concerns.

12. 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.[5]

What school and college staff need to know

13. **All** staff 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 (which should amongst other things also include the policy and procedures to deal with child-on-child abuse)
- behaviour policy (which should include measures to prevent bullying, including cyberbullying, prejudice-based and discriminatory bullying)[6]
- staff behaviour policy (sometimes called a code of conduct) should amongst other things, include low- level concerns, allegations against staff and whistleblowing
- safeguarding response to children who go missing from education, and

[4] Detailed information on early help can be found in Chapter 1 of Working Together to Safeguard Children.
[5] 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.
[6] All schools are required to have a behaviour policy (full details are here). If a college or chooses to have a behaviour policy it should be provided to staff as described above.

- 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 (or Annex A, if appropriate) of this document should be provided to **all** staff at induction.

14. **All** staff should receive appropriate safeguarding and child protection training (including online safety) at induction. The training should be regularly updated. In addition**, all** staff should receive safeguarding and child protection (including online safety) updates (for example, via email, e-bulletins, and staff meetings), as required, and at least annually, to continue to provide them with relevant skills and knowledge to safeguard children effectively.

15. **All** staff should be aware of their local early help process and understand their role in it.

16. **All** staff should be aware of the process for making referrals to local authority children's social care and for statutory assessments[7] under the Children Act 1989, especially section 17 (children in need) and section 47 (a child suffering, or likely to suffer, significant harm) that may follow a referral, along with the role they might be expected to play in such assessments.

17. **All** staff should know what to do if a child tells them they are being abused, exploited, or neglected. Staff should know how to manage the requirement to maintain an appropriate level of confidentiality. This means only involving those who need to be involved, such as the designated safeguarding lead (or a deputy) and local authority children's social care. Staff should never promise a child that they will not tell anyone about a report of any form of abuse, as this may ultimately not be in the best interests of the child.

18. **All** staff should be able to reassure victims 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 **any** form of abuse and/or neglect. Nor should a victim ever be made to feel ashamed for making a report.

19. **All staff** should be aware that children may not feel ready or know how to tell someone that they are being abused, exploited, or neglected, and/or they may not recognise their experiences as harmful. For example, children may feel embarrassed, humiliated, or being threatened. This could be due to their vulnerability, disability and/or sexual orientation or language barriers. This should not prevent staff from having a professional curiosity and speaking to the DSL if they have concerns about a child. It is

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[7] Detailed information on statutory assessments can be found in Chapter 1 of Working Together to Safeguard Children

also important that staff determine how best to build trusted relationships with children and young people which facilitate communication.

What school and college staff should look out for

Early help

20. **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 or has certain health conditions and has specific additional needs
- has special educational needs (whether or not they have a statutory Education, Health and Care Plan)
- has a mental health need
- is a young carer
- is showing signs of being drawn in to anti-social or criminal behaviour, including gang involvement and association with organised crime groups or county lines
- is frequently missing/goes missing from care or from home
- is at risk of modern slavery, trafficking, sexual or criminal exploitation
- is at risk of being radicalised or exploited
- has a family member in prison, or is affected by parental offending
- is in a family circumstance presenting challenges for the child, such as drug and alcohol misuse, adult mental health issues and domestic abuse
- is misusing alcohol and other drugs themselves
- has returned home to their family from care
- is at risk of 'honour'-based abuse such as Female Genital Mutilation or Forced Marriage
- is a privately fostered child, and
- is persistently absent from education, including persistent absences for part of the school day.

Abuse and neglect

21. **All** staff should be aware of indicators of abuse and neglect (see below), understanding that children can be at risk of harm inside and outside of the school/college, inside and outside of home and online. Exercising professional curiosity and knowing what to look for is vital for the early identification of abuse and neglect so that staff are able to identify cases of children who may be in need of help or protection.

22. **All** school and college staff should be aware that abuse, neglect and safeguarding issues are rarely standalone events and cannot be covered by one definition or one label alone. In most cases, multiple issues will overlap with one another.

23. **All** staff, but especially the designated safeguarding lead (and deputies) should consider whether children are at risk of abuse or exploitation in situations outside their families. Extra-familial harms take a variety of different forms and children can be vulnerable to multiple harms including (but not limited to) sexual abuse (including harassment and exploitation), domestic abuse in their own intimate relationships (teenage relationship abuse), criminal exploitation, serious youth violence, county lines, and radicalisation.

24. **All** staff should be aware that technology is a significant component in many safeguarding and wellbeing issues. Children are at risk of abuse and other risks online as well as face to face. In many cases abuse and other risks will take place concurrently both online and offline. Children can also abuse other children online, this can take the form of abusive, harassing, and misogynistic/misandrist messages, the non-consensual sharing of indecent images, especially around chat groups, and the sharing of abusive images and pornography, to those who do not want to receive such content.

25. **In all cases, if staff are unsure, they should always speak to the designated safeguarding lead or deputy.**

Indicators of abuse and neglect

26. **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. Harm can include ill treatment that is not physical as well as the impact of witnessing ill treatment of others. This can be particularly relevant, for example, in relation to the impact on children of all forms of domestic abuse. Children may be abused in a family or in an institutional or community setting by those known to them or, more rarely, by others. Abuse can take place wholly online, or technology may be used to facilitate offline abuse. Children may be abused by an adult or adults or by another child or children.

27. **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.

28. **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.

29. **Sexual abuse:** involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving 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. Sexual abuse can take place online, and technology can be used to facilitate offline abuse. 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 and **all** staff should be aware of it and of their school or college's policy and procedures for dealing with it.

30. **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.

Safeguarding issues

31. **All** staff should have an awareness of safeguarding issues that can put children at risk of harm. Behaviours linked to issues such as drug taking and/or alcohol misuse, deliberately missing education, serious violence (including that linked to county lines), radicalisation and consensual and non-consensual sharing of nude and semi-nude

images and/or videos[8] can be signs that children are at risk. Below are some safeguarding issues all staff should be aware of. **Additional information on these safeguarding issues and information on other safeguarding issues is included in Annex B.**

Child-on-child abuse

32. **All** staff should be aware that children can abuse other children (often referred to as child-on-child abuse), and that it can happen both inside and outside of school or college and online. **All** staff should be clear as to the school's or college's policy and procedures with regard to child-on-child abuse and the important role they have to play in preventing it and responding where they believe a child may be at risk from it.

33. **All** staff should understand that even if there are no reports in their schools or colleges it does not mean it is not happening, it may be the case that it is just not being reported. As such it is important if staff have **any** concerns regarding child-on-child abuse they should speak to their designated safeguarding lead (or deputy).

34. It is essential that **all** staff understand the importance of challenging inappropriate behaviours between children, many of which are listed below, that are abusive in nature. Downplaying certain behaviours, for example dismissing sexual harassment as "just banter", "just having a laugh", "part of growing up" or "boys being boys" can lead to a culture of unacceptable behaviours, an unsafe environment for children and in worst case scenarios a culture that normalises abuse leading to children accepting it as normal and not coming forward to report it.

35. Child-on-child abuse is most likely to include, but may not be limited to:

- bullying (including cyberbullying, prejudice-based and discriminatory bullying)
- abuse in intimate personal relationships between children (sometimes known as 'teenage relationship abuse')
- physical abuse such as hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm (this may include an online element which facilitates, threatens and/or encourages physical abuse)
- sexual violence,[9] such as rape, assault by penetration and sexual assault; (this may include an online element which facilitates, threatens and/or encourages sexual violence)

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[8] Consensual image sharing, especially between older children of the same age, may require a different response.It might not be abusive – but children still need to know it is illegal- whilst non-consensual is illegal and abusive. UKCIS provides detailed advice about sharing of nudes and semi-nude images and videos.

[9] For further information about sexual violence see Part 5 and Annex B.

- sexual harassment,[10] such as sexual comments, remarks, jokes and online sexual harassment, which may be standalone or part of a broader pattern of abuse
- causing someone to engage in sexual activity without consent, such as forcing someone to strip, touch themselves sexually, or to engage in sexual activity with a third party
- consensual and non-consensual sharing of nude and semi-nude images and/or videos[11] (also known as sexting or youth produced sexual imagery)
- upskirting,[12] which typically involves taking a picture under a person's clothing without their permission, with the intention of viewing their genitals or buttocks to obtain sexual gratification, or cause the victim humiliation, distress, or alarm, and
- initiation/hazing type violence and rituals (this could include activities involving harassment, abuse or humiliation used as a way of initiating a person into a group and may also include an online element).

Child Sexual Exploitation (CSE) and Child Criminal Exploitation (CCE)

36. Both CSE and CCE are forms of abuse that occur where an individual or group takes advantage of an imbalance in power to coerce, manipulate or deceive a child into taking part in sexual or criminal activity, in exchange for something the victim needs or wants, and/or for the financial advantage or increased status of the perpetrator or facilitator and/or through violence or the threat of violence. CSE and CCE can affect children, both male and female and can include children who have been moved (commonly referred to as trafficking) for the purpose of exploitation.

Child Criminal Exploitation (CCE)

37. Some specific forms of CCE can include children being forced or manipulated into transporting drugs or money through county lines, working in cannabis factories, shoplifting, or pickpocketing. They can also be forced or manipulated into committing vehicle crime or threatening/committing serious violence to others.

38. Children can become trapped by this type of exploitation, as perpetrators can threaten victims (and their families) with violence or entrap and coerce them into debt. They may be coerced into carrying weapons such as knives or begin to carry a knife for a sense of protection from harm from others. As children involved in criminal exploitation often commit crimes themselves, their vulnerability as victims is not always recognised by adults and professionals, (particularly older children), and they are not treated as victims

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[10] For further information about sexual harassment see Part 5 and Annex B.
[11] UKCIS guidance: Sharing nudes and semi-nudes advice for education settings
[12] For further information about 'upskirting' see Annex B.

despite the harm they have experienced. They may still have been criminally exploited even if the activity appears to be something they have agreed or consented to.

39. It is important to note that the experience of girls who are criminally exploited can be very different to that of boys. The indicators may not be the same, however professionals should be aware that girls are at risk of criminal exploitation too. It is also important to note that both boys and girls being criminally exploited may be at higher risk of sexual exploitation.

Child Sexual Exploitation (CSE)

40. CSE is a form of child sexual abuse. Sexual abuse may involve physical contact, including assault by penetration (for example, rape or oral sex) or nonpenetrative acts such as masturbation, kissing, rubbing, and touching outside clothing. It may include non-contact activities, such as involving children in the production of sexual images, forcing children to look at sexual images or watch sexual activities, encouraging children to behave in sexually inappropriate ways or grooming a child in preparation for abuse including via the internet.

41. CSE can occur over time or be a one-off occurrence, and may happen without the child's immediate knowledge for example through others sharing videos or images of them on social media.

42. CSE can affect any child who has been coerced into engaging in sexual activities. This includes 16 and 17 year olds who can legally consent to have sex. Some children may not realise they are being exploited for example they believe they are in a genuine romantic relationship.

Domestic Abuse

43. Domestic abuse can encompass a wide range of behaviours and may be a single incident or a pattern of incidents. That abuse can be, but is not limited to, psychological, physical, sexual, financial or emotional. Children can be victims of domestic abuse. They may see, hear, or experience the effects of abuse at home and/or suffer domestic abuse in their own intimate relationships (teenage relationship abuse). All of which can have a detrimental and long-term impact on their health, well-being, development, and ability to learn.

Female Genital Mutilation (FGM)

44. Whilst **all** staff should speak to the designated safeguarding lead (or deputy) with regard to any concerns about female genital mutilation (FGM), there is a specific **legal**

duty on teachers.[13] If a teacher, in the course of their work in the profession, discovers that an act of FGM appears to have been carried out on a girl under the age of 18, the teacher **must** report this to the police.

Mental Health

45. **All** staff should be aware that mental health problems can, in some cases, be an indicator that a child has suffered or is at risk of suffering abuse, neglect or exploitation.

46. Only appropriately trained professionals should attempt to make a diagnosis of a mental health problem. Education staff, however, are well placed to observe children day-to-day and identify those whose behaviour suggests that they may be experiencing a mental health problem or be at risk of developing one. Schools and colleges can access a range of advice to help them identify children in need of extra mental health support, this includes working with external agencies.

47. If staff have a mental health concern about a child that is also a safeguarding concern, immediate action should be taken, following their child protection policy, and speaking to the designated safeguarding lead or a deputy.

Serious violence

48. **All** staff should be aware of the indicators, which may signal children are at risk from, or are involved with, serious violent crime. These may include increased absence from school or college, a change in friendships or relationships with older individuals or groups, a significant decline in performance, signs of self-harm or a significant change in wellbeing, or signs of assault or unexplained injuries. Unexplained gifts or new possessions could also indicate that children have been approached by, or are involved with, individuals associated with criminal networks or gangs and may be at risk of criminal exploitation.

Additional information and support

49. 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 indicators 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 abuse and neglect and what to look out for.

50. **Annex B** contains important additional information about specific forms of abuse

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[13] 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).

and safeguarding issues. School and college leaders and those staff who work directly with children should read the annex.

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

51. Staff 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 should always act in the **best** interests of the child.

52. If staff have **any concerns** about a child's welfare, they should act on them **immediately.** See page 22 for a flow chart setting out the process for staff when they have concerns about a child.

53. If staff have a concern, they should follow their own organisation's child protection policy and speak to the designated safeguarding lead (or deputy).

54. Options will then include:

- managing any support for the child internally via the school's or college's own pastoral support processes
- undertaking an early help assessment,[14] or
- making a referral to statutory services,[15] for example as the child might be in need, is in need or suffering, or is likely to suffer harm.

55. The designated safeguarding lead or a deputy should always be available to discuss safeguarding concerns. If in exceptional circumstances, the designated safeguarding lead (or deputy) is not available, this should not delay appropriate action being taken. Staff should consider speaking to a member of the senior leadership team and/or take advice from local authority children's social care. In these circumstances, any action taken should be shared with the designated safeguarding lead (or deputy) as soon as is practically possible.

56. Staff should not assume a colleague, or another professional will take action and share information that might be critical in keeping children safe. They should be mindful

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[14] Further information on early help assessments, provision of early help services and accessing services is in Chapter 1 of Working Together to Safeguard Children.

[15] Chapter 1 of Working Together to Safeguard Children sets out that the safeguarding partners should publish a threshold document that should include the criteria, including the level of need, for when a case should be referred to local authority children's social care for assessment and for statutory services under section 17 and 47. Local authorities, with their partners, should develop and publish local protocols for assessment. A local protocol should set out clear arrangements for how cases will be managed once a child is referred into local authority children's social care.

that early information sharing is vital for the effective identification, assessment, and allocation of appropriate service provision, whether this is when problems first emerge, or where a child is already known to local authority children's social care (such as a child in need or a child with a protection plan). Information Sharing: Advice for Practitioners Providing Safeguarding Services to Children, Young People, Parents and Carers supports staff who have to make decisions about sharing information. This advice includes the seven golden rules for sharing information and considerations with regard to the Data Protection Act 2018 (DPA) and UK General Data Protection Regulation (UK GDPR).

57. DPA and UK GDPR **do not** prevent the sharing of information for the purposes of keeping children safe and promoting their welfare. If in any doubt about sharing information, staff should speak to the designated safeguarding lead or a deputy. Fears about sharing information **must not** be allowed to stand in the way of the need to safeguard and promote the welfare of children.

Early help assessment

58. If early help is appropriate, the designated safeguarding lead (or deputy) will generally lead on 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 practitioner. Any such cases should be kept under constant review and consideration given to a referral to local authority 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 children's social care assessments and services

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

60. Local authority children's social care assessments should consider where children are being harmed in contexts outside the home, 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 available evidence and enable a contextual approach to address such harm. Additional information is available here: Contextual Safeguarding.

61. The online tool Report Child Abuse to Your Local Council directs to the relevant local authority children's social care contact number.

Children in need

62. 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:

63. Local authorities, with the help of other organisations as appropriate, have a duty to make enquiries 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. This includes all forms of abuse and neglect.

What will the local authority do?

64. Within one working day of a referral being made, a local authority social worker should acknowledge its receipt to the referrer and make a decision about the next steps and the type of response that is required. This will include determining whether:

- the child requires immediate protection and urgent action is required
- any services are required by the child and family and what type of services
- the child is in need and should be assessed under section 17 of the Children Act 1989. Chapter one of Working Together to Safeguard Children provides details of the assessment process
- 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 of the Children Act 1989. Chapter one of Working Together to Safeguard Children provides details of the assessment process, and
- further specialist assessments are required to help the local authority to decide what further action to take.

65. The referrer should follow up if this information is not forthcoming.

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

67. If, after a referral, the child's situation does not appear to be improving, the referrer should consider following local escalation procedures to ensure their concerns have been addressed and, most importantly, that the child's situation improves.

Record keeping

68. **All** concerns, discussions and decisions made, and the reasons for those decisions, should be recorded in writing. This will also help if/when responding to any complaints about the way a case has been handled by the school or college. Information should be kept confidential and stored securely. It is good practice to keep concerns and referrals in a separate child protection file for each child.

Records should include:

- a clear and comprehensive summary of the concern
- details of how the concern was followed up and resolved, and
- a note of any action taken, decisions reached and the outcome.

69. If in doubt about recording requirements, staff should discuss with the designated safeguarding lead (or deputy).

Why is all of this important?

70. It is important for children to receive the right help at the right time to address safeguarding risks, prevent issues escalating and to promote children's welfare. Research and serious case reviews have repeatedly shown the dangers of failing to take effective action.[16] Further information about serious case reviews can be found in Chapter four of Working Together to Safeguard Children. Examples of 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
- not sharing information with the right people within and between agencies
- sharing information too slowly, and
- a lack of challenge to those who appear not to be taking action.

[16]An analysis of serious case reviews can be found at gov.uk/government/publications/analysis-of-serious-case-reviews-2014-to-2017.

What school and college staff should do if they have a safeguarding concern or an allegation about another staff member

71. Schools and colleges should have processes and procedures in place to manage **any** safeguarding allegation, or concern (no matter how small), about staff members (including supply staff, volunteers, and contractors).

72. If staff have safeguarding concerns or an allegation is made about another member of staff (including supply staff, volunteers, and contractors) **posing a risk of harm to children**, then:

- this should be referred to the headteacher or principal
- where there are concerns/allegations 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 concerns/allegations about the headteacher, where the headteacher is also the sole proprietor of an independent school, or a situation where there is a conflict of interest in reporting the matter to the headteacher, this should be reported directly to the local authority designated officer(s) (LADOs). Details of your local LADO should be easily accessible on your local authority's website.

73. If staff have a safeguarding concern or an allegation about another member of staff (includuing supply staff, volunteers or contractors) that **does not** meet the harm threshold, then this should be shared in accordance with the school or college low-level concerns policy. Further 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

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

75. Appropriate whistleblowing procedures should be put in place for such concerns to be raised with the school's or college's senior leadership team.

76. 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 are open to them:

- general guidance on whistleblowing can be found via: Advice on Whistleblowing
- the NSPCC's what you can do to report abuse dedicated 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.[17]

[17] 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 a concern or an allegation of abuse against a staff member, see Part four of this guidance.
[2] Early help means providing support as soon as a problem emerges at any point in a child's life. Where a child would benefit from co-ordinated early help, an early help inter-agency assessment should be arranged. Chapter one of Working Together to Safeguard Children provides detailed guidance on the early help process.
[3] Referrals should follow the process set out in the local threshold document and local protocol for assessment. Chapter one of Working Together to Safeguard Children.
[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. Children in need may be assessed under section 17 of the Children Act 1989. Under section 47 of the Children Act 1989, where a local authority has reasonable cause to suspect that a child is suffering or likely to suffer significant harm, it has a duty to make enquiries to decide whether to take action to safeguard or promote the child's welfare. Full details are in Chapter one of Working Together to Safeguard Children.
[5] This could include applying for an Emergency Protection Order (EPO).

Part two: The management of safeguarding

77. This part of the guidance sets out the responsibility of governing bodies, proprietors and management committees.

Legislation and the law

78. Governing bodies and proprietors[18] have a strategic leadership responsibility for their school's or college's safeguarding arrangements and **must** ensure that they comply with their duties under legislation. They **must** have regard to this guidance, ensuring policies, procedures and training in their schools or colleges are effective and comply with the law at all times.[19] Headteachers and principals should ensure that the policies and procedures, adopted by their governing bodies and proprietors (particularly those concerning referrals of cases of suspected abuse and neglect), are understood, and followed by all staff.

79. Where a school or college has charitable status, Charity Commission guidance on charity and trustee duties to safeguard children is available at GOV.UK.

80. 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.[20]

81. Governing bodies and proprietors should ensure that **all** governors and trustees receive appropriate safeguarding and child protection (including online) training at induction. This training should equip them with the knowledge to provide strategic challenge to test and assure themselves that the safeguarding policies and procedures in place in schools and colleges are effective and support the delivery of a robust whole

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[18] In the case of academies, free schools and alternative provision academies the proprietor will be the academy trust.
[19] Section 175 of the Education Act 2002 requires governing bodies of maintained schools and 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 are receiving education or training at the 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. The Apprenticeships, Skills, Children and Learning Act 2009 (as amended) requires 16-19 Academies, Special Post-16 institutions and Independent Training Providers to make arrangements to ensure that the proprietor's functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution. 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.
[20] Chapter 2 of Working Together to Safeguard Children.

school approach to safeguarding. Their training should be regularly updated.

82. Governing bodies and proprietors should be aware of their obligations under the Human Rights Act 1998 [21], the Equality Act 2010[22], (including the Public Sector Equality Duty[23]), and their local multi-agency safeguarding arrangements[24].

Human Rights Act

83. The Human Rights Act 1998 (HRA) sets out the fundamental rights and freedoms that everyone in the UK is entitled to and contains the Articles and protocols of the European Convention on Human Rights (ECHR) (the Convention) that are deemed to apply in the UK. It compels public organisations to respect and protect an individual's human rights when they make individual decisions about them.

84. Under the HRA, it is unlawful for schools and colleges to act in a way that is incompatible with the Convention. The specific convention rights applying to schools and colleges are:

- Article 3: the right to freedom from inhuman and degrading treatment (an absolute right)
- Article 8: the right to respect for private and family life (a qualified right) includes a duty to protect individuals' physical and psychological integrity
- Article 14: requires that all of the rights and freedoms set out in the Act must be protected and applied without discrimination,[25] and
- Protocol 1, Article 2: protects the right to education.

85. Being subjected to harassment, violence and or abuse, including that of a sexual nature, may breach any or all of these rights, depending on the nature of the conduct and the circumstances. Further information (including on absolute and qualified rights) can be found at Human Rights | Equality and Human Rights Commission (equalityhumanrights.com).

Equality Act 2010

86. Schools and colleges have obligations under the Equality Act 2010 (the Equality

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[21] Human Rights Act 1998 (legislation.gov.uk)
[22] Equality Act 2010 Advice for schools
[23] The Public Sector Equality Duty is a legal requirement for schools and colleges that are public bodies. Public Sector Equality Duty (advice for schools)
[24] See paragraphs 107-114 on multi-agency working
[25] As a matter of law, Article 14 only applies where the act complained of falls within the ambit of another Convention right, but in this context it should always be assumed that either through Article 8 or Article 2 of Protocol 1, or both, Article 14 will be engaged.

Act).

87. According to the Equality Act, schools and colleges **must** not unlawfully discriminate against pupils because of their sex, race, disability, religion or belief, gender reassignment, pregnancy and maternity, or sexual orientation (protected characteristics).

88. Whilst all of the above protections are important, in the context of safeguarding, this guidance, and the **legal duties** placed on schools and colleges in relation to safeguarding and promoting the welfare of children, governing bodies and proprietors should carefully consider how they are supporting their pupils and students with regard to particular protected characteristics - including disability, sex, sexual orientation, gender reassignment and race.

89. Provisions within the Equality Act allow schools and colleges to take positive action, where it can be shown that it is proportionate, to deal with particular disadvantages affecting pupils or students with a particular protected characteristic in order to meet their specific need, this includes a duty to make reasonable adjustments for disabled children and young people, including those with long term conditions. A school or college, could, for example, consider taking positive action to support girls if there was evidence they were being disproportionately subjected to sexual violence or sexual harassment.

90. Guidance to help schools understand how the Equality Act affects them and how to fulfil their duties under the act can be found at Equality Act 2010: advice for schools - GOV.UK (www.gov.uk), it may also be useful for colleges. For further information Equality Act guidance | Equality and Human Rights Commission (equalityhumanrights.com).

Public Sector Equality Duty

91. The Public Sector Equality Duty (PSED) is found in the Equality Act. Compliance with the PSED is a legal requirement for state-funded schools and colleges, advice on this – including on specific duties, is set out in the advice linked in paragraph 90.

92. The PSED places a general duty on schools and colleges to have, in the exercise of their functions, due regard to the need to eliminate unlawful discrimination, harassment and victimisation (and any other conduct prohibited under the Equality Act), to advance equality of opportunity and foster good relations between those who share a relevant protected characteristic and those who do not. The duty applies to all protected characteristics (see para 87) and means that whenever significant decisions are being made or policies developed, specific consideration must be given to the equality implications of these such as, for example, the need to eliminate unlawful behaviours that relate to them such as sexual violence and sexual harassment, misogyny/misandry and racism. This is one reason why good record-keeping and monitoring of all forms of abuse and harassment is essential.

93. The PSED helps schools and colleges (which are subject to it) to focus on key issues of concern and how to improve pupil and student outcomes. Some pupils or students may be more at risk of harm from specific issues such as sexual violence, homophobic, biphobic or transphobic bullying or racial discrimination. Such concerns will differ between education settings, but it is important schools and colleges are conscious of disproportionate vulnerabilities and integrate this into their safeguarding policies and procedures. For further information please see Technical Guidance on the Public Sector Equality Duty: England | Equality and Human Rights Commission (equalityhumanrights.com)

Whole school and college approach to safeguarding

94. Governing bodies and proprietors should ensure they facilitate a whole school or college approach to safeguarding. This means involving everyone in the school or college, and ensuring that safeguarding, and child protection are at the forefront and underpin all relevant aspects of process and policy development. Ultimately, all systems, processes and policies should operate with the **best interests** of the child at their heart.

95. 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.

96. The school's or college's safeguarding policies and procedures (some of which are listed below) should be transparent, clear, and easy to understand for staff, pupils, students, parents, and carers. Systems should be in place, and they should be well promoted, easily understood and easily accessible for children to confidently report, any form of abuse or neglect, knowing their concerns will be treated seriously, and knowing they can safely express their views and give feedback.

Safeguarding policies and procedures

97. Governing bodies and proprietors should ensure 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.

98. These policies should include individual schools and colleges having:

- an **effective child protection policy** which:
    - reflects the whole school/college approach to child-on-child abuse (see paragraph 155 and Part five);
    - reflects reporting systems as set out at paragraph 96;
    - describe procedures which are in accordance with government guidance;

- refers to locally agreed multi-agency safeguarding arrangements put in place by the safeguarding partners (see paragraphs 106-113);
- includes policies as reflected elsewhere in Part two of this guidance, such as online safety (see paragraph 137), and special educational needs and disabilities (SEND) (see paragraphs 198-201);
- is reviewed annually (as a minimum) and updated if needed, so that it is kept up to date with safeguarding issues as they emerge and evolve, including lessons learnt; and
- is available publicly either via the school or college website or by other means.

- a **behaviour policy**[26], which includes measures to prevent bullying (including cyberbullying, prejudice-based and discriminatory bullying)
- a **staff behaviour policy** (sometimes called the code of conduct) which should, amongst other things, include low-level concerns, allegations against staff and whistleblowing, plus acceptable use of technologies (including the use of mobile devices), staff/pupil relationships and communications including the use of social media.[27]
- **appropriate safeguarding arrangements** in place to respond to children who go missing from education, particularly on repeat occasions (more information at paragraph 174).

99. The above is not intended to be an exhaustive list. These policies and procedures, along with Part one (or Annex A if appropriate) of this guidance and information regarding the role and identity of the designated safeguarding lead (and deputies), should be provided to all staff on induction.

100. Governing bodies and proprietors should take a proportionate risk-based approach to the level of information that is provided to temporary staff, volunteers and contractors.

101. In addition, governing bodies and proprietors should ensure:

- **child protection files** are maintained as set out in Annex C

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[26] All schools are required to have a behaviour policy (full details are here). If a college chooses to have a behaviour policy it should be provided to staff at induction as described above.

[27] 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 they do not teach the child.

- **appropriate safer recruitment policies** in accordance with Part three of this guidance are in place, embedded and effective and,
- where reasonably possible, schools and colleges hold **more than one emergency contact number** for each pupil or student. This goes beyond the legal minimum.[28] It 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. Further information for schools can be found in the department's School Attendance Guidance.

The designated safeguarding lead

102. 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.[29] It is not appropriate for the proprietor to be the DSL. The designated safeguarding lead should take **lead responsibility** for safeguarding and child protection (including online safety). This should be explicit in the role holder's job description.

103. Governing bodies and proprietors should ensure the designated safeguarding lead has the appropriate status and authority within the school or college to carry out the duties of the post. The role carries a significant level of responsibility and the postholder should be given the additional time, funding, training, resources, and support needed to carry out the role effectively.

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

105. See Annex C, which describes the broad areas of responsibility and activities related to the role.

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[28] See The Education (Pupil Registration) (England) Regulations 2006, available at legislation.gov.uk.

[29] 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 designated safeguarding lead (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 (LADO) 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.

Multi-agency working

106. Schools and colleges have a pivotal role to play in multi-agency safeguarding arrangements. 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.

107. Safeguarding partners (the local authority; Integrated Care Systems' (ICSs) (previously known as clinical commissioning group) for an area within the local authority; and the chief officer of police for an area any part of which falls within the local authority area) will make arrangements to work together with appropriate relevant agencies to safeguard and promote the welfare of local children, including identifying and responding to their needs.

108. Safeguarding partners have a shared and equal duty to work together to safeguard and promote the welfare of children. To fulfil this role, they **must** set out how they will work together and with any relevant agencies.[30] Relevant agencies are those organisations and agencies whose involvement the safeguarding partners consider may be required to safeguard and promote the welfare of children with regard to local need.

109. Working Together to Safeguard Children is very clear that all schools (including those in multi-academy trusts) and colleges in the local area should be fully engaged, involved, and included in safeguarding arrangements. It is expected that, locally, the safeguarding partners will name schools and colleges as relevant agencies. Safeguarding partners will set out in their published arrangements which organisations and agencies they will be working with, and the expectations placed on any agencies and organisations by the arrangements. Once named as a relevant agency, schools, and colleges, in the same way as other relevant agencies, are under a statutory duty to co-operate with the published arrangements. They must act in accordance with the safeguarding arrangements.

110. It is especially important that schools and colleges understand their role within the local safeguarding arrangements. Governing bodies, proprietors, and their senior leadership teams, especially their designated safeguarding leads, should make themselves aware of and follow their local arrangements.

111. Governing bodies and proprietors should understand the local criteria for action[31]

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[30] For the list of relevant agencies see The Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018 available at legislation.gov.uk. Schools and colleges are included.

[31] The safeguarding partners should publish a document which sets out the local criteria for action in a way that is transparent, accessible and easily understood. This should include: the process for the early help assessment and the type and level of early help services to be provided; the criteria, included level of need, for when a case should be referred to local authority children's social care for assessment and for statutory

and the local protocol for assessment[32] and ensure they are reflected in their own policies and procedures. They should also be prepared to supply information as requested by the safeguarding partners.[33]

112. Schools and colleges should work with local authority children's 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.

113. All schools and colleges should allow access for local authority 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.

Information sharing

114. Information sharing is vital in identifying and tackling all forms of abuse and neglect, and in promoting children's welfare, including in relation to their educational outcomes. Schools and colleges have clear powers to share, hold and use information for these purposes.

115. As part of meeting a child's needs, it is important for governing bodies and proprietors to recognise the importance of information sharing between practitioners and local agencies. This should include ensuring arrangements are in place that set out clearly the processes and principles for sharing information within the school or college and with local authority children's social care, the safeguarding partners and other organisations, agencies, and practitioners as required.

116. School and college staff should be proactive in sharing information as early as possible to help identify, assess and respond to risks or concerns about the safety and welfare of children, whether this is when problems are first emerging, or where a child is already known to the local authority children's social care.

117. It is important that governing bodies and proprietors are aware that among other obligations, the Data Protection Act 2018, and the UK General Data Protection

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services under section 17, 20, 31 and 47 of the Children Act 1989; and clear procedures and processes for cases relating to the exploitation of children, children managed within the youth secure estate and disabled children.

[32] The local authority, with their partners should develop and publish local protocols for assessment. Protocols should set out clear arrangements for how cases will be managed once a referral is made to local authority children's social care.

[33] More details on information requests by the safeguarding partners is provided in Part 3 of Working Together to Safeguard Children.

Regulation (UK GDPR) place duties on organisations and individuals to process personal information fairly and lawfully and to keep the information they hold safe and secure.

118. Governing bodies and proprietors should ensure relevant staff have due regard to the relevant data protection principles, which allow them to share (and withhold) personal information, as provided for in the Data Protection Act 2018 and the UK GDPR.

This includes:

- being confident of the processing conditions which allow them to store and share information for safeguarding purposes, including information, which is sensitive and personal, and should be treated as 'special category personal data'
- understanding that 'safeguarding of children and individuals at risk' is a processing condition that allows practitioners to share special category personal data. This includes allowing practitioners to share information without consent where there is good reason to do so, and that the sharing of information will enhance the safeguarding of a child in a timely manner. It would be legitimate to share information without consent where: it is not possible to gain consent; it cannot be reasonably expected that a practitioner gains consent; and, if to gain consent would place a child at risk, and
- for schools, not providing pupils' personal data where the serious harm test under the legislation is met.[34] For example, in a situation where a child is in a refuge or another form of emergency accommodation, and the serious harm test is met, they must withhold providing the data in compliance with schools' obligations under the Data Protection Act 2018 and the UK GDPR. Where in doubt schools should seek independent legal advice.

119. **The Data Protection Act 2018 and UK GDPR do not prevent the sharing of information for the purposes of keeping children safe. Fears about sharing information must not be allowed to stand in the way of the need to safeguard and promote the welfare and protect the safety of children.**

120. Further details on information sharing can be found:

- in Chapter one of Working Together to Safeguard Children, which includes a myth-busting guide to information sharing
- at Information Sharing: Advice for Practitioners Providing Safeguarding Services to Children, Young People, Parents and Carers. The seven golden rules for sharing information will be especially useful

[34] The harm test is explained on the Disclosure and Barring service website on GOV.UK. Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002, available at legislation.gov.uk

- at The Information Commissioner's Office (ICO), which includes information about your obligations and how to comply, including protecting personal information, and providing access to official information
- in Data protection: toolkit for schools - Guidance to support schools with data protection activity, including compliance with the UK GDPR.

121. 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, and within 5 days for an in-year transfer or within the first 5 days of the start of a new term to allow the new school or college to have support in place for when the child arrives. The designated safeguarding lead should ensure secure transit, and confirmation of receipt should be obtained. For schools, this should be transferred separately from the main pupil file. Receiving schools and colleges should ensure key staff such as designated safeguarding leads and special educational needs co-ordinators (SENCO's) or the named persons with oversight for special educational needs and disability (SEND) in a college, are aware as required.

122. In addition to the child protection file, the designated safeguarding lead should also consider if it would be appropriate to share any information with the new school or college in advance of a child leaving. For example, information that would allow the new school or college to continue supporting children who have had a social worker and been victims of abuse, or those who are currently receiving support through the 'Channel' programme and can have that support in place for when the child arrives. More information on the child protection file is in Annex C.

Staff training

123. Governing bodies and proprietors should ensure that **all** staff undergo safeguarding and child protection training (including online safety) at induction. The training should be regularly updated. Induction and training should be in line with any advice from the safeguarding partners.

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

125. Governing bodies and proprietors should recognise the expertise staff build by undertaking safeguarding training and from managing safeguarding concerns on a daily basis. Opportunity should therefore be provided for staff to contribute to and shape safeguarding arrangements and the child protection policy.

126. Governing bodies and proprietors should ensure that, as part of the requirement for staff to undergo regular updated safeguarding training, including in relation to online

safety (paragraph 123) and for children to be taught about safeguarding, including in relation to online safety (paragraph 128), that safeguarding training for staff, including online safety training, is integrated, aligned and considered as part of the whole school or college safeguarding approach and wider staff training and curriculum planning.

127. Whilst considering the above training requirements, governing bodies and proprietors should have regard to the Teachers' Standards[35] which set out the expectation that all teachers manage behaviour effectively to ensure a good and safe educational environment and requires teachers to have a clear understanding of the needs of all pupils.

Opportunities to teach safeguarding

128. Governing bodies and proprietors should ensure that children are taught about how to keep themselves and others safe, including online. It should be recognised that effective education will be tailored to the specific needs and vulnerabilities of individual children, including children who are victims of abuse, and children with special educational needs or disabilities.

129. In schools, relevant topics will be included within Relationships Education (for all primary pupils), and Relationships and Sex Education (for all secondary pupils) and Health Education (for all primary and secondary pupils). In teaching these subjects schools must have regard to the statutory guidance,[36] which can be found here. Colleges may cover relevant issues through tutorials.

130. Schools and colleges play a crucial role in preventative education. Preventative education is most effective in the context of a whole-school or college approach that prepares pupils and students for life in modern Britain and creates a culture of zero tolerance for sexism, misogyny/misandry, homophobia, biphobic and sexual violence/harassment. The school/college will have a clear set of values and standards, upheld and demonstrated throughout all aspects of school/college life. These will be underpinned by the school/college's behaviour policy and pastoral support system, as well as by a planned programme of evidence-based RSHE delivered in regularly timetabled lessons and reinforced throughout the whole curriculum. Such a programme should be fully inclusive and developed to be age and stage of development appropriate (especially when considering the needs of children with SEND and other vulnerabilities). This program will tackle at an age-appropriate stages issues such as:

- healthy and respectful relationships

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[35] Teacher standards.

[36] With the exception that the regulations and guidance in relation to Health Education do not apply to independent schools that are not academies – separate regulations apply).

- boundaries and consent
- stereotyping, prejudice and equality
- body confidence and self-esteem
- how to recognise an abusive relationship, including coercive and controlling behaviour
- the concepts of, and laws relating to- sexual consent, sexual exploitation, abuse, grooming, coercion, harassment, rape, domestic abuse, so called honour-based violence such as forced marriage and Female Genital Mutilation (FGM), and how to access support, and
- what constitutes sexual harassment and sexual violence and why these are always unacceptable.

131. The Department has produced a one-stop hub for teachers which can be accessed here: Teaching about relationships sex and health (Gov.uk). This includes teacher training modules on the RSHE topics and non-statutory implementation guidance. Further guidance focused on teaching relationships education specifically to prevent sexual harassment and sexual violence will be published in Spring 2022.

132. The following resources, plus many more listed in Annex B, may also help schools and colleges understand and teach about safeguarding:

- DfE advice for schools: teaching online safety in schools
- UK Council for Internet Safety (UKCIS)[37] guidance: Education for a connected world
- UKCIS guidance: Sharing nudes and semi-nudes: advice for education settings working with children and young people
- The UKCIS external visitors guidance will help schools and colleges to ensure the maximum impact of any online safety sessions delivered by external visitors
- National Crime Agency's CEOP education programme: Thinkuknow
- Public Health England: Every Mind Matters
- Harmful online challenges and online hoaxes - this includes advice on preparing for any online challenges and hoaxes, sharing information with parents and carers and where to get help and support.

133. Whilst it is essential that governing bodies and proprietors ensure that appropriate

[37] UK Council for Internet Safety Education subgroup is made up of sector experts who collaborate to produce advice and guidance to support schools and colleges keep their children safe online.

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.

Online safety

134. It is essential that children are safeguarded from potentially harmful and inappropriate online material. An effective whole school and college approach to online safety empowers a school or college to protect and educate pupils, students, and staff in their use of technology and establishes mechanisms to identify, intervene in, and escalate any concerns where appropriate.

135. The breadth of issues classified within online safety is considerable and ever evolving, but can be categorised into four areas of risk:

content: being exposed to illegal, inappropriate, or harmful content, for example: pornography, fake news, racism, misogyny, self-harm, suicide, anti-Semitism, radicalisation, and extremism.

contact: being subjected to harmful online interaction with other users; for example: peer to peer pressure, commercial advertising and adults posing as children or young adults with the intention to groom or exploit them for sexual, criminal, financial or other purposes.

conduct: online behaviour that increases the likelihood of, or causes, harm; for example, making, sending and receiving explicit images (e.g. consensual and non-consensual sharing of nudes and semi-nudes and/or pornography, sharing other explicit images and online bullying, and

commerce: - risks such as online gambling, inappropriate advertising, phishing and or financial scams. If you feel your pupils, students or staff are at risk, please report it to the Anti-Phishing Working Group (https://apwg.org/).

136. Governing bodies and proprietors should ensure online safety is a running and interrelated theme whilst devising and implementing their whole school or college approach to safeguarding and related policies and procedures. This will include considering how online safety is reflected as required in all relevant policies and considering online safety whilst planning the curriculum, any teacher training, the role and responsibilities of the designated safeguarding lead (and deputies) and any parental engagement.

Online safety policy

137. Online safety and the school or college’s approach to it should be reflected in the child protection policy. Considering the 4Cs (above) will provide the basis of an effective online policy. The school or college should have a clear policy on the use of mobile and

smart technology. Amongst other things this will reflect the fact many children have unlimited and unrestricted access to the internet via mobile phone networks (i.e. 3G, 4G and 5G). This access means some children, whilst at school or college, sexually harass, bully, and control others via their mobile and smart technology, share indecent images consensually and non-consensually (often via large chat groups) and view and share pornography and other harmful content. Schools and colleges should carefully consider how this is managed on their premises and reflect this in their mobile and smart technology policy and their child protection policy.

Remote education

138. We have provided advice to support schools and colleges to help keep pupils, students and staff safe whilst learning remotely, safeguarding in schools colleges and other providers and safeguarding and remote education. The NSPCC also provide helpful advice - Undertaking remote teaching safely

139. Schools and colleges are likely to be in regular contact with parents and carers.Those communications should be used to reinforce the importance of children being safe online and parents and carers are likely to find it helpful to understand what systems schools and collges use to filter and monitor online use. It will be especially important for parents and carers to be aware of what their children are being asked to do online, including the sites they will asked to access and be clear who from the school or college (if anyone) their child is going to be interacting with online.

Filters and monitoring

140. 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 be doing all that they reasonably can to limit children's exposure to the above risks from the school's 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 and regularly review their effectiveness. They should ensure that the leadership team and relevant staff have an awareness and understanding of the provisions in place and manage them effectively and know how to escalate concerns when identified. Governing bodies and proprietors should consider the age range of their children, the number of children, how often they access the IT system and the proportionality of costs verses safeguarding risks.

141. 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.[38] The UK Safer Internet Centre has published guidance as to what "appropriate" filtering and monitoring might look like: UK Safer Internet Centre: appropriate filtering and monitoring. South West Grid for Learning (swgfl.org.uk) have created a tool to check whether a school or college's filtering provider is signed up to relevant lists (CSA content, Sexual Content, Terrorist content Your Internet Connection Blocks Child Abuse & Terrorist Content).

142. Support for schools when considering what to buy and how to buy it is available via the: schools' buying strategy with specific advice on procurement here: buying for schools.

Information security and access management

143. Education settings are directly responsible for ensuring they have the appropriate level of security protection procedures in place, in order to safeguard their systems, staff and learners and review the effectiveness of these procedures periodically to keep up with evolving cyber-crime technologies. Guidance on e-security is available from the National Education Network. In addition, broader guidance on cyber security including considerations for governors and trustees can be found at Cyber security training for school staff - NCSC.GOV.UK.

Reviewing online safety

144. Technology, and risks and harms related to it, evolve, and change rapidly. Schools and colleges should consider carrying out an annual review of their approach to online safety, supported by an annual risk assessment that considers and reflects the risks their children face. A free online safety self-review tool for schools can be found via the 360 safe website.

145. UKCIS has published Online safety in schools and colleges: Questions from the governing board. The questions can be used to gain a basic understanding of the current approach to keeping children safe online; learn how to improve this approach where appropriate; and find out about tools which can be used to improve the approach. It has also published an Online Safety Audit Tool which helps mentors of trainee teachers and newly qualified teachers induct mentees and provide ongoing support, development and monitoring.

146. When reviewing online safety provision, the UKCIS external visitors guidance highlights a range of resources which can support educational settings to develop a whole school approach towards online safety.

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[38] The Prevent duty Departmental advice for schools and childcare providers and Home Office Statutory guidance: Prevent duty guidance.

Information and support

147. There is a wealth of additional information available to support schools, colleges and parents to keep children safe online. A sample is provided in Annex B.

Inspection

148. Ofsted's inspections of early years, schools and post-16 provision are carried out under: Ofsted's Education Inspection Framework. Inspectors will always report on whether or not arrangements for safeguarding children and learners are effective.

149. In addition to the framework and inspections handbooks, Ofsted publishes specific guidance to inspectors on inspecting safeguarding: Inspecting safeguarding in early years, education and skills settings.

150. The Independent Schools Inspectorate (ISI) is approved to inspect certain independent schools and will also report on safeguarding arrangements. ISI has a published framework which informs how it inspects at Independent Schools Inspectorate.

What school and college staff should do if they have a safeguarding concern or an allegation is made about another staff member

151. Governing bodies and proprietors should ensure there are procedures in place as described in paragraph 71 and 73, to manage **any** safeguarding concerns (no matter how small) or allegations that **do not** meet the harm threshold, about staff members (including supply staff, volunteers, and contractors). 'Low-level' concerns, should be addressed as set out in Section two of Part four of this guidance.

152. Governing bodies and proprietors should ensure there are procedures in place, as described in paragraphs 71 and 72, for staff to report concerns or allegations that **may** meet the harm threshold about staff members (including supply staff, volunteers, and contractors). These should be addressed as set out in Section one of Part four of this guidance.

153. 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.[39] **This is a legal duty and failure to refer when the criteria are met is a criminal offence.**[40] More detail is provided at paragraph 346.

154. Where a teacher's employer, including an agency, dismisses or ceases to use the

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[39] Section 35 of the Safeguarding Vulnerable Groups Act 2006.
[40] Section 38 of the Safeguarding Vulnerable Groups Act 2006.

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 (via the Teaching Regulation Agency). Details about how to make a referral to the Teaching Regulation Agency can be found on GOV.UK.

Child-on-child abuse

155. **All** staff should recognise that children are capable of abusing other children (including online). **All** staff should be clear about their school's or college's policy and procedures with regard to child-on-child abuse.

156. Governing bodies and proprietors should ensure that their child protection policy includes:

- procedures to minimise the risk of child-on-child abuse
- the systems in place (and they should be well promoted, easily understood and easily accessible) for children to confidently report abuse, knowing their concerns will be treated seriously
- how allegations of child-on-child abuse will be recorded, investigated, and dealt with
- clear processes as to how victims, perpetrators and any other children affected by child-on-child abuse will be supported
- a recognition that even if there are no reported cases of child-on-child abuse, such abuse may still be taking place and is simply not being reported
- a statement which makes clear there should be a zero-tolerance approach to abuse, and it should never be passed off as "banter", "just having a laugh", "part of growing up" or "boys being boys" as this can lead to a culture of unacceptable behaviours and an unsafe environment for children
- recognition that it is more likely that girls will be victims and boys' perpetrators, but that all child-on-child abuse is unacceptable and will be taken seriously, and
- the different forms child-on-child abuse can take, such as:
    - bullying (including cyberbullying, prejudice-based and discriminatory bullying)
    - abuse in intimate personal relationships between children (also known as teenage relationship abuse)
    - physical abuse which can include hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm

- sexual violence and sexual harassment. Part five of this guidance sets out how schools and colleges should respond to reports of sexual violence and sexual harassment
- consensual and non-consensual sharing of nude and semi-nude images and/or videos[41] (also known as sexting or youth produced sexual imagery): the policy should include the school or college's approach to it. The Department provides Searching Screening and Confiscation Advice for schools. The UKCIS Education Group has published Sharing nudes and semi-nudes: advice for education settings working with children and young people which outlines how to respond to an incident of nude and/or semi-nude being shared
- causing someone to engage in sexual activity without consent, such as forcing someone to strip, touch themselves sexually, or to engage in sexual activity with a third party
- upskirting (which is a criminal offence[42]), which typically involves taking a picture under a person's clothing without their permission, with the intention of viewing their genitals or buttocks to obtain sexual gratification, or cause the victim humiliation, distress, or alarm, and
- initiation/hazing type violence and rituals.

Boarding schools, residential special schools, residential colleges and children's homes

157. Boarding schools, residential special schools, residential colleges and children's homes have additional factors to consider with regard to safeguarding.

158. Schools and colleges that provide such residential accommodation and/or are registered as children's homes should, amongst other things, be alert to the extra vulnerabilities of SEND children in such settings, inappropriate pupil or student relationships and the potential for child-on-child abuse, particularly in schools and colleges where there are significantly more girls than boys or vice versa. They should, generally led by the designated safeguarding lead, work closely with the host local authority and, where relevant, any local authorities that have placed their children there.

159. Boarding schools, residential special schools, residential colleges, and children's homes have additional requirements in regard to safeguarding. These relate to National

[41] Consensual image sharing, especially between older children of the same age, may require a different response. It might not be abusive but children still need to know it is illegal, whilst non-consensual is illegal and abusive.
[42] Voyeurism (Offences) Act 2019 (legislation.gov.uk)

Minimum Standards and regulations for the relevant setting and all schools and colleges with residential provision for children **must** comply with their obligations relating to them.

160. The relevant standards and guidance for each sector are 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
- Further Education residential accommodation: National Minimum Standards
- Guide to the Children's Homes Regulations

161. In addition, The Visits to Children in Long-Term Residential Care Regulations 2011 apply to children living away from home in residential settings for periods of three 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.

The use of 'reasonable force' in schools and colleges

162. There are circumstances when it is appropriate for staff in schools and colleges to use reasonable force to safeguard children. The term 'reasonable force' covers the broad range of actions used by staff that involve a degree of physical contact to control or restrain children. This can range from guiding a child to safety by the arm, to more extreme circumstances such as breaking up a fight or where a child needs to be restrained to prevent violence or injury. 'Reasonable' in these circumstances means 'using no more force than is needed'. The use of force may involve either passive physical contact, such as standing between pupils or blocking a pupil's path, or active physical contact such as leading a pupil by the arm out of the classroom.

163. The department believes that the adoption of a 'no contact' policy at a school or college can leave staff unable to fully support and protect their pupils and students. The department therefore encourages, principals, governing bodies, and proprietors to adopt sensible policies, which allow and support their staff to make appropriate physical contact. The decision on whether or not to use reasonable force to control or restrain a child is down to the professional judgement of the staff concerned within the context of the law and should always depend on individual circumstances.

164. When using reasonable force in response to risks presented by incidents involving children with SEND, mental health problems or with medical conditions, schools and colleges should in considering the risks carefully recognise the additional vulnerability of these groups. They should also consider their duties under the Equality Act 2010 (see paragraphs 86-93) in relation to making reasonable adjustments and their Public Sector Equality Duty. By planning positive and proactive behaviour support, for instance through drawing up individual behaviour plans for more vulnerable children, and agreeing them

with parents and carers, schools and colleges can reduce the occurrence of challenging behaviour and the need to use reasonable force.

- Departmental advice for schools is available at Use of Reasonable Force in Schools
- HM Government guidance Reducing the need for restraint and restrictive intervention sets out how to support children and young people with learning disabilities, autistic spectrum conditions and mental health difficulties who are at risk of restrictive intervention in special education settings, however all schools and colleges may find the information helpful.

Use of school or college premises for non-school/college activities

165. Where governing bodies or proprietors hire or rent out school or college facilities/premises to organisations or individuals (for example to community groups, sports associations, and service providers to run community or extra-curricular activities) they should ensure that appropriate arrangements are in place to keep children safe.

166. When services or activities are provided by the governing body or proprietor, under the direct supervision or management of their school or college staff, their arrangements for child protection will apply. However, where services or activities are provided separately by another body this is not necessarily the case. The governing body or proprietor should therefore seek assurance that the body concerned has appropriate safeguarding and child protection policies and procedures in place (including inspecting these as needed); and ensure that there are arrangements in place to liaise with the school or college on these matters where appropriate. This applies regardless of whether or not the children who attend any of these services or activities are children on the school roll or attend the college. The governing body or proprietor should also ensure safeguarding requirements are included in any transfer of control agreement (i.e. lease or hire agreement), as a condition of use and occupation of the premises; and that failure to comply with this would lead to termination of the agreement.

Alternative provision

167. The cohort of pupils in Alternative Provision often have complex needs, it is important that governing bodies and proprietors of these settings are aware of the additional risk of harm that their pupils may be vulnerable to.

168. The Department has issued two pieces of statutory guidance to which commissioners of Alternative Provision should have regard:

- Alternative provision DFE Statutory guidance, and
- Education for children with health needs who cannot attend school - GOV.UK (www.gov.uk) – DFE Statutory guidance.

Children potentially at greater risk of harm

169. Whilst **all** children should be protected, it is important that governing bodies and proprietors recognise (and reflect in their policies and procedures) that some groups of children, are potentially at greater risk of harm than others. The list below, is not exhaustive, but highlights some of those groups.

Children who need a social worker (Child in Need and Child Protection Plans)

170. Children may need a social worker due to safeguarding or welfare needs. Children may need this help due to abuse and/or neglect and/or complex family circumstances. A child's experiences of adversity and trauma can leave them vulnerable to further harm, as well as educationally disadvantaged in facing barriers to attendance, learning, behaviour, and mental health.

171. Local authorities should share the fact a child has a social worker, and the designated safeguarding lead should hold and use this information so that decisions can be made in the best interests of the child's safety, welfare and educational outcomes. This should be considered as a matter of routine. There are clear powers to share this information under existing duties on both local authorities and schools and colleges to safeguard and promote the welfare of children.

172. Where children need a social worker, this should inform decisions about safeguarding (for example, responding to unauthorised absence or to a child missing education where there are known safeguarding risks) and about promoting welfare (for example, considering the provision of pastoral and/or academic support, alongside action by statutory services).

173. Findings from the Children in Need review, 'Improving the educational outcomes of Children in Need of help and protection' contains further information; the conclusion of the review, 'Help, protection, education' provides detail about the action the government is taking to support this.

Children missing from education

174. Children missing from education, particularly persistently, can act as a vital warning sign to a range of safeguarding issues including neglect, child sexual and child criminal exploitation- particularly county lines. It is important the school or college's response to children missing from education supports identifying such abuse and helps prevent the risk of them going missing in the future. This includes when problems are first emerging but also where children are already known to local authority children's social care and need a social worker (such as a child who is a child in need or who has a child protection plan, or is a looked after child), where going missing from education may increase known safeguarding risks within the family or in the community. Further information and support, includes:

- schools' duties regarding children missing education, including information schools **must** provide to the local authority when removing a child from the school roll at standard and non-standard transition points, can be found in the Department's statutory guidance: Children Missing Education.
- further information for colleges providing education for a child of compulsory school age can be found in: Full-time-Enrolment of 14 to 16 year olds in Further Education and Sixth Form Colleges.
- general information and advice for schools and colleges can be found in the Government's Missing Children and Adults Strategy.

Elective Home Education (EHE)

175. Many home educated children have an overwhelmingly positive learning experience. We would expect the parents' decision to home educate to be made with their child's best education at the heart of the decision. However, this is not the case for all, and home education can mean some children are less visible to the services that are there to keep them safe and supported in line with their needs.

176. From September 2016 the Education (Pupil Registration) (England) Regulations 2006 were amended so that schools must inform their LA of all deletions from their admission register when a child is taken off roll.[43]

177. Where a parent/carer has expressed their intention to remove a child from school with a view to educating at home, we recommend that LAs, schools, and other key professionals work together to coordinate a meeting with parents/carers where possible. Ideally, this would be before a final decision has been made, to ensure the parents/carers have considered what is in the best interests of each child. This is particularly important where a child has special educational needs or a disability, and/or has a social worker, and/or is otherwise vulnerable.

178. DfE guidance for local authorities on Elective home education sets out the role and responsibilities of LAs and their powers to engage with parents in relation to EHE. Although this is primarily aimed at LAs, schools should also be familiar with this guidance.

Children requiring mental health support

179. Schools and colleges have an important role to play in supporting the mental health and wellbeing of their pupils.

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[43] This requirement does not apply where a pupil's name is deleted after they have completed the final year at the school (e.g. Year 6 at a typical primary school) unless the local authority have asked to be informed about such deletions.

180. Mental health problems can, in some cases, be an indicator that a child has suffered or is at risk of suffering abuse, neglect or exploitation. Governing bodies and proprietors should ensure they have clear systems and processes in place for identifying possible mental health problems, including routes to escalate and clear referral and accountability systems.

181. The Department is providing funding to support the costs of a significant training program for senior mental health leads and the national rollout of the Link Program. Training for senior mental health leads will be available to all state-funded schools and colleges by 2025, to help introduce or develop their whole school or college approach to mental health.

182. The senior mental health lead role is not mandatory and different senior leads will inevitably have different levels of knowledge and skills to promote wellbeing and mental health, and different responsibilities, as roles are locally defined to fit in with other relevant roles and responsibilities. However, we expect a senior mental health lead in a school/college will be a member of, or supported by the senior leadership team, and could be the pastoral lead, special educational needs co-ordinator (SENCO) or the named person with oversight for SEND in a college or designated safeguarding lead. We are aware most schools and colleges already have a senior mental health lead in place.

183. Schools and colleges can access a training grant to pay for DfE quality assured senior mental health lead training, helping them to implement a holistic 'whole school or college' approach to mental health and wellbeing. Further information on how schools and colleges can apply for a grant and identify the most appropriate training for them – can be found at Guidance: Senior mental health lead training.

184. In addition, Public Health England has produced a range of resources to support secondary schools to promote positive health, wellbeing and resilience among children including its guidance Promoting children and young people's emotional health and wellbeing. Its resources include social media, forming positive relationships, smoking and alcohol. See Rise Above: Resources for School from Public Health England #esafety | The Education Peoplefor links to all materials and lesson plans. The Department has also published, 'Every interaction matters' a pre-recorded webinar which provides staff with a simple framework for promoting wellbeing, resilience, and mental health. This sits alongside our Wellbeing for education recovery program content, which covers issues such as bereavement, loss, anxiety, stress and trauma.

185. The Department has published advice and guidance on Preventing and Tackling Bullying (which may also be useful for colleges). The Promoting and supporting mental health and wellbeing in schools and colleges guidance sets out how schools and colleges can help prevent mental health problems by promoting resilience as part of an integrated, whole school/college approach to social and emotional wellbeing, which is tailored to the needs of their pupils and students.

Looked after children and previously looked after children

186. The most common reason for children becoming looked after[44] is as a result of abuse and/or neglect. Governing bodies and proprietors should ensure that staff have the skills, knowledge and understanding to keep looked after children safe.

187. In particular, they should ensure that appropriate staff have access to 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 the child's 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[45] 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.

188. 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 when necessary to safeguard these children, who are a particularly vulnerable group.

The designated teacher

189. Governing bodies of maintained schools and proprietors of academies **must** appoint a designated teacher[46] and should work with local authorities to promote the educational achievement of registered pupils who are looked after. With the commencement of sections 4 to 6 of the Children and Social Work Act 2017, designated teachers have responsibility for promoting the educational achievement of children who have left care through adoption, special guardianship or child arrangement orders or who were adopted from state care outside England and Wales.[47] The designated teacher

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[44] 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 the local authority.

[45] In maintained schools and academies the designated safeguarding lead should work closely with the designated teacher.

[46] 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.

[47] 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.

must have appropriate training and the relevant qualifications and experience.[48] In other schools and colleges, an appropriately trained teacher should take the lead.

190. Statutory guidance: Designated teacher for looked-after and previously looked-after children contains further information on the role and responsibilities of the Designated Teacher.

Virtual school heads

191. Virtual school heads[49] manage pupil premium plus for looked after children;[50] 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.[51] 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.

192. As with designated teachers, following the commencement of sections 4 to 6 of the Children and Social Work Act 2017, virtual school heads have responsibilities towards children who have left care through adoption, special guardianship, or child arrangement orders or who were adopted from state care outside England or Wales. Their primary role for this group will be the provision of information and advice to relevant parties.[52]

193. Statutory guidance on Promoting the education of looked-after and previously looked-after children contains further information on the roles and responsibilities of virtual school heads.

194. In addition to their statutory duties, the role of virtual school heads was extended in June 2021, to include a non-statutory responsibility for the strategic oversight of the educational attendance, attainment, and progress of children with a social worker.

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[48] 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.

[49] 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.

[50] Pupil premium plus for previously looked after children is managed by their school.

[51] 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.

[52] 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.

195. In offering advice and information to workforces that have relationships with children with social workers, virtual school heads should identify and engage with key professionals, helping them to understand the role they have in improving outcomes for children. This should include Designated Safeguarding Leads, social workers, headteachers, governors, Special Educational Needs Co-ordinators, mental health leads, other local authority officers, including Designated Social Care Officers for SEND, where they exist.

196. Non-statutory guidance on promoting the education of children with a social worker contains further information on the roles and responsibilities of virtual school heads.

Care leavers

197. Local authorities have on-going responsibilities to the children who cease to be looked after and become care leavers.[53] That includes keeping in touch with them, preparing an assessment of their needs and appointing a Personal Advisor who develops a pathway plan with the young person. This plan describes how the local authority will support the care leaver to participate in education or training. Designated safeguarding leads should therefore have details of the local authority Personal Advisor 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 or health issues

198. Children with special educational needs or disabilities (SEND) or certain medical or physical health conditions can face additional safeguarding challenges both online and offline. 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:

- assumptions that indicators of possible abuse such as behaviour, mood and injury relate to the child's condition without further exploration
- these children being more prone to peer group isolation or bullying (including prejudice-based bullying) than other children

[53] A care leaver who is 16 or 17 (referred to in legislation as a 'relevant child' is defined in section 23A(2) of the Children Act 1989 as a child who is (a) not looked after (b) aged 16 or 17, and (c) was, before ceasing to be looked after by a local authority, looked after for a period of 13 weeks, or periods amounting in total to 13 weeks, beginning after they have reached the age of 14 and ended after they have reached the age of 16.

- the potential for children with SEND or certain medical conditions being disproportionally impacted by behaviours such as bullying, without outwardly showing any signs, and
- communication barriers and difficulties in managing or reporting these challenges.
- cognitive understanding – being unable to understand the difference between fact and fiction in online content and then repeating the content/behaviours in schools or colleges or the consequences of doing so.

199. Any reports of abuse involving children with SEND will therefore require close liaison with the designated safeguarding lead (or deputy) and the SENCO or the named person with oversight for SEND in a college.

200. Schools and colleges should consider extra pastoral support and attention for these children, along with ensuring any appropriate support for communication is in place.

201. Further information can be found in the Department's:

- SEND Code of Practice 0 to 25, and
- Supporting Pupils at School with Medical Conditions.

And from specialist organisations:

- Mencap - Represents people with learning disabilities, with specific advice and information for people who work with children and young people
- Council for disabled children - Every Local area has an information, advice and support service, providing information, advice and support to disabled children and young people, and those with SEND, and their parents.

Children who are lesbian, gay, bi, or trans (LGBT)

202. The fact that a child or a young person may be LGBT is not in itself an inherent risk factor for harm. However, children who are LGBT can be targeted by other children. In some cases, a child who is perceived by other children to be LGBT (whether they are or not) can be just as vulnerable as children who identify as LGBT.

203. Risks can be compounded where children who are LGBT lack a trusted adult with whom they can be open. It is therefore vital that staff endeavour to reduce the additional barriers faced, and provide a safe space for them to speak out or share their concers with members of staff.

204. LGBT inclusion is part of the statutory Relationships Education, Relationship and Sex Education and Health Education curriculum and there is a range of support available to help schools counter homophobic, biphobic and transphobic bullying and abuse.

Part three: Safer recruitment

This part of the guidance has four sections providing schools and colleges with the legal requirements '**must** do', what they **should** do, what is considered **best practice** and **important information** about:

i. the recruitment and selection process

ii. pre-appointment and vetting checks, regulated activity and recording of information

iii. other checks that may be necessary for staff, volunteers and others, including the responsibilities on schools and colleges for children in other settings, and,

iv. how to ensure the ongoing safeguarding of children and the legal reporting duties on employers.

i. Recruitment and selection process

205. This section focuses on ensuring potential applicants are given the right messages about the school and college's commitment to recruit suitable people.

206. It is vital that as part of their whole school or college approach to safeguarding governing bodies and proprietors create a culture that safeguards and promotes the welfare of children in their school or college. As part of this culture, it is important that they adopt robust recruitment procedures that deter and prevent people who are unsuitable to work with children from applying for or securing employment, or volunteering opportunities in schools and colleges.

207. Governing bodies and proprietors should ensure that those involved with the recruitment and employment of staff to work with children have received appropriate safer recruitment training, the substance of which should at a minimum cover the content of this part (Part three) of this guidance.

208. The School Staffing (England) Regulations 2009[54] and the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007[55] require governing bodies of maintained schools and management committees of pupil referral units (PRUs) to ensure that at least one of the persons who conducts an interview has completed safer recruitment training. Governing bodies of maintained schools and management committees of PRUs may choose appropriate training and may take advice

[54] The School Staffing (England) Regulations 2009 (legislation.gov.uk) regulation 9.
[55] The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (legislation.gov.uk)

from the safeguarding partners in doing so.

Advert

209. Schools and colleges should think about including the following information when defining the role (through the job or role description and person specification):

- the skills, abilities, experience, attitude, and behaviours required for the post, and
- the safeguarding requirements, i.e. to what extent will the role involve contact with children and will they be engaging in regulated activity relevant to children. See page 60 for further information about regulated activity.

210. The advert should include:

- the school's or college's commitment to safeguarding and promoting the welfare of children and make clear that safeguarding checks will be undertaken
- the safeguarding responsibilities of the post as per the job description and personal specification, and
- whether the post is exempt from the Rehabilitation of Offenders Act (ROA) 1974. The amendments to the ROA 1974 (Exceptions Order 1975, (2013 and 2020)) provide that when applying for certain jobs and activities, certain spent convictions and cautions are 'protected', so they do not need to be disclosed to employers, and if they are disclosed, employers cannot take them into account. The MOJ's guidance on the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975, provides information about which convictions must be declared during job applications and related exceptions and further information about filtering offences can be found in the DBS filtering guide.

Application forms

211. Where a role involves engaging in regulated activity relevant to children, schools and colleges should include a statement in the application form or elsewhere in the information provided to applicants that it is an offence to apply for the role if the applicant is barred from engaging in regulated activity relevant to children.[56]

212. Schools and colleges should also provide a copy of the school's or college's child protection policy and practices and policy on employment of ex-offenders in the application pack or refer to a link on its website.

213. Schools and colleges should require applicants to provide:

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[56] Section 7(1)(a) of the SVGA 2006 (Legislation.gov.uk).

- personal details, current and former names, current address and national insurance number
- details of their present (or last) employment and reason for leaving
- full employment history, (since leaving school, including education, employment and voluntary work) including reasons for any gaps in employment
- qualifications, the awarding body and date of award
- details of referees/references (see below for further information), and
- a statement of the personal qualities and experience that the applicant believes are relevant to their suitability for the post advertised and how they meet the person specification.

214. Schools and colleges should only accept copies of a curriculum vitae alongside an application form. A curriculum vitae on its own will not provide adequate information.

Shortlisting

215. Shortlisted candidates should be asked to complete a self-declaration of their criminal record or information that would make them unsuitable to work with children. Self-declaration is subject to Ministry of Justice guidance on the disclosure of criminal records, further information can be found on GOV.UK

For example:

- if they have a criminal history
- if they are included on the children's barred list
- if they are prohibited from teaching
- if they are prohibited from taking part in the management of an independent school
- information about any criminal offences committed in any country in line with the law as applicable in England and Wales, not the law in their country of origin or where they were convicted
- if they are known to the police and children's local authority social care
- if they have been disqualified from providing childcare (see paras 262-266), and,
- any relevant overseas information.

216. This information should only be requested from applicants who have been shortlisted. The information should not be requested in the application form to decide who should be shortlisted.

217. Applicants should be asked to sign a declaration confirming the information they

have provided is true. Where there is an electronic signature, the shortlisted candidate should physically sign a hard copy of the application at point of interview.

218. The purpose of a self-declaration is so that candidates will have the opportunity to share relevant information and allow this to be discussed and considered at interview before the DBS certificate is received.

219. Schools and colleges should:

- ensure that at least two people carry out the shortlisting exercise (it is recommended that those who shortlist carry out the interview for a consistent approach)
- consider any inconsistencies and look for gaps in employment and reasons given for them, and,
- explore all potential concerns.

220. In addition, as part of the shortlisting process schools and colleges should consider carrying out an online search as part of their due diligence on the shortlisted candidates. This may help identify any incidents or issues that have happened, and are publicly available online, which the school or college might want to explore with the applicant at interview.

Employment history and references

221. The purpose of seeking references is to allow employers to obtain factual information to support appointment decisions. Schools and colleges should obtain references before interview, where possible, this allows any concerns raised to be explored further with the referee and taken up with the candidate at interview.

222. Schools and colleges should:

- not accept open references e.g. to whom it may concern
- not rely on applicants to obtain their reference
- ensure any references are from the candidate's current employer and have been completed by a senior person with appropriate authority (if the referee is school or college based, the reference should be confirmed by the headteacher/principal as accurate in respect of any disciplinary investigations)
- obtain verification of the individual's most recent relevant period of employment where the applicant is not currently employed
- secure a reference from the relevant employer from the last time the applicant worked with children (if not currently working with children), if the applicant has never worked with children, then ensure a reference from their current employer
- always verify any information with the person who provided the reference

- ensure electronic references originate from a legitimate source
- contact referees to clarify content where information is vague or insufficient information is provided
- compare the information on the application form with that in the reference and take up any discrepancies with the candidate
- establish the reason for the candidate leaving their current or most recent post, and,
- ensure any concerns are resolved satisfactorily before appointment is confirmed.

223. When asked to provide references, schools and colleges should ensure the information confirms whether they are satisfied with the applicant's suitability to work with children, and provide the facts (not opinions) of any substantiated safeguarding concerns/allegations that meet the harm threshold. They should not include information about concerns/allegations which are unsubstantiated, unfounded, false, or malicious. Further guidance on references, including on the position regarding low-level concerns, is set out in Part four. References are an important part of the recruitment process and should be provided in a timely manner and not hold up proceedings. Any repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious should not be included in any reference.

Selection

224. Schools and colleges should use a range of selection techniques to identify the most suitable person for the post. Those interviewing should agree structured questions.

These should include:

- finding out what attracted the candidate to the post being applied for and their motivation for working with children
- exploring their skills and asking for examples of experience of working with children which are relevant to the role, and,
- probing any gaps in employment or where the candidate has changed employment or location frequently, asking about the reasons for this.

225. The interviews should be used to explore potential areas of concern and to determine the applicant's suitability to work with children. Areas that may be concerning and lead to further probing include:

- implication that adults and children are equal
- lack of recognition and/or understanding of the vulnerability of children
- inappropriate idealisation of children

- inadequate understanding of appropriate boundaries between adults and children, and,
- indicators of negative safeguarding behaviours.

226. Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case.

227. Pupils/students should be involved in the recruitment process in a meaningful way. Observing short listed candidates and appropriately supervised interaction with pupils/students is common and recognised as good practice.

228. All information considered in decision making should be clearly recorded along with decisions made.

ii. Pre-appointment vetting checks, regulated activity and recording information

229. This section provides the legal requirements that governing bodies and proprietors need to understand (and which **must** be carried out) when appointing individuals to engage in regulated activity relating to children. It covers the importance of ensuring the correct pre-appointment checks are carried out. These checks will help identify whether a person may be unsuitable to work with children (and in some cases is legally prohibited from working with children and/or working as a teacher). These checks should be seen as part of the wider whole school or college safeguarding regime, which will continue following appointment. This section also explains what information schools and colleges **must** record on the single central record.

230. The Education and Training (Welfare of Children) Act 2021 extended safeguarding provisions to providers of post 16 Education: **16-19 Academies, Special Post-16 institutions and Independent Training Providers**. Some safer recruitment regulations do not apply to these providers and as such some of the “musts” for colleges do not apply to them. These checks are an essential part of safeguarding, carried out to help employers check the suitability of candidates. Therefore, the providers set out above **should** carry out these pre-appointment checks. This has been made clear via footnotes.

231. All offers of appointment should be conditional until satisfactory completion of the mandatory pre-employment checks. All schools and colleges **must**:

- verify a candidate’s identity, it is important to be sure that the person is who they claim to be, this includes being aware of the potential for individuals changing their name. Best practice is checking the name on their birth certificate, where this is available. Further identification checking guidelines can be found on the GOV.UK

website[57]

- obtain (via the applicant) an enhanced DBS check (including children's barred list information, for those who will be engaging in regulated activity with children). [58] [59] [60] [61] Note that when using the DBS update service, you still need to obtain the original physical certificate (see paragraphs 248-251) [62]
- obtain a separate children's barred list check if an individual will start work in regulated activity with children before the DBS certificate is available; See paragraph 260 on how to obtain a separate children's barred list check. **This does not apply to 16-19 Academies, Special Post-16 institutions and Independent Training Providers**[63]
- verify the candidate's mental and physical fitness to carry out their work responsibilities.[64] 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 [65,66]
- verify the person's right to work in the UK, including EU nationals. If there is uncertainty about whether an individual needs permission to work in the UK, then schools and colleges should follow advice on the GOV.UK website

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[57] 16-19 Academies, Special Post-16 institutions and Independent Training Providers should verify the candidate's identity.
[58] 16-19 Academies, Special Post-16 institutions and Independent Training Providers must carry out a DBS check with barred list information as per their funding agreement.
[59] Where the individual will be or is engaging in regulated activity, schools and colleges will need to ensure that they confirm on the DBS application that they have the right to barred list information.
[60] 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) 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.
[61] 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 (other than agency staff) who move from positions not involving the provision of education into a position involving the provision of education are to be treated as new staff members.
[62] See the status checking section of the DBS update service employer guide
[63] A separate barred list check is not available to these providers. As such they should not allow an individual to start work in regulated activity until they obtain an enhanced DBS plus barred list check.
[64] Education (Health Standards) (England) Regulations 2003
[65] See legislation.gov.uk Section 60 of the Equality Act 2010.
[66] 16-19 Academies, Special Post-16 institutions and Independent Training Providers should - verify the candidate's mental and physical fitness to carry out their work responsibilities, check the person's right to work in the UK; make further checks if the candidate has lived or worked outside the UK and verify professional qualifications where appropriate.

- if the person has lived or worked outside the UK, make any further checks the school or college consider appropriate (see 279-284) and,
- verify professional qualifications, as appropriate. The Teaching Regulation Agency's (TRA) Employer Access Service should be used to verify any award of qualified teacher status (QTS), and the completion of teacher induction or probation.

In addition:

- independent schools, including academies and free schools, **must** check that a person taking up a management position as described at paragraph 255 is not subject to a section 128 direction made by the Secretary of State
- all schools **must** ensure that an applicant to be employed to carry out teaching work[67] is not subject to a prohibition order issued by the Secretary of State (see paragraph 252) for prohibition checks or any sanction or restriction imposed (that remains current) by the GTCE (see paragraph 254), before its abolition in March 2012
- before employing a person to carry out teaching work in relation to children, colleges **must**[68] take reasonable steps to establish whether that person is subject to a prohibition order issued by the Secretary of State
- all schools and colleges providing childcare[69] **must** ensure that appropriate checks are carried out to ensure that individuals employed to work in reception classes, or in wraparound care for children up to the age of 8, are not disqualified from working in these settings under the 2018 Childcare Disqualification Regulations. Further details about the application of these arrangements are provided at paragraphs 262-266.

Applicant moving from previous post

232. There is no requirement for a school 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:

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[67] The Teachers' Disciplinary (England) Regulations 2012 define teaching work as: planned and preparing lessons and courses for pupils; delivering lessons to pupils; assessing the development, progress and attainment of pupils; and reporting on the development, progress and attainment of pupils.
[68] Where employing teachers 16-19 Academies, Special Post-16 institutions and Independent Training Providers should contact employer.access.gov.uk to check that the individual is not prohibited from teaching.
[69] Childcare Act 2006 (legislation.gov.uk) section 76(2).

- which brought the person regularly into contact with children, 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 another institution within the further education sector in England, or in a 16-19 academy, in a post which involved the provision of education which brought the person regularly into contact with children or young persons.

233. For a college[70] 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 position which brought him or her regularly into contact with children aged under 18, or
- another institution within the further education sector in England, or in a 16 to 19 academy, in a position which involved the provision of education and caring for, training, supervising or being solely in charge of persons aged under 18.

234. Whilst there is no requirement to carry out an enhanced DBS check in the circumstances described above, schools or colleges should carefully consider if it would be appropriate to request one, to ensure they have up to date information. Schools and colleges **must** still carry out all other relevant pre-appointment checks (as listed at paragraph 231), including where the individual is engaging in regulated activity with children, a separate children's barred list check (see para 260 on how to carry out a barred list check).

Regulated activity

235. In summary, a person will be engaging in regulated activity with children 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
- will be working on a regular basis in a specified establishment, such as a school, or in connection with the purposes of the establishment, where the work gives opportunity for contact with children, or

[70] The three month rule does not apply for 16-19 Academies, Special Post-16 institutions and Independent Training Providers. An enhanced DBS certificate (with barred list information where appropriate) is required.

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

Further details on regulated activity below.

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 Factual note on regulated activity in relation to children: scope.

Regulated activity includes:

- 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;
- 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.[71] Some activities are always regulated activities, regardless of frequency or whether they are supervised or not. This includes:

- 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 of disability;[72]
  - health care means care for children provided by, or under the direction or supervision of, a regulated health care professional.

Regulated activity will not be:

- paid work in specified places which is occasional and temporary and does not involve teaching, training; and
- supervised activity which is paid in non-specified settings such as youth clubs, sports clubs etc.

[71] 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 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.

Types of DBS checks

236. These are the types of checks available.

- **Basic DBS check** – this provides details of convictions and conditional cautions considered to be 'unspent' under the terms of the Rehabilitation of Offenders Act 1974.
- **Standard DBS check** –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 DBS check** – this provides the same information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC) as a Standard DBS check, plus additional information held by the 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/or activities being undertaken **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.[73]
- **Enhanced DBS check with children's barred list information** – where people are working or seeking to work in regulated activity relating to children, this allows an additional check, to be made, about whether the person appears on the children's barred list, along with a check of the Police National Computer records plus additional information held by the police as above. The position being applied for or activities being undertaken **must** be eligible for an enhanced DBS 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. In addition, this check **can** also include information as to whether an individual is subject to a section 128

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[72] 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.

[73] 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 DBS check can be obtained. Similarly, The Police Act 1997 (Criminal Records) Regulations 2002 set out the purposes for which an Enhanced DBS check can be obtained, and The Police Act 1997 (Criminal Records) (No 2) Regulations 2009 list the circumstances in which an application for an Enhanced DBS check can also include suitability information relating to children (a children's barred list check and confirmation as to whether an individual is subject to a s.128 direction). 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. 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. Further details can be found on gov.uk.

direction. However, they have to use specific wording in the position applied for field (see paragraph 258).

Considering which type of check is required

237. Most staff in a school and those in colleges working with children will be engaging in regulated activity relating to children, in which case an enhanced DBS check which includes children's barred list information, will be required.

238. For all other staff (e.g. contractors) 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.

239. Barred list information **must not** be requested on any person who is not engaging in or seeking to engage in regulated activity.

240. The flowchart below (page 64) provides more information on the decision making process.

241. Where a DBS certificate is required, it **must** be obtained from the candidate before, or as soon as practicable after, the person's appointment, including when using the DBS update service (see paragraph 250).

242. Once the checks are complete, the DBS will send a DBS certificate to the applicant. The applicant **must** show the original paper DBS certificate to their potential employer before they take up post, or as soon as practicable afterwards. Schools and colleges will be able to compare any information disclosed on the certificate with any information shared by the applicant during the recruitment process. DBS guidance on how to check a DBS certificate can be found on GOV.UK.

243. Schools and colleges should assess cases fairly, on an individual basis. A decision not to appoint somebody because of their conviction(s) should be clearly documented, so if challenged the school or college can defend its decision, in line with its policy on the recruitment of ex-offenders.

244. When assessing any disclosure information on a DBS certificate schools and colleges should take into consideration the explanation from the applicant, including for example:

- the seriousness of any offence and relevance to the post applied for
- how long ago the offence occurred
- whether it was a one-off incident or a history of incidents
- the circumstances around the incident, and,
- whether the individual accepted responsibility for their actions.

245. The school or college should also consider the incident in the context of the

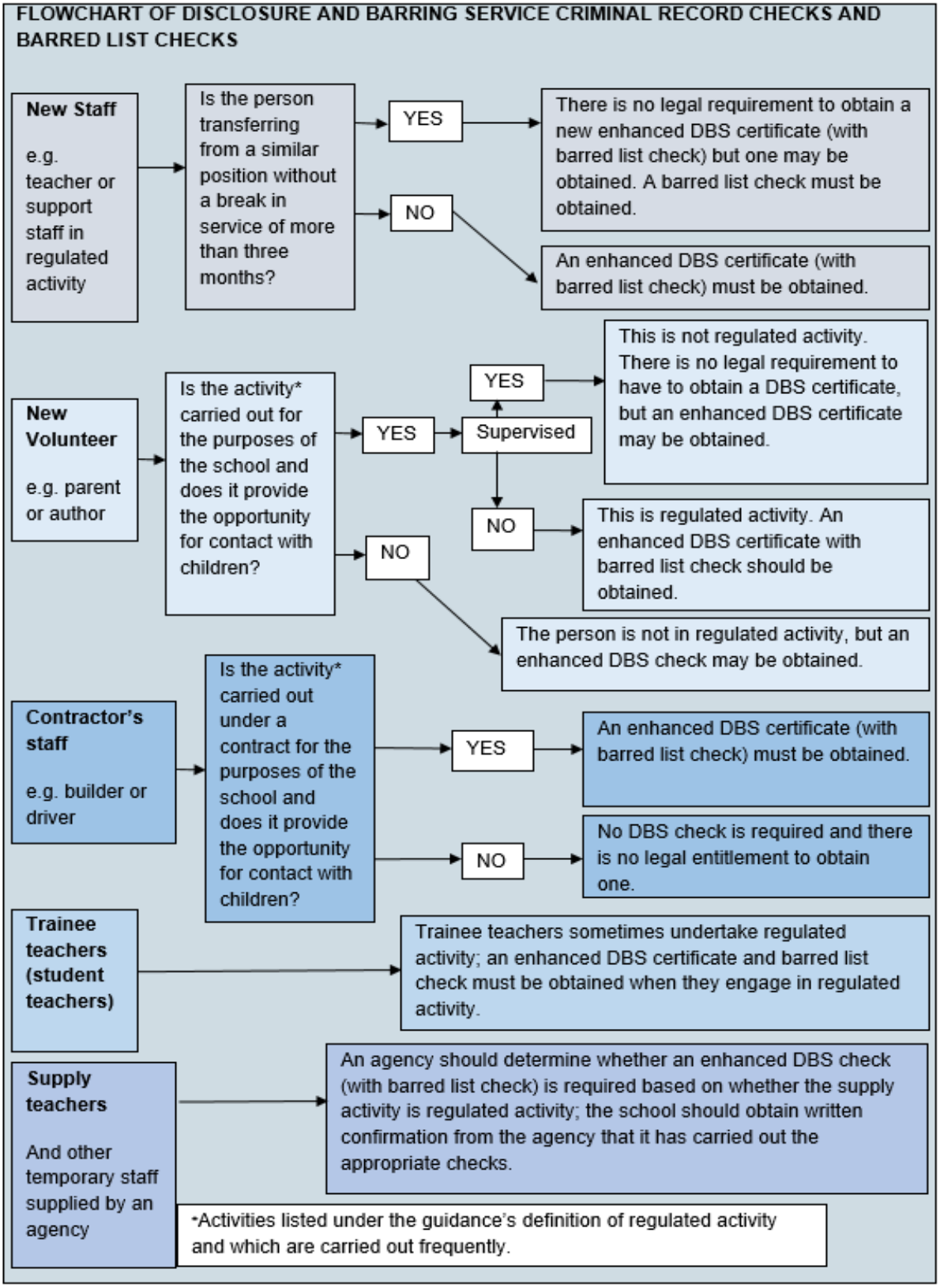
Teachers' standards and Teacher misconduct guidance, if the applicant is applying for a teaching post.

246. Where a school or college allows an individual to start work in regulated activity relating to children before the DBS certificate is available, it should ensure that the individual is appropriately supervised and that they carry out **all other** checks, including a separate **children's barred list check**[74], see paragraph 260.

247. Separate barred list checks **must** only be carried out in the following circumstances:

- for newly appointed staff who are engaging in regulated activity, pending the receipt of an Enhanced Certificate with Barred List information from the Disclosure and Barring Service (DBS) (and where all other relevant checks as per paragraph 231 have been carried out), or
- where an individual has worked in a post in a school or college that brought them into regular contact with children or young persons which ended not more than three months prior to that person's appointment to the organisation (and where all other relevant checks as per paragraph 231 have been carried out).

[74] 16-19 Academies, Special Post-16 institutions and Independent Training Providers do not have access to standalone barred list check and as such should not allow someone to start work in regulated activity without an enhanced DBS certificate (with barred list information).


FLOWCHART OF DISCLOSURE AND BARRING SERVICE CRIMINAL RECORD CHECKS AND BARRED LIST CHECKS
New Staff
e.g. teacher or support staff in regulated activity
Is the person transferring from a similar position without a break in service of more than three months?
YES
There is no legal requirement to obtain a new enhanced DBS certificate (with barred list check) but one may be obtained. A barred list check must be obtained.
NO
An enhanced DBS certificate (with barred list check) must be obtained.
New Volunteer
e.g. parent or author
Is the activity* carried out for the purposes of the school and does it provide the opportunity for contact with children?
YES
Supervised
YES
This is not regulated activity. There is no legal requirement to have to obtain a DBS certificate, but an enhanced DBS certificate may be obtained.
NO
This is regulated activity. An enhanced DBS certificate with barred list check should be obtained.
NO
The person is not in regulated activity, but an enhanced DBS check may be obtained.
Contractor's staff
e.g. builder or driver
Is the activity* carried out under a contract for the purposes of the school and does it provide the opportunity for contact with children?
YES
An enhanced DBS certificate (with barred list check) must be obtained.
NO
No DBS check is required and there is no legal entitlement to obtain one.
Trainee teachers (student teachers)
Trainee teachers sometimes undertake regulated activity; an enhanced DBS certificate and barred list check must be obtained when they engage in regulated activity.
Supply teachers
And other temporary staff supplied by an agency
An agency should determine whether an enhanced DBS check (with barred list check) is required based on whether the supply activity is regulated activity; the school should obtain written confirmation from the agency that it has carried out the appropriate checks.
*Activities listed under the guidance's definition of regulated activity and which are carried out frequently.

DBS Update Service

248. Individuals can join the DBS Update Service[75] at the point that an application for a new DBS check is made. Subscription to the service enables future status checks to be carried out by employers to confirm that no new information has been added to the check since its issue.

249. As good practice, many schools and colleges require new staff to join the Update Service as part of their employment contract. The benefits of joining the Update Service are:

- portability of a DBS check across employers
- free online checks to identify whether there has been any change to the information recorded, since the initial certificate was issued and advice whether the individual should apply for a new DBS check, and,
- that individuals will be able to see a full list of those organisations that have carried out a status check on their account.

250. Before using the Update Service, schools and colleges **must**:

- obtain consent from the individual to carry out an online check to view the status of an existing standard or enhanced DBS check
- confirm the DBS certificate matches the individual's identity
- examine the original certificate to ensure that it is valid for employment with the children's workforce, and,
- ensure that the level of the check is appropriate to the job they are applying for, e.g. enhanced DBS check/enhanced DBS check including with barred list information.

251. Further information about the Update Service, including when updated information can be used, can be found on GOV.UK.

[75] DBS Update Service - GOV.UK (www.gov.uk) n.b. there is an annual fee for applicants using the update service.

Prohibitions, directions, sanctions and restrictions

Secretary of State teacher prohibition, and interim prohibition orders[76] [77]

252. Teacher prohibition and interim prohibition orders prevent a person from carrying out teaching work as defined in the Teachers' Disciplinary (England) Regulations 2012 in schools, sixth form colleges, 16-19 academies, relevant youth accommodation and children's homes in England. Further information about the duty to consider referring to the Teaching Regulation Agency (TRA) can be found at paragraph 350. Teacher prohibition orders are made by the Secretary of State following consideration by a professional conduct panel convened by the TRA. 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. The TRA's role in making prohibition orders and the processes used to impose them are described in more detail in the publication "Teacher misconduct: disciplinary procedures for the teaching profession" and "Teacher misconduct: the prohibition of teachers: Advice on factors relating to decisions leading to the prohibition of teachers from the teaching profession".

253. A person who is prohibited **must not** be appointed to a role that involves teaching work (as defined in the Teachers' Disciplinary (England) Regulations 2012) (see footnotes 76 and 77).

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

254. There are a number of individuals who are still subject to disciplinary sanctions, which were imposed by the GTCE (prior to its abolition in 2012). See paragraph 260 for login details to the TRA Secure Access system where GTCE checks can be made.

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[76] Prohibition orders are made by the Secretary of State under section 141B of the Education Act 2002. 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, colleges may not employ or engage a person who is subject to a prohibition order to carry out teaching work.

[77] 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 (of schools and sixth form colleges) to check that a person to be appointed is not subject to an interim prohibition order. 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 an interim prohibition order made under section 141B of the Education Act 2002.

Secretary of State section 128 direction

255. A section 128 direction prohibits or restricts an unsuitable individual from participating in the management of an independent school, including academies and free schools. An individual who is subject to a section 128 direction is unable to:

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

256. There is no exhaustive list of roles that might be regarded as 'management' for the purpose of determining what constitutes management in an independent school. The Department's view is that roles involving, or very likely to involve, management of a school include (but are not limited to) headteachers, principals, deputy/assistant headteachers, governors and trustees. It is important to note that the individual's job title is not the determining factor and whether other individuals such as teachers with additional responsibilities could be considered to be 'taking part in management' depends on the facts of the case.[78]

257. The grounds on which a section 128 direction may be made by the Secretary of State are set out in The Independent Educational Provision in England (Prohibition on Participation in Management) Regulations 2014[79] made under section 128 of the Education and Skills Act 2008.

258. A section 128 direction will be disclosed when an enhanced DBS check with children's barred list information is requested, provided that 'child workforce independent schools' is specified on the application form as the position applied for. Where a person is not eligible for a children's barred list check but will be working in a management position in an independent school, a section 128 check should be carried out using the TRA's Employer Access service.

259. A person subject to a section 128 direction is also disqualified from holding or continuing to hold office as a governor of a maintained school.[80]

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[78] The Independent Educational Provision in England (Prohibition on Participation in Management) Regulations 2014.

[79] See the 2014 Regulations: https://www.legislation.gov.uk/uksi/2014/1977/regulation/1/made

[80] As barred list information is required to be requested only for those school governors who are engaging in regulated activity, when proposing to recruit a governor who will not work in regulated activity, schools and colleges should use the Secure Access Portal to check whether the person is barred as a result of being prohibited under s.128.

How to check TRA, Teacher Employer Access service for prohibitions, directions, sanctions and restrictions

260. Schools and colleges[81] can use the TRA's Employer Access service to make prohibition, direction, restriction, and children's barred list checks. The service is free to use and is available via the TRA's web page. Users will require a DfE Sign-in account to log onto the service.

261. Further information about obtaining a DfE Sign-in account and using the Employer Access service to carry out a range of 'teacher status checks'[82] including verification of qualified teacher status (QTS) and the completion of teacher induction or teacher probation can be found on GOV.UK.

Childcare disqualification

262. Childcare disqualification is an additional requirement to the general child safeguarding arrangements provided under the Disclosure and Barring Service (DBS) regime, which apply to all children.

263. The childcare disqualification arrangements apply to staff working with young children in childcare settings, including primary schools, nurseries and other registered settings, such as childcare provision on college sites.

264. The arrangements predominantly apply to individuals working with children aged 5 and under, including reception classes, but also apply to those working in wraparound care for children up to the age of 8, such as breakfast clubs and after school care.

265. For staff who work in childcare provision, or who are directly concerned with the management of such provision, employers need to ensure that appropriate checks are carried out to ensure that individuals are not disqualified under the Childcare Disqualification Regulations 2018.

266. 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 statutory guidance Disqualification under the Childcare Act 2006.

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[81] Where employing teachers 16-19 Academies, Special Post-16 institutions and Independent Training Providers should contact employer.access.gov.uk to check that the individual is not prohibited from teaching. They must also obtain an enhanced DBS with barred list information for those working in regulated activity.

[82] 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 prohibition.

Recording information

Single central record

267. Schools and colleges **must**[83] maintain a single central record of pre-appointment checks, referred to in the Regulations[84] as "the register" and more commonly known as "the single central record".

268. The single central record **must** cover the following people:

- **for schools, all** staff, including teacher trainees on salaried routes (see paragraph 295), agency and third-party supply staff, even if they work for one day, (see paragraph 285)
- **for colleges**, details of staff, including agency and supply staff providing education to children under the age of 18, 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.

269. The minimum information that **must** be recorded in respect of staff members (including teacher trainees on salaried routes) is set out below. For agency and third party supply staff, schools and colleges **must** 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, the date this confirmation was received and whether details of any enhanced DBS certificate have been provided in respect of the member of staff.[85]

270. The single central record **must** indicate whether the following checks have been carried out or certificates obtained, and the date on which each check was completed or certificate obtained:

- an identity check, (identification checking guidelines can be found on the GOV.UK website)

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[83] 16-19 Academies, Special Post-16 institutions and Independent Training Providers should maintain a single central record. Information they should record is set out at paragraphs 268-272. As with other schools and colleges they may record the information as set out at paragraphs 273.
[84] Regulations 12(7) and 24(7) and Schedule 2 to the School Staffing (England) Regulations 2009 and the School Staffing (England) (Amendment) Regulations 2013 (applied to 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) Regulations 2014;
Regulations 20-25 and the Schedule to the Further Education (Providers of Education) (England) Regulations 2006; and 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.
[85] Independent schools and non-maintained special schools should also include the date on which any certificate was obtained.

- a standalone children's barred list check[86]
- an enhanced DBS check (with children's barred list check) requested/certificate provided
- a prohibition from teaching check[87]
- further checks on people who have lived or worked outside the UK (see paragraphs 279-284)
- a check of professional qualifications, where required, and,
- a check to establish the person's right to work in the United Kingdom.

In addition:

- colleges[88] **must** record whether the person's position involves 'relevant activity', i.e. regularly caring for, training, supervising or being solely in charge of persons aged under 18, and
- independent schools (including academies and free schools) **must** record details of the section 128 checks undertaken for those in management positions.

271. The details of an individual should be removed from the single central record once they no longer work at the school or college.

Non statutory information

272. Schools and colleges are free to record any other information they deem relevant. For example:

- whether relevant staff have been informed of their duty to disclose relevant information under the childcare disqualification arrangements
- checks made on volunteers
- checks made on governors
- dates on which safeguarding and safer recruitment training was undertaken, and
- the name of the person who carried out each check.

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[86] 16-19 Academies, Special Post-16 institutions and Independent Training Providers can not carry out a separate barred list check and as such, in relation to regulated activity, must always obtain an enhanced DBS with barred list check where required.
[87] There is no requirement for colleges to record this information, however, as part of the funding agreement colleges must have robust record keeping procedures in place.
[88] 16-19 Academies, Special Post-16 institutions and Independent Training Providers are not required to record whether the person's position involves 'relevant activity'. However, these providers should have robust record keeping procedures in place.

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

Multi Academy Trusts (MATS)

274. MATs **must** maintain the single central record detailing checks carried out in each academy within the MAT. Whilst there is no requirement for the MAT to maintain an individual record for each academy, the information should be recorded in such a way that allows for details for each individual academy to be provided separately, and without delay, to those entitled to inspect that information, including by inspectors.

Retention of documents

275. 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 2018, when a school or college chooses to retain a copy, there should be a valid reason for doing so and it should not be kept for longer than six months. When the information is destroyed a school or college may keep a record of the fact that vetting was carried out, the result and the recruitment decision taken if they choose to.

276. Copies of DBS certificates and records of criminal information disclosed by the candidate are covered by UK GDPR/DPA 2018 Article 10.[89] A copy of the other documents used to verify the successful candidate's identity, right to work and required qualifications should be kept on their personnel file.

277. Further information on handling DBS information can be found on GOV.UK.

iii. Other checks that may be necessary for staff, volunteers and others, including the responsibilities on schools and colleges for children in other settings

278. This section sets out other legal requirements i.e. 'must' do or as appropriate 'should' do for individuals who have lived or worked outside the UK; agency and third-party staff; contractors; trainee teachers; volunteers; governors and proprietors. It also sets out responsibilities placed on schools and colleges in relation to other settings, including alternative provision, work experience and host families.

[89] Legislation.gov.uk UK GDPR/DPA 2018 Article 10

Individuals who have lived or worked outside the UK

279. Individuals who have lived or worked outside the UK **must**[90] undergo the same checks as all other staff in schools or colleges (set out in paragraphs 231). This includes obtaining (via the applicant) an enhanced DBS certificate (including children's barred list information, for those who will be engaging in regulated activity) even if the individual has never been to the UK. In addition, schools and colleges **must**[91] make any further checks **they think appropriate** so that any relevant events that occurred outside the UK can be considered. Following the UK's exit from the EU, schools and colleges should apply the same approach for any individuals who have lived or worked outside the UK regardless of whether or not it was in an EEA country or the rest of the world.

These checks **could** include, where available:

- criminal records checks for overseas applicants - Home Office guidance can be found on GOV.UK; and for teaching positions
- obtaining a letter (via the applicant) from the professional regulating authority (this is often the Department/Ministry of Education but varies across the world) in the country (or countries) in which the applicant has worked confirming that they have not imposed any sanctions or restrictions, and or that they are aware of any reason why they may be unsuitable to teach. Applicants can find contact details of regulatory bodies in the EU/EEA and Switzerland on the Regulated Professions database. Whilst the safeguarding and qualified teacher status (QTS) processes are different it is likely that this information will be obtained from the same place therefore applicants can also contact the UK Centre for Professional Qualifications who will signpost them to the appropriate EEA regulatory body.

280. **Where available**, such evidence can be considered together with information obtained through other pre-appointment checks to help assess their suitability.

281. **Where this information is not available** schools and colleges should seek alternative methods of checking suitability and or undertake a risk assessment that supports informed decision making on whether to proceed with the appointment.

282. Although sanctions and restrictions imposed by another 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. Further information can be

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[90] 16-19 Academies, Special Post-16 institutions and Independent Training Providers should ensure individuals undergo the same checks.

[91] 16-19 Academies, Special Post-16 institutions and Independent Training Providers should make any further checks

found in DfE Guidance: Recruit teachers from overseas.

283. Not all countries provide criminal record information, and where they do, the nature and detail of the information provided varies from country to country. Schools and colleges should also be mindful that the criteria for disclosing offences in other countries often have a different threshold than those in the UK. The Home Office provides guidance on criminal records checks for overseas applicants which can be found on GOV.UK.

284. Some overseas qualified teachers can apply to the TRA for the award of qualified teacher status (QTS) in England. More information about this is available here. It is important to note that holding a teaching qualification (wherever it was obtained) does not provide suitable assurances for safeguarding purposes that an individual has not been found guilty of any wrongdoing or misconduct, and or is suitable to work with children.

Agency and third party staff (supply staff)

285. Schools and colleges **must**[92] obtain written notification from any agency, or third party organisation, that they have carried out the checks on an individual who will be working at the school or college that the school or college would otherwise perform.[93] In respect of the enhanced DBS check, schools and colleges **must**[94] ensure that written notification confirms the certificate has been obtained by either the employment business or another such business.

286. Where the agency or organisation has obtained an enhanced DBS certificate before the person is due to begin work at the school or college, which has disclosed any matter or information, or any information was provided to the employment business, the school or college **must**[95] obtain a copy of the certificate from the agency.

287. Where the position requires a children's barred list check, this **must**[96] be obtained

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[92] 16-19 Academies, Special Post-16 institutions and Independent Training Providers should obtain written notification regarding checks when they use agency or third party staff.
[93] 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.
[94] 16-19 Academies, Special Post-16 institutions and Independent Training Providers should ensure that written notification confirms the certificate has been obtained by either the employment business or another such business.
[95] 16-19 Academies, Special Post-16 institutions and Independent Training Providers should obtain a copy of the certificate in such circumstances.
[96] Where using a third party 16-19 Academies, Special Post-16 institutions and Independent Training Providers should ensure a DBS with barred list information is obtained for those engaging in regulated activity.

by the agency or third party by obtaining an enhanced DBS certificate with children's barred list information, prior to appointing the individual.

288. The school or college should also check that the person presenting themselves for work is the same person on whom the checks have been made.

Contractors

289. Where schools and colleges use contractors to provide services, they should set out their safeguarding requirements in the contract between the organisation and the school or college.

290. 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 relating to children will require an enhanced DBS check (including children's barred list information).

291. For all other contractors who are not engaging in regulated activity relating to children, but whose work provides them with an opportunity for regular contact with children, an enhanced DBS check (not including children's barred list information) will be required.[97] In considering whether the contact is regular, it is irrelevant whether the contractor works on a single site or across several sites. In cases where the contractor does not have opportunity for regular contact with children, schools and colleges should decide on whether a basic DBS disclosure would be appropriate.

292. Under no circumstances should a contractor on whom no checks have been obtained be allowed to work unsupervised or engage in regulated activity relating to children. Schools and colleges are responsible for determining the appropriate level of supervision depending on the circumstances.

293. If an individual 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.

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

Trainee/student teachers

295. Where applicants for initial teacher training are salaried by the school or college,

[97] It will only be possible to obtain an enhanced DBS certificate for contractors in colleges which are exclusively or mainly for the provision of full-time education to children.

the school or college **must**[98] ensure that all necessary checks are carried out. If these trainee teachers are engaging in regulated activity relating to children (which in most cases by the nature of the work, they will be), an enhanced DBS check (including children's barred list information) **must**[99] be obtained.

296. Where trainee teachers are fee-funded, it is the responsibility of the initial teacher training provider to carry out the necessary checks. Schools and colleges 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.

297. There is no requirement for the school or college to record details of fee-funded trainees on the single central record. However, schools and colleges may wish to record this information under non statutory information, see paragraph 272.

Visitors

298. Schools and colleges have different types of visitors, those with a professional role i.e. educational psychologists, social workers etc. those connected with the building, grounds maintenance, children's relatives or other visitors attending an activity in school such as a sports day. For visitors provided via a third party see paragraphs 285-288.

299. Schools and colleges should not request DBS checks or barred list checks, or ask to see existing DBS certificates, for visitors such as children's relatives or other visitors attending a sports day.

300. Headteachers and principals should use their professional judgement about the need to escort or supervise such visitors.

301. For visitors who are there in a professional capacity check ID and be assured that the visitor has had the appropriate DBS check (or the visitor's employers have confirmed that their staff have appropriate checks. Schools and colleges should not ask to see the certificate in these circumstances).

302. Whilst external organisations can provide a varied and useful range of information, resources and speakers that can help schools and colleges enrich children's education, careful consideration should be given to the suitability of any external organisations.

303. School and college safeguarding policies should set out the arrangements for individuals coming onto their premises, which may include an assessment of the

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[98] 16-19 Academies, Special Post-16 institutions and Independent Training Providers should ensure all necessary checks are carried out.

[99] 16-19 Academies, Special Post-16 institutions and Independent Training Providers must ensure an enhanced DBS check with barred list information is obtained as per their funding agreement.

education value, the age appropriateness of what is going to be delivered and whether relevant checks will be required.

Volunteers

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

305. Whilst volunteers play an important role and are often seen by children as being safe and trustworthy adults, the nature of voluntary roles varies, so schools and colleges should undertake a written risk assessment and use their professional judgement and experience when deciding what checks, if any, are required.

306. The risk assessment should consider:

- the nature of the work with children, especially if it will constitute regulated activity, including the level of supervision
- 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 their suitability, and
- whether the role is eligible for a DBS check, and if it is, the level of the check, for volunteer roles that are not in regulated activity.

307. Details of the risk assessment should be recorded.[100]

When should a DBS with barred list be obtained for volunteers[101]?

308. Schools or colleges should obtain an enhanced DBS check (which should include children's barred list information) for all volunteers who are new to working in regulated activity with children, i.e. where they are unsupervised and teach or look after children regularly or provide personal care on a one-off basis in schools and colleges. See Annex E for statutory supervision guidance. Employers are not legally permitted to request barred list information on a supervised volunteer, as they are not considered to be engaging in regulated activity.

Supervision of volunteers

309. It is for schools and colleges to determine whether a volunteer is considered to be supervised. Where an individual is supervised, to help determine the appropriate level of

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[100] Schools and colleges are free to determine where to store this information.

[101] The DBS does not charge for checks on volunteers. However, if schools or colleges use an external organistation to carry out the check, there may be an administration charge.

supervision, all schools and colleges[102] **must** have regard to the statutory guidance issued by the Secretary of State (replicated at Annex E).

310. For a person to be considered supervised, the supervision **must** be:

- by a person who is in regulated activity relating to children[103]
- regular and day to day, and
- reasonable in all the circumstances to ensure the protection of children.

Existing volunteers

311. Volunteers do not have to be re-checked if they have already had a DBS check (which should include children's barred list information if engaging in regulated activity). However, if the school or college have any concerns they should consider obtaining a new DBS check- at the level appropriate to the volunteering role.

Maintained school governors

312. Governors in maintained schools are required to have an enhanced DBS check.[104] It is the responsibility of the governing body to apply for the certificate for any governors who do not already have one.

313. Governance is not a regulated activity relating to children, so governors do not need a children's barred list check unless, in addition to their governance duties, they also engage in regulated activity.

314. Schools should also carry out a section 128 check for school governors, because a person prevented from participating in the management of an independent school by a section 128 direction, is also disqualified from being a governor of a maintained school. Using the free Employer Secure Access sign-in portal via the TRA Teacher Services web page, schools can check if a person they propose to recruit as a governor is barred as a result of being subject to a section 128 direction. There is no requirement for schools to record this information on the single central record, but they can if they chose to.

315. Associate members are appointed by the governing body to serve on one or more governing body committees. The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016 which make enhanced DBS checks mandatory for maintained school governors do not apply to associate members, and so

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[102] This also applies to 16-19 Academies, Special Post-16 institutions and Independent Training Providers
[103] 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.
[104] The School Governance (Constitution) (England) Regulations 2012 were amended by the School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016 to include this requirement.

there is no requirement for them to be checked unless they also engage in regulated activity at their school.

Sixth form college governors

316. Governing bodies in sixth form colleges can request an enhanced DBS check without a children's barred list check.

317. An enhanced DBS check with children's barred list information should only be requested if the governor will be engaging in regulated activity relating to children.

Proprietors of independent schools, including academies and free schools and proprietors of alternative provision academies[105]

318. 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:[106] [107]

- carry out an enhanced DBS check; and where such a check is made, obtain an enhanced DBS certificate (either including or not including children's barred list information as appropriate)[108]
- confirm the individual's identity, and
- if the individual lives or has lived outside of the UK, where applying for an enhanced check is insufficient, such other checks as the Secretary of State considers appropriate.

319. The Secretary of State also undertakes these checks in respect of the chair of governing bodies of non-maintained special schools.[109]

320. 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.[110]

321. Where the proprietor is a body of people (including a governing body in an

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[105] The proprietor of an academy or free school or alternative provision academy or free school is the academy trust.
[106] Paragraph 20 of the Schedule to the Education (Independent Schools Standards) Regulation 2014.
[107] This will include an academy trust of any academy or free school, other than for 16-19 academies or free schools.
[108] Regulation 2(5) of the Education (Independent School Standards) Regulations 2014 sets out when such checks are considered relevant.
[109] Paragraphs 6 and 17 of the Schedule to The Non-Maintained Special Schools (England) Regulations 2015.
[110] Paragraph 20(7) of the Schedule to the Education (Independent School Standards) Regulations 2014.

academy or free school), the chair **must** ensure that enhanced DBS checks are undertaken, for the other members of the body, and that where such a check has been undertaken, an enhanced DBS certificate is obtained, and the chair **must** ensure that identity checks are completed before, or as soon as practicable after, any individual takes up their position.

322. 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).

323. 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 check is not sufficient to establish an individual's suitability to work in a school.

324. 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.[111] Academy trusts, including those established to run a free school, have the same responsibilities as all independent schools in relation to requesting enhanced DBS checks for permanent and supply staff.[112]

325. Where an academy trust delegates responsibilities to any delegate or committee (including a local governing body), the trust **must** require an enhanced DBS check on all delegates and all members of such committees.[113] Academy trusts **must** also check that members are not disqualified from taking part in the management of the school as a result of a section 128 direction.

Alternative provision

326. 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.

327. Schools should obtain written confirmation from the alternative provision 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.

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[111] As required in the Academy Trust Handbook which academy trusts must comply with as a condition of their funding agreement.
[112] The Education (Independent School Standards) Regulations 2014. The regulations do not apply to 16-19 free schools and academies.
[113] As required in the Academy Trust Handbook. which academy trusts must comply with as a condition of their funding agreement.

Adults who supervise children on work experience

328. Schools and colleges organising work experience placements should ensure that the placement provider has policies and procedures in place to protect children from harm.[114]

329. Children's barred list checks via the DBS might be required on some people who supervise a child under the age of 16 on a work experience placement.[115] 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.

330. These considerations would include whether the person providing the teaching/training/instruction/supervision 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).

331. 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 relating to children. 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.

332. Schools and colleges are not able to request that an employer obtains an enhanced DBS check with children's barred list information for staff supervising children aged 16 to 17 on work experience.[116]

333. If the activity undertaken by the child on work experience takes place in a 'specified place[117]', such as a school or sixth form college, and gives the opportunity for contact with children, this may itself be considered to be regulated activity relating to children. In these cases, and where the child doing the work experience is 16 years of age or over, the work experience provider e.g. school or sixth form college should consider whether a DBS enhanced check should be requested for the child in question.

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[114] Guidance on work experience.
[115] Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, which came into force on 10 September 2012.
[116] 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.
[117] See page 8 of DBS guidance: Regulated activity with children England which can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/739154/Regulated_Activity_with_Children_in_England.pdf

DBS checks cannot be requested for children under the age of 16.[118]

Children staying with host families (homestay)

334. Schools and colleges quite often make arrangements for their children receiving education at their institution 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 D for further details).

335. In some circumstances the arrangement where children stay with UK families could amount to "private fostering" under the Children Act 1989.

Private fostering - LA notification when identified

336. Private fostering[119] occurs when a child under the age of 16 (under 18 for children with a disability) 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.

337. 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. Such arrangements may come to the attention of school and college staff through the normal course of their interaction, and promotion of learning activities, with children.

338. Where the arrangements come to the attention of the school or college (and the school or college is not involved in the arrangements), they should then notify the local authority to allow the local authority to check the arrangement is suitable and safe for the child. Schools and colleges who are involved (whether or not directly) in arranging for a child to be fostered privately **must** notify local authorities of the arrangement as soon as possible after the arrangement has been made. Notifications **must** contain the information specified in Schedule 1 of The Children (Private Arrangements for Fostering) Regulations 2005 and **must** be made in writing.

339. Comprehensive guidance on private fostering can be found here: Private fostering: local authorities.

DBS Guidance leaflets

[118] Under the Police Act 1997, an individual must be 16 or over to be able to make an application for a DBS check.

[119] Part 9 of the Children Act 1989 (legislation.gov.uk).

iv. How to ensure the ongoing safeguarding of children and the legal reporting duties on employers

340. This section explains the importance of safeguarding vigilance beyond the recruitment process and as part of the whole school or college approach to safeguarding.

341. Safer recruitment is not just about carrying out the right DBS checks. Similarly safeguarding should not be limited to recruitment procedures. Good safeguarding requires a continuing commitment from governing bodies, proprietors, and all staff to ensure the safety and welfare of children is embedded in all of the organisation's processes and procedures, and consequentially enshrined in its ethos. See Parts one and two of this guidance for information about providing a coordinated whole school and college approach to safeguarding.

Ongoing vigilance

342. Governing bodies and proprietors should ensure they have processes in place for continuous vigilance, maintaining an environment that deters and prevents abuse and challenges inappropriate behaviour.

343. To support this, it is important that school and college leaders create the right culture and environment so that staff feel comfortable to discuss matters both within, and where it is appropriate, outside of the workplace, which may have implications for the safeguarding of children. As set out in Part one, Part two and Part four of this guidance it is important that all staff understand the process and procedures to follow if they have a safeguarding concern about another staff member. This can assist employers to support staff, where there is a need, and help them manage children's safety and welfare, potentially providing them with information that will help them consider whether there are further measures or changes to procedures that need to be put in place to safeguard children in their care.

Existing staff

344. There are limited circumstances where schools and colleges will need to carry out new checks on existing staff. These are when:

- an individual working at the school or college moves from a post that was not regulated activity with children into work which is considered to be regulated activity with children. In such circumstances, the relevant checks for that regulated activity **must**[120] be carried out

[120] This also applies to 16-19 Academies, Special Post-16 institutions and Independent Training Providers.

- there has been a break in service of 12 weeks or more, or
- there are concerns about an individual's suitability to work with children.

345. For colleges, an individual moving from a position that did not involve the provision of education to one that does, **must** be treated as if that individual were a new member of staff and all required pre-appointment checks **must**[121] be carried out (see paragraph 231).

Duty to refer to the Disclosure and Barring Service

346. When an allegation is made (see Part four), an investigation should be carried out to gather enough evidence to establish if it has foundation, and employers should ensure they have sufficient information to meet the referral duty criteria explained in the DBS referral guidance, which can be found on GOV.UK.

347. There is a legal requirement for schools and colleges[122] to make a referral to the DBS where they remove an individual from regulated activity (or would have removed an individual had they not left), and they believe the individual has:

- engaged in relevant conduct in relation to children and/or adults, and/or
- satisfied the harm test in relation to children and/or vulnerable adults, and/or
- been cautioned or convicted of a relevant (automatic barring either with or without the right to make representations) offence.

348. The DBS will consider whether to bar the person. Detailed guidance on when to refer to the DBS (including what is the harm test and relevant conduct), and what information **must** be provided, can be found on GOV.UK.

349. Referrals should be made as soon as possible, when an individual is removed from regulated activity. This could include when an individual is suspended, redeployed to work that is not regulated activity, dismissed or when they have resigned. It is important that as much relevant information is provided to the DBS as possible, as it relies on the quality of information provided by the school or college when considering the referral made. them.

Duty to consider referral to the Teaching Regulation Agency

350. Where a school, sixth form college or 16-19 academy 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

[121] This also applies to 16-19 Academies, Special Post-16 institutions and Independent Training Providers.
[122] This also applies to 16-19 Academies, Special Post-16 institutions and Independent Training Providers.

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.

351. The Secretary of State may investigate the case, and if there is a case to answer, **must** then decide whether to make a prohibition order in respect of the person.[123] Details about how to make a referral to the TRA can be found on GOV.UK.

[123] Sections 141D and 141E of the Education Act 2002 do not apply to colleges (other than sixth form colleges).

Part four: Safeguarding concerns and allegations made about staff, including supply teachers, volunteers and contractors

352. Schools and colleges should have their own procedures for dealing with safeguarding concerns or allegations against those working in or on behalf of schools and colleges in a paid or unpaid capacity, this includes, members of staff, supply teachers, volunteers and contractors.

353. This part of the guidance has two sections covering the two levels of allegation/concern:

1. Allegations that **may** meet the harm threshold.
2. Allegations/concerns that **do not** meet the harm threshold – referred to for the purposes of this guidance as 'low-level concerns'.

354. These procedures should be consistent with local safeguarding procedures and practice guidance.

Section one: Allegations that may meet the harm threshold

355. This part of the guidance is about managing cases of allegations that might indicate a person would pose a risk of harm[124] if they continue to work in their present position, or in any capacity with children in a school or college. This guidance should be followed where it is alleged that anyone working in the school or a college that provides education for children under 18 years of age, including supply teachers, volunteers and contractors has:

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

356. The last bullet point above includes behaviour that may have happened outside of school or college, that might make an individual unsuitable to work with children, this is

[124] The harm test is explained in the Disclosure and Barring service Guidance: Making barring referrals to the DBS. and Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002

known as transferable risk.

357. Where appropriate an assessment of transferable risk to children with whom the person works should be undertaken. If in doubt seek advice from the local authority designated officer (LADO).

358. It is important that policies and procedures make clear to whom allegations should be reported (as set out at paragraph 72) and that this should be done without delay. A "case manager" will lead any investigation. This will be either the headteacher or principal, or, where the headteacher is the subject of an allegation, the chair of governors or chair of the management committee and in an independent school it will be the proprietor.

The initial response to an allegation

359. Where the school or college identify a child has been harmed, that there may be an immediate risk of harm to a child or if the situation is an emergency, they should contact local authority children's social care and as appropriate the police immediately as per the processes explained in Part one of this guidance.

360. There are two aspects to consider when an allegation is made:

- **Looking after the welfare of the child** - the designated safeguarding lead (or deputy) is responsible for ensuring that the child is not at risk and referring cases of suspected abuse to the local authority children's social care as described in Part one of this guidance.
- **Investigating and supporting the person subject to the allegation** - the case manager should discuss with the LADO, the nature, content and context of the allegation, and agree a course of action.

361. When dealing with allegations, schools and colleges should:

- apply common sense and judgement
- deal with allegations quickly, fairly and consistently, and
- provide effective protection for the child and support the person subject to the allegation.

362. Schools and colleges should ensure they understand the local authority arrangements for managing allegations, including the contact details and what information the LADO will require when an allegation is made. Before contacting the LADO, schools and colleges should conduct basic enquiries in line with local procedures to establish the facts and to help them determine whether there is any foundation to the allegation, being careful not to jeopardise any future police investigation. For example:

- was the individual in the school or college at the time of the allegations

- did the individual, or could the individual have come into contact with the child
- are there any witnesses, and
- was there any CCTV footage?

363. These are just a sample of example questions. Schools and colleges should be familiar with what initial information the LADO will require. This information can be found in local policy and procedural guidance provided by the LADO service.

364. When to inform the individual of the allegation should be considered carefully on a case-by-case basis, with guidance as required from the LADO, and if appropriate local authority children's social care and the police.

365. If there is cause to suspect a child is suffering, or is likely to suffer significant harm, a strategy discussion involving the police and/or local authority children's social care will be convened in accordance with the statutory guidance Working Together to Safeguard Children. If the allegation is about physical contact, for example restraint, the strategy discussion[125] or initial evaluation with the LADO 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. Further information about the use of reasonable force can be found at paragraphs 162-164 in Part Two of this guidance and on GOV.UK.

366. Where the case manager is concerned about the welfare of other children in the community or the member of staff's family, they should discuss these concerns with the designated safeguarding lead (or deputy) and make a risk assessment of the situation. It may be necessary for the designated safeguarding lead to make a referral to local authority children's social care.

367. Where it is clear that an investigation by the police or local authority children's social care is unnecessary, or the strategy discussion or initial assessment decides that is the case, the LADO should discuss the next steps with the case manager.

No further action

368. Where the initial discussion leads to no further action, the case manager and the LADO should:

- record the decision and justification for it, and
- agree on what information should be put in writing to the individual concerned and by whom.

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[125] The purpose of a strategy discussion and those likely to be involved is described in Working Together to Safeguard Children

Further enquiries

369. Where further enquiries are required to enable a decision about how to proceed, the LADO and case manager should discuss how and by whom the investigation will be undertaken. The LADO will provide advice and guidance to schools and colleges when considering allegations against adults working with children. The LADO's role is not to investigate the allegation, but to ensure that an appropriate investigation is carried out, whether that is by the police, local authority children's social care, the school or college, or a combination of these. In straightforward cases, the investigation should normally be undertaken by a senior member of the school's or college's staff.

370. Where there is a lack of appropriate resource within the school or college, or the nature or complexity of the allegation requires it, the allegation will require an independent investigator. Many local authorities provide for an independent investigation of allegations for schools that are maintained by the local authority, often as part of the HR/personnel services that schools and colleges can buy in from the authority. It is important that local authorities ensure that schools and colleges in that area have access to an affordable facility for independent investigation where that is appropriate. Colleges, academies and independent schools should also ensure they secure the services of a person who is independent of the school or college.

371. The case manager should monitor the progress of cases to ensure that they are dealt with as quickly as possible in a thorough and fair process. Wherever possible, the first review should take place no later than four weeks after the initial assessment.

372. Dates for subsequent reviews, ideally at fortnightly (and no longer than monthly) intervals, should be set at the review meeting if the investigation continues.

Supply teachers and all contracted staff

373. In some circumstances schools and colleges will have to consider an allegation against an individual not directly employed by them, where its disciplinary procedures do not fully apply because agencies will have their own policies and procedures; for example, supply teachers or contracted staff provided by an employment agency or business.

374. Whilst schools and colleges are not the employer of supply teachers, they should ensure allegations are dealt with properly. **In no circumstances** should a school or college decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the LADO to determine a suitable outcome. Governing bodies and proprietors should discuss with the supply agency or agencies where the supply teacher is working across a number of schools of colleges, whether it is appropriate to suspend the supply teacher, or redeploy them to another part of the school or college, whilst they carry out their investigation.

375. Agencies should be fully involved and co-operate with any enquiries from the

LADO, police and/or local authority children's social care. The school or college will usually take the lead because agencies do not have direct access to children or other school or college staff, so they will not be able to collect the facts when an allegation is made, nor do they have all the relevant information required by the LADO as part of the referral process. Supply teachers, whilst not employed by the school or college, are under the supervision, direction and control of the governing body or proprietor when working in the school or college. They should be advised to contact their trade union representative if they have one, or a colleague for support. The allegations management meeting which is often arranged by the LADO should address issues such as information sharing, to ensure that any previous concerns or allegations known to the agency or agencies are considered by the school or college during the investigation.

376. When using a supply agency, schools and colleges should inform the agency of the process for managing allegations but also take account of the agency's policies and the duty placed on agencies to refer to the DBS as personnel suppliers. This should include inviting the agency's human resource manager or equivalent to meetings and keeping them up to date with information about its policies.

Governors

377. If an allegation is made against a governor, schools and colleges should follow their own local procedures. Where an allegation is substantiated, they should follow the procedures to consider removing them from office.

Suspension

378. 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. The case manager **must** consider carefully whether the circumstances warrant suspension from contact with children at the school or college, until the allegation is resolved. It should be considered only in cases 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 there might be grounds for dismissal. If in doubt, the case manager should seek views from their personnel adviser and the LADO, as well as the police and local authority children's social care where they have been involved.

379. Where a school or sixth form college is made aware that the Secretary of State has made an interim prohibition order, in respect of an individual who works at a school or sixth form college, they should take immediate action to ensure the individual does not carry out work in contravention of the order. This means that pending the findings of the TRA investigation, the individual **must not** carry out teaching work. School and colleges should have clear policies on pay arrangements whilst the person is suspended or where there is an interim prohibition order in place.

380. In many cases, an inquiry can be resolved quickly and without the need for

suspension. The employer will decide on whether the individual should continue to work at the school or college, based on consultation with the LADO who will provide relevant information received from the police or local authority children's social care on whether they have any objections to the member of staff continuing to work during the investigation of the case.

381. Based on advice from the school or college's HR provider and/or a risk analysis drawn up with the LADO, 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, but this decision should only be made if it is in the best interest of the child or children concerned and takes accounts of their views. It should be made 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 where available, work for the local authority or academy trust.

382. These alternatives allow time for an informed decision regarding the suspension, 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 unfounded, unsubstantiated, malicious, or false.

383. If immediate suspension is considered necessary, the case manager should record the rationale and justification for such a course of action. This should also include what alternatives to suspension have been considered and why they were rejected.

384. Where it has been deemed appropriate to suspend the person, written confirmation should be given 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.

385. Local authority children's social care or the police may give their view to the LADO but they cannot require the case manager to suspend a member of staff or the removal of a volunteer, although the case manager should give appropriate weight to their views.

The power to suspend is vested in the governing body or proprietor who are the employers. However, where a strategy discussion, or initial assessment, concludes that there should be enquiries by local authority children's social care, and/or an investigation by the police, the LADO should canvass police and local authority children's social care for views about whether the accused member of staff should be suspended from contact with children. 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 about whether the person poses a risk of harm to children.

Supporting those involved

Duty of care

386. The welfare of a child is paramount (how children should be protected and supported is set out throughout this guidance) and this will be the prime concern in terms of investigating an allegation against a person in a position of trust. However, when an allegation or safeguarding concern is being investigated it is likely to be a very stressful experience for the adult subject to the investigation, and potentially for their family members. It is important that an employer offers appropriate welfare support at such a time and recognises the sensitivity of the situation. Information is confidential and should not ordinarily be shared with other staff or with children or parents who are not directly involved in the investigation.

387. Employers have a duty of care to their employees. They should:

- manage and minimise the stress caused by the allegation
- inform the individual as soon as possible, explaining the likely course of action, guided by the LADO, and the police where necessary
- advise the individual to contact their trade union representative, or a colleague for support
- appoint a named representative to keep the person informed about the progress of the case
- provide access to counselling or medical advice where appropriate. For staff in schools maintained by the local authority this may include support via the local authority's occupational health arrangements, and,
- not prevent social contact with work colleagues and friends, when staff are suspended, unless there is evidence to suggest this may prejudice the gathering of evidence.

388. Parents or carers of the child or children involved should be:

- formally told about the allegation as soon as possible.[126] The case manager should consult the LADO and where involved local authority children's social care and/or the police on what information can be disclosed
- kept informed about the progress of the case, only in relation to their child - no information can be shared regarding the staff member, and,
- made aware of the requirement to maintain confidentiality and unwanted publicity about any allegations made against teachers in schools whilst investigations are in progress as set out in section 141F of the Education Act 2002.

Confidentiality and Information sharing

389. In an allegations management meeting or during the initial assessment 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, see paragraphs 114-122 in Part two about information sharing.

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

391. Local authority children's social care 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.

392. The school and college **must** make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 amended the Education Act 2002, to introduce reporting restrictions. These provisions made it an offence (except in the limited circumstance expressly permitted by the legislation), for any person to publish any material that may lead to the identification of a teacher in a school[127] who has been accused by, or on behalf of, a child from the same school (where that identification would identify the teacher as the subject of the allegation).

393. The reporting restrictions apply until:

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[126] In deciding what information is disclosed, careful consideration should be given to the provisions of the Data Protection Act 2018, the law of confidence and, where relevant, the Human Rights Act 1998.
[127] Section 141F of the Education Act 2002 only applies to teachers in schools does not apply to colleges.

- the point that the accused person is charged with a relevant offence, or
- the Secretary of State[128] or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation.

394. 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 court lifts the reporting restrictions in response to a request to do so.

395. The legislation prevents the "publication" of material by any person that may lead to the identification of the teacher who is the subject of the allegation. "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). In circumstances where schools need to make parents aware about an allegation, they should make parents and others aware that there are restrictions on publishing information.

396. 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 wish 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.

397. The case manager should take advice from the LADO, the police and local authority children's social care to agree the following:

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

Allegation outcomes

398. The definitions that should be used when schools and colleges determine the

[128] Carried out by the Teaching Regulation Agency.

outcome of an allegation are set out below:

- **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 or cause harm to the person subject of the allegation
- **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, or
- **Unfounded**: to reflect cases where there is no evidence or proper basis which supports the allegation being made.

399. Ultimately the options open to the school or college depend on the nature and circumstances of the allegations 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.

400. If the allegation is substantiated and:

- the person is dismissed; resigns, or otherwise ceases to provide his or her services, or
- the employer ceases to use the person's services.

401. In the case of a member of teaching staff at any school, sixth form college, or 16-19 academy the case manager **must** consider whether to refer the matter to the TRA to consider whether the individual should be prohibited from teaching (paragraph 350 for further information).[129]

402. There is a **legal requirement** for employers to make a referral[130] to the DBS where they consider 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 (paragraph 346 for further information).

Following a criminal investigation or a prosecution

403. The police should inform the LADO and the employer immediately when:

- a criminal investigation and any subsequent trial is complete
- it is decided to close an investigation without charge, or

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[129] Teacher Regulation Agency – guidance on Referrals to the TRA
[130] Disclosure and Barring Service – guidance on Referrals to the DBS.

- it is decided not to continue to prosecute after the person has been charged.

404. In those circumstances, during the joint assessment meeting the LADO 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 local authority children's social care should also inform that decision. The options will depend on the circumstances of the case and the consideration should 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.

Unsubstantiated, unfounded, false or malicious allegations

405. If an allegation is determined to be unsubstantiated, unfounded, false or malicious, the LADO and the case manager should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to local authority children's social care may be appropriate.

406. If an allegation is shown to be deliberately invented or malicious, the school or college, should consider whether any disciplinary action is appropriate against the individual who made it as per their own behaviour policy.

Returning to work

407. 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. Guidance and advice are usually provided via HR or the LADO. 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 attending the school or college.

Managing the situation and exit arrangements

Resignations and 'settlement agreements'

408. '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, where there are allegations that indicate the person is a risk or poses a risk of harm to children or deemed not suitable to work with children. Such an agreement will not prevent a thorough police and/or school or college investigation where that is appropriate.

409. Schools and colleges should not cease their investigations if the person leaves, resigns or ceases to provide their services. 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.

410. Wherever possible, the accused should be given full opportunity to answer the allegation and make representations about it. The process of recording the allegation and any supporting evidence and reaching a judgement about whether it can be substantiated or otherwise on the basis of all the information available, should continue even if 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 an outcome wherever possible. The person concerned should be notified of the conclusion of the allegations and sanctions that might be posed.

411. Other than where allegations are false, malicious, unsubstantiated, or unfounded, the outcome should be made clear when providing references to prospective employers. This is particularly important where the person moves into another position involving working with children.

412. It is not appropriate to reach a settlement/compromise agreement if the person subject to the allegation resigns or their services cease to be used. However, in limited circumstances schools and colleges sometimes use settlement agreements to end the employment relationship on agreed terms, but not where there is an allegation that the individual poses a risk to children.

413. Where a settlement/compromise agreement is used, schools and colleges should not let it prevent the employer from:

- fulfilling their legal duty to refer cases to the DBS where the referral criteria are met – see paragraph 346. Non-compliance of this duty is a criminal offence, or
- providing a reference to potential employers when requested, or
- considering whether to make a referral to the TRA where the criteria are met - see paragraph 350.

Record keeping

414. Details of allegations following an investigation that are found to have been malicious or false should be removed from personnel records, unless the individual gives their consent for retention of the information. However, for all other allegations, i.e. substantiated, unfounded and unsubstantiated it is important that the following information is kept on the file of the person accused:

- a clear and comprehensive summary of the allegation

- details of how the allegation was followed up and resolved
- a note of any action taken, decisions reached and the outcome i.e substantiated, unfounded or unsubstantiated
- a copy provided to the person concerned, where agreed by local authority children's social care or the police, and
- a declaration on whether the information will be referred to in any future reference.

415. The purpose of the record is to enable accurate information to be given in response to any future request for a reference. 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.

416. Schools and colleges have an obligation to preserve records which contain information about allegations of sexual abuse for the Independent Inquiry into Child Sexual Abuse (IICSA), for the term of the inquiry (further information can be found on the IICSA website). All other records 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.

417. 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.

References

418. Cases in which an allegation was found to be false, unfounded, unsubstantiated or malicious should not be included in employer references. Any repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious should also not be included in any reference. See paragraph 221 for further information on references. Substantiated allegations should be included in references, provided that the information is factual and does not include opinions.

Learning lessons

419. Throughout the process in handling allegations and at conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school's or college's procedures to help prevent similar events in the future. This should include issues arising from any 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 LADO and case manager should consider how future investigations of a similar

nature could be carried out without suspending the individual.

420. For all other cases, where the allegation concluded to be either, unfounded, false, malicious or unsubstantiated the case manager (and if they have been involved the LADO) should consider the facts and determine whether any lessons can be learned and if improvements can be made.

Non recent allegations

421. Where an adult makes an allegation to a school or college that they were abused as a child, the individual should be advised to report the allegation to the police. Non recent allegations made by a child, should be reported to the LADO in line with the local authority's procedures for dealing with non-recent allegations. The LADO will coordinate with local authority children social care and the police. Abuse can be reported no matter how long ago it happened.

Section Two: Concerns and or allegations that do not meet the harm threshold

422. Governing bodies and proprietors should have policies and processes to deal with any concerns (including allegations) which **do not** meet the harm threshold, referred to in this guidance as 'low-level' concerns. It is important that schools and colleges have appropriate policies and processes in place to manage and record any such concerns and take appropriate action to safeguard children.

Low-level concerns

423. As part of their whole school or college approach to safeguarding, schools and colleges should ensure that they promote an open and transparent culture in which **all** concerns about all adults working in or on behalf of the school or college (including supply teachers, volunteers and contractors) are dealt with promptly and appropriately.

424. Creating a culture in which **all** concerns about adults are shared responsibly and with the right person, recorded and dealt with appropriately, is critical. If implemented correctly, this should:

- encourage an open and transparent culture
- enable schools and colleges to identify inappropriate, problematic or concerning behaviour early
- minimise the risk of abuse, and

- ensure that adults working in or on behalf of the school or college are clear about professional boundaries and act within these boundaries, and in accordance with the ethos and values of the institution.

What is a low-level concern?

425. The term 'low-level' concern does not mean that it is insignificant. A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the school or college may have acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work and
- does not meet the harm threshold or is otherwise not serious enough to consider a referral to the LADO.

Examples of such behaviour could include, but are not limited to:

- being over friendly with children
- having favourites
- taking photographs of children on their mobile phone, contrary to school policy
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door, or
- humiliating pupils.

426. Such behaviour can exist on a wide spectrum, from the inadvertent or thoughtless, or behaviour that may look to be inappropriate, but might not be in specific circumstances, through to that which is ultimately intended to enable abuse.

427. Low-level concerns may arise in several ways and from a number of sources. For example: suspicion; complaint; or disclosure made by a child, parent or other adult within or outside of the organisation; or as a result of vetting checks undertaken.

428. It is crucial that all low-level concerns are shared responsibly with the right person, and recorded and dealt with appropriately. Ensuring they are dealt with effectively should also protect those working in or on behalf of schools and colleges from becoming the subject of potential false low-level concerns or misunderstandings.

Staff code of conduct and safeguarding policies

429. As good practice governing bodies and proprietors should set out their low-level concerns policy within their staff code of conduct and safeguarding policies as set out in Part two of this guidance. They should make it clear what a low-level concern is and the importance of sharing low-level concerns, and an explanation of what the purpose of the policy is – i.e. to create and embed a culture of openness, trust and transparency in

which the school's or college's values and expected behaviour set out in the staff code of conduct are lived, monitored and reinforced constantly by all staff.

430. As set out in Part two of this guidance, the governing body or proprietor should ensure their staff code of conduct, behaviour policies and safeguarding policies and procedures are implemented effectively, and ensure that appropriate action is taken in a timely manner to safeguard children and facilitate a whole school or college approach to dealing with **any** concerns.

431. Schools and colleges can achieve the purpose of their low-level concerns policy by:

- ensuring their staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from inappropriate, problematic or concerning behaviour, in themselves and others
- empowering staff to share any low-level safeguarding concerns (see below)
- addressing unprofessional behaviour and supporting the individual to correct it at an early stage
- handling and responding to such concerns sensitively and proportionately when they are raised, and
- helping identify any weakness in the school or colleges safeguarding system.

Sharing low-level concerns

432. Schools and colleges should ensure that their low-level concerns policy contains a procedure for sharing confidentially such concerns which is clear, easy to understand and implement. Whether all low-level concerns are shared initially with the DSL (or a nominated person (such as a values guardian/safeguarding champion)), or with the headteacher/principal is a matter for the school or college to decide. If the former, then the DSL should inform the headteacher/principal of all the low-level concerns and in a timely fashion according to the nature of each particular low-level concern. The headteacher/principal should be the ultimate decision maker in respect of all low-level concerns, although it is recognised that depending on the nature of some low-level concerns and/or the role of the DSL in some schools/colleges, the headteacher/principal may wish to consult with the DSL and take a more collaborative decision making approach.

433. Low-level concerns which are shared about supply staff and contractors should be notified to their employers, so that any potential patterns of inappropriate behaviour can be identified.

434. If schools and colleges are in any doubt as to whether the information which has been shared about a member of staff as a low-level concern in fact meets the harm threshold, they should consult with their LADO.

435. Schools and colleges should ensure they create an environment where staff are encouraged and feel confident to self-refer, where, for example, they have found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe they have behaved in such a way that they consider falls below the expected professional standards.

Recording low-level concerns

436. All low-level concerns should be recorded in writing. The record should include details of the concern, the context in which the concern arose, and action taken. The name of the individual sharing their concerns should also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible.

437. Schools and colleges can decide where these records are kept, but they must be kept confidential, held securely and comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR).

438. Records should be reviewed so that potential patterns of concerning, inappropriate, problematic or concerning behaviour can be identified. Where a pattern of such behaviour is identified, the school or college should decide on a course of action, either through its disciplinary procedures or where a pattern of behaviour moves from a low-level concern to meeting the harm threshold, in which case it should be referred to the LADO (as per Part four, Section one). Consideration should also be given to whether there are wider cultural issues within the school or college that enabled the behaviour to occur and where appropriate policies could be revised, or extra training delivered to minimise the risk of it happening again.

439. It is for schools and colleges to decide how long they retain such information, but it is recommended that it is retained at least until the individual leaves their employment.

References

440. Part three of this guidance is clear that schools and colleges should only provide substantiated safeguarding concerns/allegations that meet the harm threshold in references. Low-level concerns should not be included in references unless they relate to issues which would normally be included in a reference, for example, misconduct or poor performance. It follows that a low-level concern which relates exclusively to safeguarding (and not to misconduct or poor performance) should not be referred to in a reference. However, where a low-level concern (or group of concerns) meets the harm threshold for referral to the LADO and found to be substantiated, it should be referred to in a reference.

Responding to low-level concerns

441. The school or college low-level concerns policy should set out the procedure for

responding to reports of low-level concerns. If the concern has been raised via a third party, the headteacher/principal (or a nominated deputy) should collect as much evidence as possible by speaking:

- directly to the person who raised the concern, unless it has been raised anonymously, and
- to the individual involved and any witnesses.

442. The information collected will help them to categorise the type of behaviour and determine what further action may need to be taken. This information needs to be recorded in writing along with the rationale for their decisions and action taken.

443. A good low-level concerns policy will simply be a reflection and extension of the school's or college's wider staff behaviour policy/code of conduct.

444. More detailed guidance and case studies on low-level concerns can be found in Developing and implementing a low-level concerns policy (farrer.co.uk).

Part five: Child-on-child sexual violence and sexual harassment

445. This part of the statutory guidance is about how schools and colleges **should respond to all signs, reports and concerns** of child-on-child sexual violence and sexual harassment, including those that have happened outside of the school or college premises, and/or online (what to look out for and indicators of abuse are set out in Part one of this guidance). As set out in Part one of this guidance, all staff working with children are advised to maintain an attitude of **'it could happen here'**, and this is especially important when considering child-on-child abuse.

What schools and colleges should be aware of

446. Sexual violence and sexual harassment can occur between two or more children of any age and sex, from primary through to secondary stage and into college. It can occur also through a group of children sexually assaulting or sexually harassing a single child or group of children. Sexual violence and sexual harassment exist on a continuum and may overlap; they can occur online and face-to-face (both physically and verbally) and are never acceptable. Schools and colleges should be aware of the importance of:

- making clear that there is a **zero-tolerance** approach to sexual violence and sexual harassment, that it is never acceptable, and it will not be tolerated. It should **never** be passed off as "banter", "just having a laugh", "a part of growing up" or "boys being boys". Failure to do so can lead to a culture of unacceptable behaviour, an unsafe environment and in worst case scenarios a culture that normalises abuse, leading to children accepting it as normal and not coming forward to report it.
- recognising, acknowledging, and understanding the scale of harassment and abuse and that even if there are no reports it does not mean it is not happening, it may be the case that it is just not being reported.
- challenging physical behaviour (potentially criminal in nature) such as grabbing bottoms, breasts and genitalia, pulling down trousers, flicking bras and lifting up skirts. Dismissing or tolerating such behaviours risks normalising them.

447. Children who are victims of sexual violence and sexual harassment wherever it happens, may find the experience stressful and distressing. This will, in all likelihood, adversely affect their educational attainment and will be exacerbated if the alleged perpetrator(s) attends the same school or college.

448. Whilst **any** report of sexual violence or sexual harassment should be taken seriously, staff should be aware it is more likely that girls will be the victims of sexual violence and sexual harassment and more likely it will be perpetrated by boys. Children

with special educational needs and disabilities (SEND) are also three times more likely to be abused than their peers.[131]

449. Ultimately, it is essential that all victims are reassured that they are being taken seriously and that they will be supported and kept safe.

Sexual violence

450. It is important that schools and colleges are aware of sexual violence and the fact children can, and sometimes do, abuse other children in this way and that it **can happen both inside and outside of school/college.** When referring to sexual violence in this advice, we do so in the context of child-on-child sexual violence.

When referring to sexual violence we are referring to sexual offences under the Sexual Offences Act 2003[132] as described below:

Rape: A person (A) commits an offence of rape if: he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, B does not consent to the penetration and A does not reasonably believe that B consents.

Assault by Penetration: A person (A) commits an offence if: s/he intentionally penetrates the vagina or anus of another person (B) with a part of her/his body or anything else, the penetration is sexual, B does not consent to the penetration and A does not reasonably believe that B consents.

Sexual Assault: A person (A) commits an offence of sexual assault if: s/he intentionally touches another person (B), the touching is sexual, B does not consent to the touching and A does not reasonably believe that B consents. (NOTE- Schools and colleges should be aware that sexual assault covers a very wide range of behaviour so a single act of kissing someone without consent, or touching someone's bottom/breasts/genitalia without consent, can still constitute sexual assault.)

Causing someone to engage in sexual activity without consent: A person (A) commits an offence if: s/he intentionally causes another person (B) to engage in an activity, the activity is sexual, B does not consent to engaging in the activity, and A does not reasonably believe that B consents. (NOTE – this could include forcing someone to strip, touch themselves sexually, or to engage in sexual activity with a third party.)

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[131] 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.
[132] Sexual Offences Act 2003 (Legislation.gov.uk).

What is consent?[133] Consent is about having the freedom and capacity to choose. Consent to sexual activity may be given to one sort of sexual activity but not another, e.g.to vaginal but not anal sex or penetration with conditions, such as wearing a condom. Consent can be withdrawn at any time during sexual activity and each time activity occurs. Someone consents to vaginal, anal or oral penetration only if s/he agrees by choice to that penetration and has the freedom and capacity to make that choice.[134]

- a child under the age of 13 can never consent to any sexual activity
- the age of consent is 16[135]
- sexual intercourse without consent is rape.

Further information about consent can be found here: Rape Crisis England & Wales - Sexual consent

Sexual harassment

451. When referring to sexual harassment we mean 'unwanted conduct of a sexual nature' that can occur online and offline and both inside and outside of school/college. When we reference sexual harassment, we do so in the context of child-on-child sexual harassment. Sexual harassment is likely to: violate a child's dignity, and/or make them feel intimidated, degraded or humiliated and/or create a hostile, offensive or sexualised environment.

452. Whilst not intended to be an exhaustive list, sexual harassment can include:

- sexual comments, such as: telling sexual stories, making lewd comments, making sexual remarks about clothes and appearance and calling someone sexualised names
- sexual "jokes" or taunting
- physical behaviour, such as: deliberately brushing against someone, interfering with someone's clothes. Schools and colleges should be considering when any of

[133] It is important school and college staff (and especially designated safeguarding leads and their deputies) understand consent. This will be especially important if a child is reporting they have been raped or sexually assaulted in any way. Further information can be found at Rape Crisis

[134] PSHE Teaching about consent from the PSHE association provides advice and lesson plans to teach consent at Key stage 3 and 4.

[135] It is important to differentiate between consensual sexual activity between children of a similar age and that which involves any power imbalance, coercion or exploitation. Due to their additional training, the designated safeguarding lead (or deputy) should be involved and generally speaking leading the school or college response. If in any doubt, they should seek expert advice.

this crosses a line into sexual violence – it is important to talk to and consider the experience of the victim.

- displaying pictures, photos or drawings of a sexual nature
- upskirting (this is a criminal offence[136]), and
- online sexual harassment. This may be standalone, or part of a wider pattern of sexual harassment and/or sexual violence.[137] It may include:
    - consensual and non-consensual sharing of nude and semi-nude images and/or videos.[138] Taking and sharing nude photographs of U18s is a criminal offence. UKCIS Sharing nudes and semi-nudes: advice for education settings working with children and young people provides detailed advice for schools and colleges.
    - sharing of unwanted explicit content
    - sexualised online bullying
    - unwanted sexual comments and messages, including, on social media
    - sexual exploitation; coercion and threats, and
    - coercing others into sharing images of themselves or performing acts they're not comfortable with online.

453. It is important that schools and colleges consider sexual harassment in broad terms. Sexual harassment (as set out above) creates a culture that, if not challenged, can normalise inappropriate behaviours and provide an environment that may lead to sexual violence.

Harmful sexual behaviour

454. Children's sexual behaviour exists on a wide continuum, ranging from normal and developmentally expected to inappropriate, problematic, abusive and violent. Problematic, abusive and violent sexual behaviour is developmentally inappropriate and may cause developmental damage. A useful umbrella term is "harmful sexual behaviour" (HSB). The term has been widely adopted in child protection and is used in this advice. **HSB can occur online and/or face-to-face and can also occur simultaneously**

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[136] The Voyeurism (Offences) Act 2019 which amends the Sexual Offences Act 2003 to make upskirting a specific offence of voyeurism. The Act came into force on 12 April 2019.
[137] Project deSHAME from Childnet provides useful research, advice and resources regarding online sexual harassment.
[138] Consensual image sharing, especially between older children of the same age, may require a different response. It might not be abusive – but children still need to know it is illegal- whilst non-consensual is illegal and abusive.

between the two. HSB should be considered in a child protection context.

455. When considering HSB, both ages and the stages of development of the children are critical factors. Sexual behaviour between children can be considered harmful if one of the children is much older, particularly if there is more than two years' difference or if one of the children is pre-pubescent and the other is not. However, a younger child can abuse an older child, particularly if they have power over them, for example, if the older child is disabled or smaller in stature. Confidential specialist support and advice on HSB is available from the specialist sexual violence sector and sources are listed in Annex B.

456. It is effective safeguarding practice for the designated safeguarding lead (and their deputies) to have a good understanding of HSB. This could form part of their safeguarding training. This will aid in planning preventative education, implementing preventative measures, drafting and implementing an effective child protection policy and incorporating the approach to sexual violence and sexual harassment into the whole school or college approach to safeguarding.

457. HSB **can**, in some cases, progress on a continuum.[139] Addressing inappropriate behaviour **can** be an important intervention that helps prevent problematic, abusive and/or violent behaviour in the future. Children displaying HSB have often experienced their own abuse and trauma.[140] It is important that they are offered appropriate support.

Preventing abuse

458. Effective safeguarding practice is demonstrated when schools and colleges are clear, in advance, about what local processes are in place and what support can be accessed when sexual violence or sexual harassment has occurred. It is important to prepare for this in advance 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 local authority children's social care colleagues in order to prepare the school's 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 victims and alleged perpetrators) in sexual violence and sexual harassment and be confident as to how to access this support when required. Further information

[139] NSPCC and Research in Practice harmful sexual behaviour framework discusses the continuum harmful behaviour can progress on (Hackett 2010 continuum model).
[140] Hackett et al 2013 study of children and young people with harmful sexual behaviour suggests that two-thirds had experienced some kind of abuse or trauma.

on specialist support and interventions can be found in Annex B in the additional advice and support section under sexual violence and sexual harassment.

Responding to reports of sexual violence and sexual harassment

459. Part two of this guidance is clear that systems should be in place (and they should be well promoted, easily understood and easily accessible) for children to confidently report abuse, knowing their concerns will be treated seriously.

460. 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 with the foundation for a calm, considered and appropriate response to any reports. 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 (and as summarised in Part 2 of this guidance).

461. This part of the guidance does not attempt to provide (nor would it be possible to provide) detailed guidance on what to do in any or every case. The guidance provides effective safeguarding practice and principles for schools and colleges to consider in their decision-making process.

462. Ultimately, any decisions are for the school or college to make on a case-by-case basis, with the designated safeguarding lead (or a deputy) taking a leading role and using their professional judgement, supported by other agencies, such as local authority children's social care and the police as required.

463. The guidance also provides case studies. These are not intended to offer a step-by-step guide, but to provide an indication of some of the various options that are available to respond to reports of sexual violence and sexual harassment.

Support for schools and colleges

464. Schools and colleges should not feel that they are alone in dealing with sexual violence and sexual harassment.

465. **Local authority children's social care** and **the police** will be important partners where a crime might have been committed. Referrals to the police will often be a natural progression of making a referral to local authority children's social care. The designated safeguarding lead (or a deputy) should lead the school or college response and should be aware of the local process for referrals to children's social care and making referrals to the police (also see the section "reporting to the police" on page 119 for further information). Schools and colleges may also find the following resources helpful:

- **Child Exploitation and Online Protection** command: CEOP is a law enforcement agency which aims to keep children and young people safe from sexual exploitation and abuse. Online sexual abuse can be reported on their website and a report made to one of its Child Protection Advisors
- **The NSPCC** provides a helpline for professionals at 0808 800 5000 and help@nspcc.org.uk. The helpline provides expert advice and support for school and college staff and will be especially useful for the designated safeguarding lead (and their deputies)
- Support from **specialist sexual violence sector organisations** such as Rape Crisis or The Survivors Trust
- **The Anti-Bullying Alliance** has developed guidance for schools about Sexual and sexist bullying.

Online: Schools and colleges should recognise that sexual violence and sexual harassment occurring online (either in isolation or in connection with face-to-face incidents) can introduce a number of complex factors. Amongst other things, this can include widespread abuse or harm across a number of social media platforms that leads to repeat victimisation. Online concerns can be especially complicated and support is available from:

- **The UK Safer Internet Centre** provides an online safety helpline for professionals at 0344 381 4772 and helpline@saferinternet.org.uk. The helpline provides expert advice and support for school and college staff with regard to online safety issues
- **Internet Watch Foundation**: If the incident/report involves sexual images or videos that have been made and circulated online, the victim can be supported to get the images removed by the Internet Watch Foundation (IWF)
- **Childline/IWF** *Report Remove* is a free tool that allows children to report nude or sexual images and/or videos of themselves that they think might have been shared online
- **UKCIS Sharing nudes and semi-nudes advice**: Advice for education settings working with children and young people on responding to reports of children sharing non-consensual nude and semi-nude images and/or videos (also known as sexting and youth produced sexual imagery). Please see footnote 8 for further information
- **Thinkuknow** from NCA-CEOP provides support for the children's workforce, parents and carers on staying safe online
- LGFL 'Undressed' provided schools advice about how to teach young children about being tricked into getting undressed online in a fun way without scaring them or explaining the motives of sex offenders.

Additional sources of support are listed at the end of Annex B.

The immediate response to a report

Responding to the report

466. It is important to understand that children may not find it easy to tell staff about their abuse verbally. Children can show signs or act in ways that they hope adults will notice and react to. In some cases, the victim may not make a direct report. For example, a friend may make a report, or a member of school or college staff may overhear a conversation that suggests a child has been harmed or a child's own behaviour might indicate that something is wrong. As per Part one of this guidance, if staff have **any** concerns about a child's welfare, they should act on them immediately rather than wait to be told.

467. The initial response by a school or college to a report from a child is incredibly important. How the school or college responds to a report can encourage or undermine the confidence of future victims of sexual violence and sexual harassment to report or come forward.

468. It is essential that **all** victims are reassured that they are being taken seriously, regardless of how long it has taken them to come forward, and that they will be supported and kept safe. Abuse that occurs online or outside of the school or college should not be downplayed and should be treated equally seriously. 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. It is important to explain that the law is in place to protect children and young people rather than criminalise them, and this should be explained in such a way that avoids alarming or distressing them.

469. As per Part one of this guidance, all staff should be trained to manage a report. Local policies (and training) will dictate exactly how reports should be managed. However, effective safeguarding practice includes:

- if possible, managing reports with two members of staff present, (preferably one of them being the designated safeguarding lead or a deputy)
- careful management and handling of reports that include an online element. Including being aware of searching screening and confiscation advice (for schools) and UKCIS Sharing nudes and semi-nudes: advice for education settings working with children and young people. **The key consideration is for staff not to view or forward illegal images of a child.** The highlighted advice provides more details on what to do when viewing an image is unavoidable. In some cases, it may be more appropriate to confiscate any devices to preserve any evidence and hand them to the police for inspection

- not promising confidentiality at this initial stage as it is very likely a concern will have to be shared further (for example, with the designated safeguarding lead (or deputy) or local authority children's social care) to discuss next steps. Staff should only share the report with those people who are necessary in order to progress it. It is important that the victim understands what the next steps will be and who the report will be passed to
- recognising that a child is likely to disclose to someone they trust: this could be **anyone** on the school or college staff. It is important that the person to whom the child discloses recognises that the child has placed them in a position of trust. They should be supportive and respectful of the child
- recognising that an initial disclosure to a trusted adult may only be the first incident reported, rather than representative of a singular incident and that trauma can impact memory and so children may not be able to recall all details or timeline of abuse
- keeping in mind that certain children may face additional barriers to telling someone because of their vulnerability, disability, sex, ethnicity, and/or sexual orientation
- listening carefully to the child, reflecting back, using the child's language, being non-judgemental, being clear about boundaries and how the report will be progressed, not asking leading questions and only prompting the child where necessary with open questions – where, when, what, etc. It is important to note that whilst leading questions should be avoided, staff can ask children if they have been harmed and what the nature of that harm was
- considering the best way to make a record of the report. Best practice is to wait until the end of the report and immediately write up a thorough summary. This allows the staff member to devote their full attention to the child and to listen to what they are saying. It may be appropriate to make notes during the report (especially if a second member of staff is present). However, if making notes, staff should be conscious of the need to remain engaged with the child and not appear distracted by the note taking. Either way, **it is essential a written record is made.**
- only recording the facts as the child presents them. The notes should not reflect the personal opinion of the note taker. Schools and colleges should be aware that notes of such reports could become part of a statutory assessment by local authority children's social care and/or part of a criminal investigation, and
- informing the designated safeguarding lead (or deputy), as soon as practically possible, if the designated safeguarding lead (or deputy) is not involved in the initial report.

Considering confidentiality and anonymity

Confidentiality

470. Staff taking a report should never promise confidentiality as it is very likely that it will be in the best interest of the victim to seek advice and guidance from others in order to provide support and engage appropriate agencies.

471. The school or college should only engage staff and agencies who are required to support the children involved and/or be involved in any investigation.

472. The victim may ask the school or college not to tell anyone about the sexual violence or sexual harassment. There are no easy or definitive answers when a victim makes this request. If the victim does not give consent to share information, staff may still lawfully share it, if there is another legal basis under the UK GDPR that applies. For example, the public task basis may apply, where the overall purposes is to perform a public interest task or exercise official authority, and the task or authority has a clear basis in law. Advice should be sought from the designated safeguarding lead (or deputy), who should consider the following:

- parents or carers should normally be informed (unless this would put the victim at greater risk)
- the basic safeguarding principle is: if a child is at risk of harm, is in immediate danger, or has been harmed, a referral should be made to local authority children's social care, and
- rape, assault by penetration and sexual assaults are crimes. Where a report of rape, assault by penetration or sexual assault is made, this should be referred to the police. Whilst the age of criminal responsibility is ten, if the alleged perpetrator is under ten, the starting principle of referring to the police remains. The police will take a welfare, rather than a criminal justice approach, in these cases.

473. Ultimately, the designated safeguarding lead (or a deputy) will have to balance the victim's wishes against their duty to protect the victim and other children.

474. If the designated safeguarding lead (or a deputy) decide to go ahead and make a referral to local authority children's social care and/or a report to the police against the victim's wishes, this should be handled extremely carefully, the reasons should be explained to the victim and appropriate specialist support should be offered.

475. Additional information on confidentiality and information sharing is available at Safeguarding Practitioners Information Sharing Advice and NSPCC: Information sharing and confidentiality for practitioners.

Anonymity

476. 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. [141] Relevant information can be found in: CPS: Safeguarding Children as Victims and Witnesses.

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

478. Schools and colleges should also consider the potential impact of social media in facilitating the spreading of rumours and exposing victims' identities. The unique challenges regarding social media are discussed at paragraph 469 along with potential support. In addition, the principles described in Childnet's cyberbullying guidance could be helpful.

Risk assessment

479. When there has been a report of sexual violence, the designated safeguarding lead (or a deputy) should make an immediate risk and needs assessment. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case-by-case basis. The risk and needs assessment for a report of sexual violence should consider:

- the victim, especially their protection and support
- whether there may have been other victims
- the alleged perpetrator(s)
- all the other children, (and, if appropriate, adult students and staff) at the school or college, especially any actions that are appropriate to protect them from the alleged perpetrator(s), or from future harms, and
- The time and location of the incident, and any action required to make the location safer.

480. Risk assessments should be recorded (paper or electronic) and should be kept under review. At all times, the school or college should be actively considering the risks posed to all their pupils and students and put adequate measures in place to protect

[141] 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.

them and keep them safe.

481. The designated safeguarding lead (or a deputy) should ensure they are engaging with local authority children's social care and specialist services as required. Where there has been a report of sexual violence, it is likely that professional risk assessments by social workers and or sexual violence specialists will be required. The above school or college risk assessment is not intended to replace the detailed assessments of expert professionals. Any such professional assessments should be used to inform the school or college approach to supporting and protecting their pupils and students and updating their own risk assessment.

Action following a report of sexual violence and/or sexual harassment

What to consider

482. As set out above, sexual violence and sexual abuse can happen anywhere, and all staff working with children are advised to maintain an attitude of '**it could happen here'.** Schools and colleges should be aware of and respond appropriately to **all** reports and concerns about sexual violence and/or sexual harassment both online and offline, including those that have happened outside of the school/college. The designated safeguarding lead (or deputy) is likely to have a complete safeguarding picture and be the most appropriate person to advise on the initial response by the school or college. 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. This will however need to be balanced with the school's or college's duty and responsibilities to protect other children
- the nature of the alleged incident(s), including whether a crime may have been committed and/or whether HSB has been displayed
- the ages of the children involved
- the developmental stages of the children involved
- any power imbalance between the children. For example, is/are the alleged perpetrator(s) significantly older, more mature, confident and well known social standing? Does the victim have a disability or learning difficulty?
- if the alleged incident is a one-off or a sustained pattern of abuse (sexual abuse can be accompanied by other forms of abuse and a sustained pattern may not just be of a sexual nature)
- that sexual violence and sexual harassment can take place within intimate

personal relationships between children

- importance of understanding intra familial harms and any necessary support for siblings following incidents
- are there ongoing risks to the victim, other children, adult students or school or college staff, and
- other related issues and wider context, including any links to child sexual exploitation and child criminal exploitation.

483. As always when concerned about the welfare of a child, all staff should act in the best interests of the child. In all cases, schools and colleges should follow general safeguarding principles as set out throughout this guidance. **Immediate** consideration should be given as to how best to support and protect the victim and the alleged perpetrator(s) (and any other children involved/impacted).

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

Any report of sexual violence is likely to be traumatic for the victim. It is essential that all 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.

However, reports of rape and assault by penetration are likely to be especially difficult for the victim, and close proximity to the alleged perpetrator(s) is likely to be especially distressing. Whilst the school or college establishes the facts of the case and starts the process of liaising with local authority children's social care and the police, the alleged perpetrator(s) **should** be removed from any classes they share with the victim. The school or college should also **carefully** consider how best to keep the victim and alleged perpetrator(s) a reasonable distance apart on school or college premises (including during any before or after school-based activities) and on transport to and from the school or college, where appropriate. These actions are in the best interests of all children involved and should not be perceived to be a judgement on the guilt of the alleged perpetrator(s).

For other reports of sexual violence and sexual harassment, the proximity of the victim and alleged perpetrator(s) 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 at paragraph 482. 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.

Options to manage the report

484. It is important that schools and colleges consider every report on a case-by-case basis as per paragraph 482. When to inform the alleged perpetrator(s) will be a decision that should be carefully considered. Where a report is going to be made to local authority children's social care and/or the police, then, as a general rule, the DSL should speak to the local authority children's social care and the police and discuss next steps and how the alleged perpetrator(s) will be informed of the allegations. However, as per general safeguarding principles, this does not and should not stop the school or college taking immediate action to safeguard its children, where required.

485. There are four likely scenarios for schools and colleges to consider when managing any reports of sexual violence and/or sexual harassment. The four scenarios are:

1. Manage internally

486. In some cases of **sexual harassment**, for example, one-off incidents, the school or college may take the view that the children concerned are not in need of early help or that referrals to statutory services are not required, and that it would be appropriate to handle the incident internally, perhaps through utilising their behaviour policy and by providing pastoral support.

487. Whatever the response, it should be underpinned by the principle that there is a **zero-tolerance** approach to sexual violence and sexual harassment and it is never acceptable and will not be tolerated.

488. **All** concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

Case study

A 12-year-old girl reported to the head of year that five boys in her friendship group were playing a game, which involved daring each other to use increasingly graphic sexually explicit language, describing what they would like to do to her. She was very upset but did not want to get anyone into trouble or everyone to know about it. She just wanted them to stop. She explained this to her head of year. The head of year explained to her that what she had experienced was extremely serious and reassured her that her reaction was completely understandable. He also explained that he would pass the report to the designated safeguarding lead to ensure records were updated. He explained he would be following the school's behaviour policy and would speak to the boys involved and their parents, making it clear that what they were doing was sexual bullying and harassment and taken extremely seriously. The girl's parents were contacted and given the opportunity to discuss the action the school planned to take.

Result: the boys were removed from the classroom and reprimanded with their parents present. It was made clear that the behaviour was unacceptable, and they received a punishment in line with the school's behaviour policy. They were also warned about the more severe consequences that would arise if the harassment continued.

2. Early help

489. In line with managing internally, the school or college may decide that the children involved do not require referral to statutory services but may benefit from early help. Early help means providing support as soon as a problem emerges, at any point in a

child's life. Providing early help is more effective in promoting the welfare of children than reacting later. Early help can be particularly useful to address non-violent HSB and may prevent escalation of sexual violence. It is particularly important that the designated safeguarding lead (and their deputies) know what the local early help process is and how and where to access support.

490. More information on early help is set out in Part one of this guidance with full details of the early help process in Chapter one of Working Together to Safeguard Children.

491. Multi-agency early help will work best when placed alongside strong school or college policies, preventative education and engagement with parents and carers.

492. Schools and colleges, as relevant agencies, should be part of discussions with statutory safeguarding partners to agree the levels for the different types of assessment and services to be commissioned and delivered, as part of the local arrangements. Safeguarding partners should publish a local threshold document which includes the process for the local early help assessment and the type and level of early help services to be provided, and DSLs (and their deputies) will need to familiarise themselves with this document.

493. Early help and the option to manage a report internally do not need to be mutually exclusive: a school could manage internally and seek early help for both the victim and perpetrator(s).

494. Whatever the response, it should be under-pinned by the principle that there is **zero-tolerance** approach to sexual violence and sexual harassment and it is never acceptable and will not be tolerated.

495. **All** concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

3. Referrals to local authority children's social care

496. Where a child has been harmed, is at risk of harm, or is in immediate danger, schools and colleges should make a referral to local authority children's social care.

497. At the point of referral to local authority children's social care, schools and colleges will generally inform parents or carers, unless there are compelling reasons not to (if informing a parent or carer is going to put the child at additional risk). Any such decision should be made with the support of local authority children's social care.

498. If a referral is made, local authority children's social care will then make enquiries to determine whether any of the children involved are in need of protection or other services.

499. Where statutory assessments are appropriate, the school or college (especially the designated safeguarding lead or a deputy) should be working alongside, and

cooperating with, the relevant lead social worker. Collaborative working will help ensure the best possible package of coordinated support is implemented for the victim and, where appropriate, the alleged perpetrator(s) and any other children that require support.

500. Schools and colleges should not wait for the outcome (or even the start) of a local authority children's social care investigation before protecting the victim and other children in the school or college. It will be important for the designated safeguarding lead (or a deputy) to work closely with local authority children's social care (and other agencies as required) to ensure any actions the school or college takes do not jeopardise a statutory investigation. The risk assessment as per paragraph 479-481 will help inform any decision. Consideration of safeguarding the victim, alleged perpetrator(s), any other children directly involved in the safeguarding report, and all children at the school or college should be **immediate**.

501. In some cases, local authority children's social care will review the evidence and decide that a statutory intervention is not appropriate. The school or college (generally led by the designated safeguarding lead or a deputy) should be prepared to refer again if they believe the child remains in immediate danger or at risk of harm or if circumstances change. If a statutory assessment is not appropriate, the designated safeguarding lead (or a deputy) should consider other support mechanisms such as early help, specialist support and pastoral support.

502. Whatever the response, it should be under-pinned by the principle that there is a **zero- tolerance** approach to sexual violence and sexual harassment and it is never acceptable and will not be tolerated.

503. **All** concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

4. Reporting to the Police

504. **Any report** to the police will generally be in parallel with a referral to local authority children's social care (as above).

505. It is important that the designated safeguarding lead (and their deputies) are clear about the local process for referrals and follow that process.

506. Where a report of rape, assault by penetration or sexual assault is made, the starting point is that this should be passed on to the police. Whilst the age of criminal responsibility is ten, if the alleged perpetrator(s) is under ten, the starting principle of reporting to the police remains. The police will take a welfare, rather than a criminal justice, approach. The following advice may help schools and colleges decide when to engage the Police and what to expect of them when they do: When to call the police.

507. Where a report has been made to the police, the school or college should consult the police and agree what information can be disclosed to staff and others, in particular, the alleged perpetrator(s) and their parents or carers. They should also discuss the best

way to protect the victim and their anonymity.

508. At this stage, schools and colleges will generally inform parents or carers unless there are compelling reasons not to, for example, if informing a parent or carer is likely to put a child at additional risk. In circumstances where parents or carers have not been informed, it will be especially important that the school or college is supporting the child in any decision they take. This should be with the support of local authority children's social care and any appropriate specialist agencies.

509. All police forces in England have specialist units that investigate child abuse. The names and structures of these units are matters for local forces. It will be important that the designated safeguarding lead (and their deputies) are aware of their local arrangements.

510. In some cases, it may become clear very quickly that the police (for whatever reason) will not take further action. In such circumstances, it is important that the school or college continue to engage with specialist support for the victim and alleged perpetrator(s) as required.

511. Whilst protecting children and/or taking any disciplinary measures against the alleged perpetrator(s), it will be important for the designated safeguarding lead (or a deputy) to work closely with the police (and other agencies as required), to ensure any actions the school or college take do not jeopardise the police investigation.

512. If schools or colleges have questions about the investigation, they should ask the police. The police will help and support the school or college as much as they can (within the constraints of any legal restrictions).

513. Whatever the response, it should be underpinned by the principle that there is a **zero-tolerance** approach to sexual violence and sexual harassment and it is never acceptable and will not be tolerated.

514. **All** concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

Considering bail conditions

515. The police will consider what action to take to manage the assessed risk of harm. This could involve the use of police bail with conditions, prior to a suspect appearing in court, or court bail with or without conditions after the first appearance.

516. Alternatively, the person suspected of an offence could be 'released under investigation' (RUI). People released under RUI can have no conditions attached to their release from custody and it is possible for a person on bail also to have no conditions.

517. Whatever arrangements are in place, the school or college will need to consider what additional measures may be necessary to manage any assessed risk of harm that may arise within their institution.

518. Particular regard should be given to: the additional stress and trauma that might be caused to a victim within the institution; the potential for the suspected person to intimidate the victim or a witness; the need to ensure that any risk management measures strike a balance between management of risk and the rights of an unconvicted person (e.g. rights to privacy, family life, etc).

519. Careful liaison with the police investigators should help to develop a balanced set of arrangements.

Managing any delays in the criminal process

520. There may be delays in any case that is being progressed through the criminal justice system. Schools and colleges **should not wait** for the outcome (or even the start) of a police investigation before protecting the victim, alleged perpetrator(s) and other children in the school or college. The risk assessment as per paragraph 479-481 will help inform any decision.

521. Considering any disciplinary action against the alleged perpetrator(s) whilst an investigation is ongoing is discussed below in the alleged perpetrator(s) section.

522. Whilst protecting children and/or taking any disciplinary measures against the alleged perpetrator(s), it will be important for the designated safeguarding lead (or a deputy) to work closely with the police (and other agencies as required), to ensure any actions the school or college take do not jeopardise the police investigation.

523. If schools or colleges have questions about the investigation, they should ask the police. The police will help and support the school or college as much as they can (within the constraints of any legal restrictions).

The end of the criminal process

524. If a child is convicted or receives a caution for a sexual offence, the school or college should update its risk assessment, ensure relevant protections are in place for all the children at the school or college and, if it has not already, consider any suitable action in line with their behaviour policy. This process should include a review of the necessary actions to keep all parties safe and meet their needs. If the perpetrator(s) remains in the same school or college as the victim, the school or college should be very clear as to their expectations regarding the perpetrator(s) now they have been convicted or cautioned. This could include expectations regarding their behaviour and any restrictions the school or college thinks are reasonable and proportionate with regard to the perpetrator(s)' timetable.

525. Any conviction (even with legal anonymity reporting restrictions) is potentially going to generate interest among other pupils or students in the school or college. It will be important that the school or college ensure both the victim and perpetrator(s) remain protected, especially from any bullying or harassment (including online).

526. Where cases are classified as “no further action” by the police or Crown Prosecution Service, or where there is a not guilty verdict, the school or college should continue to offer support to the victim and the alleged perpetrator(s) for as long as is necessary. A not guilty verdict or a decision not to progress with their case will likely be traumatic for the victim. The fact that an allegation cannot be substantiated or was withdrawn does not necessarily mean that it was unfounded. Schools and colleges should discuss any decisions with the victim in this light and continue to offer support. The alleged perpetrator(s) is/are also likely to require ongoing support for what will have likely been a difficult experience.

Case study

A 15-year-old girl disclosed to a pastoral lead that she had been sexually touched by a 15-year-old boy, on public transport on the way to school. The school made a referral to local authority children’s social care on the same day, submitting a MARF (Multi Agency Referral Form) for both children. The MARF led to immediate police involvement. The school arranged for the boy to have an amended timetable so that he was not in any class with the girl. Specific teaching staff were briefed on the need to ensure the children were not together. The girl was given a trusted adult she could go to at any time: this staff member agreed she would meet with the girl every day and she supported her with break and lunchtime arrangements. The girl was able to suggest how she would feel safest at lunchtime.

At the end of the second day, another girl went to the designated safeguarding lead (DSL) and made a report about the same boy. She reported that he had sexually assaulted her in school three weeks before. The school submitted a MARF for the girl and a second MARF for the boy. The school knew the police were involved and that a MERLIN had been submitted (a crime report involving a child), but they knew the police would not have the ongoing and detailed information about the boy held by the school. The school did not want either girl further distressed by possibly seeing the boy around school; the option choices and group sizes for the three children meant it was very difficult to educate separately. The school contacted another secondary school. The school links had been established as part of the In Year Fair Access Process (IYFAP) and made immediate arrangements for the boy to move to the other school so that his education was not disrupted. The boy remained at the new school for the duration of the investigation. The DSLs from both schools worked together with police and the children and ensured appropriate child protection information was shared so the receiving school was fully aware of the allegations. The boy received a caution, and the decision was made for him to remain at his new school where he engaged with a personalised RSHE plan. Parents were involved throughout; the children were at the centre of decision-making, often suggesting how they could be supported.

Unsubstantiated, unfounded, false or malicious reports

527. As set out in paragraph 68 of Part one of this guidance, **all** concerns, discussions and decisions made, and the reasons for those decisions, should be recorded in writing. Records should be reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified, and addressed.

528. If a report is determined to be unsubstantiated, unfounded, false or malicious, the designated safeguarding lead should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to local authority children's social care may be appropriate.

529. If a report is shown to be deliberately invented or malicious, the school or college, should consider whether any disciplinary action is appropriate against the individual who made it as per their own behaviour policy.

Ongoing response

Safeguarding and supporting the victim

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

- 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 reasonably 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.
- 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(s).
- 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.
- Schools and colleges should be aware that sexual assault can result in a range of health needs, including physical, mental, and sexual health problems and

unwanted pregnancy. Children and young people that have a health need arising from sexual assault or abuse can access specialist NHS support from a Sexual Assault Referral Centre (SARC). SARCs offer confidential and non-judgemental support to victims and survivors of sexual assault and abuse. They provide medical, practical, and emotional care and advice to all children and adults, regardless of when the incident occurred.

- It will be important in all scenarios that decisions and actions are regularly reviewed and that relevant policies are updated to reflect lessons learnt. It is particularly important to look out for potential patterns of concerning, problematic or inappropriate behaviour. Where a pattern is identified, the school or college should decide on a course of action. Consideration should be given as to whether there are wider cultural issues within the school or college that enabled the inappropriate behaviour to occur and where appropriate extra teaching time and/or staff training could be delivered to minimise the risk of it happening again.

531. Support can include:

- Early help and local authority children's social care as set out in Part one of this guidance.
- Children and Young People's Independent Sexual Violence Advisors (ChISVAs) provide emotional and practical support for victims of sexual violence. They are based within the specialist sexual violence sector and will help the victim understand what their options are and how the criminal justice process works if they have reported or are considering reporting to the police. ChISVAs will work in partnership with schools and colleges to ensure the best possible outcomes for the victim.
- Police and social care agencies can signpost to ChISVA services (where available) or referrals can be made directly to the ChISVA service by the young person or school or college. Contact details for ChISVAs can be found at Rape Crisis and The Survivors Trust.
- Child and young people's mental health services (CYPMHS) is used as a term for all services that work with children who have difficulties with their emotional or behavioural wellbeing. Services vary depending on local authority. Most CYPMHS have their own website, which will have information about access, referrals and contact numbers.
- The specialist sexual violence sector can provide therapeutic support for children who have experienced sexual violence. Contact Rape Crisis (England & Wales) or The Survivors Trust for details of local specialist organisations. The Male Survivors Partnership can provide details of services which specialise in supporting men and boys.

- NHS - Help after rape and sexual assault - NHS (www.nhs.uk) provides a range of advice, help and support including advice about the risk of pregnancy, sexually transmitted infections (STI), reporting to the police and forensics.
- Rape and sexual assault referral centres services can be found at: Find Rape and sexual assault referral centres. Sexual assault referral centres (SARCs) offer medical, practical and emotional support. They have specially trained doctors, nurses and support workers. If children, young people, or their families are unsure which service to access, they should contact their GP or call the NHS on 111.
- Childline provides free and confidential advice for children and young people.
- Internet Watch Foundation works internationally to remove child sexual abuse online images and videos and offers a place for the public to report them anonymously.
- Childline / IWF: Remove a nude image shared online Report Remove is a free tool that allows children to report nude or sexual images and videos of themselves that they think might have been shared online, to see if they can be removed from the internet.

Case study

A 15-year-old boy and girl who go to the same school had sex at a party and, without them knowing, other people at the party filmed it. The video was then uploaded to a site and shared around their school and other schools in the area.

Following this, the girl was sexually harassed at school being called a 'slag and a slut' during lessons. Other boys in the school began propositioning her in school and trying to touch her aggressively and inappropriately. A teacher who saw the sexual harassment in his class talked to the girl about how she was feeling and suggested she spoke to the designated safeguarding lead (DSL). The DSL spoke to the girl and recorded the report, discussed her options about trying to get the video deleted from people's devices and the website it was on, and how to talk to her parents about what happened. The teachers and parents did not view the video, and this was communicated to the girl and boy.

Whilst in this case the boy was not harassed in the same way as the girl, the school recognised he was also a victim and spoke to him about his feelings and what could be done to support him.

The teacher arranged a workshop as part of the RSHE curriculum for all year 10s about respect, shame, consent, and their collective responsibility to challenge inappropriate sexual behaviour.

The parents of the girl and boy worked with the school and the police to get the content removed via the IWF and identify who recorded and distributed the video. Both the girl and boy were supported through the investigation with counselling.

Those responsible for harassing the girl and sharing the video received sanctions in line with the school behaviour policy.

532. Victims may not disclose the whole picture immediately. They may be more comfortable providing information on a piecemeal basis. It is essential that dialogue is kept open and encouraged. When it is clear that ongoing support will be required, schools and colleges should ask the victim if they would find it helpful to have a designated trusted adult (for example, their form tutor or designated safeguarding lead) to talk to about their needs. The choice of any such adult should be the victim's (as far as is reasonably possible). Schools and colleges should respect and support this choice.

533. Children who have experienced sexual violence display a very wide range of responses to their experience, including in some cases clear signs of trauma, physical and emotional responses, or no overt signs at all. Schools should remain alert to the

possible challenges of detecting those sighs and show sensitivity to the needs of the child (e.g. about attendance in lessons) irrespective of how overt the child's distress is.

534. While schools and colleges should avoid any action that would have the effect of isolating the victim, in particular from supportive peer groups, there may be times when the victim finds it difficult to maintain a full-time timetable and may express a wish to withdraw from lessons and activities. This should be because the victim wants to, not because it makes it easier to manage the situation. If required, schools and colleges should provide a physical space for victims to withdraw.

535. It may be necessary for schools and colleges to maintain arrangements to protect and support the victim for a long time. Schools and colleges should be prepared for this and should work with local authority children's social care and other agencies as required.

536. It is therefore important that the designated safeguarding lead (or a deputy) knows how and where to seek support.

537. It is important that the school or college do everything they reasonably can to protect the victim from bullying and harassment as a result of any report they have made.

538. Whilst they should be given all the necessary support to remain in their school or college, if the trauma results in the victim being unable to do this, alternative provision or a move to another school or college should be considered to enable them to continue to receive suitable education. This should only be at the request of the victim (and following discussion with their parents or carers).

539. It is important that if the victim does move to another educational institution (for any reason), that the new educational institution is made aware of any ongoing support needs. The designated safeguarding lead should take responsibility to ensure this happens (and should discuss with the victim and, where appropriate their parents or carers as to the most suitable way of doing this) as well as transferring the child protection file. Information sharing advice referenced at paragraphs 114-122 will help support this process.

Ongoing Considerations: Victim and alleged perpetrator(s) sharing classes

Page 110 considered the immediate response to a report. Once the designated safeguarding lead (or a deputy) has decided what the next steps will be in terms of progressing the report, they should **carefully consider** again the question of the victim and alleged perpetrator(s) 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 as per this guidance.

Where there is a criminal investigation into a rape, assault by penetration or sexual assault, the alleged perpetrator(s) 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(s) a reasonable distance apart on school or college premises (including during before and after school-based activities) 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(s). As per paragraph 496, 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(s) to remain in the same school or college would seriously harm the education or welfare of the victim (and potentially other pupils or students).

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.[142] Where the perpetrator(s) is going to remain at the school or college, the principle would be to continue keeping the victim and perpetrator(s) 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 of this means the offence did not happen or that the victim lied. The process will have affected both victim and alleged perpetrator(s). 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 of 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(s) and children and young people who have displayed harmful sexual behaviour

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

- The school or college will have a difficult balancing act to consider. On one hand, they need to safeguard the victim (and the wider pupil/student body) and on the other hand provide the alleged perpetrator(s) with an education, safeguarding support as appropriate and implement any disciplinary sanctions. Taking disciplinary action and still providing appropriate support are not mutually exclusive actions. They can, and should, occur at the same time if necessary.
- Consider the age and the developmental stage of the alleged perpetrator(s), the nature of the allegations and frequency of 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. The alleged perpetrator(s) may potentially have unmet needs (in some cases these may be considerable) as well as potentially posing a risk of harm to other children. HSB in young children may be (and often are[143]) a symptom of either their own abuse or exposure to abusive

[142] 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.
[143] Hackett et al 2013 study of children and young people with harmful sexual behaviour suggests that two-thirds had experienced some kind of abuse or trauma.

practices and or materials. More information on HSB can be found at paras 454-457. Advice should be taken, as appropriate, from local authority children's social care, specialist sexual violence services and the police.

- The Lucy Faithfull Foundation has developed a HSB toolkit, which amongst other things, provides support, advice and information on how to prevent it, links to organisations and helplines, resources about HSB by children, internet safety, sexual development and preventing child sexual abuse.
- The NSPCC provides free and independent advice about HSB: NSPCC Learning: Protecting children from harmful sexual behaviour and NSPCC - Harmful sexual behaviour framework.
- Contextual Safeguarding Network – Beyond Referrals (Schools) provides a school self-assessment toolkit and guidance for addressing HSB in schools.
- StopItNow – Preventing harmful sexual behaviour in children - Stop It Now provides a guide for parents, carers and professionals to help everyone do their part in keeping children safe, they also run a free confidential helpline.

541. It is important that the perpetrator(s) is/are also given the correct support to try to stop them re-offending and to address any underlying trauma that may be causing this behaviour. Addressing inappropriate behaviour **can** be an important intervention that helps prevent problematic, abusive and/or violent behaviour in the future. Advice on behaviour and discipline in schools is clear that teachers can discipline pupils whose conduct falls below the standard which could be reasonably expected of them. If the perpetrator(s) is to be excluded the decision must be lawful, reasonable and fair. Further information about exclusions can be found in statutory guidance for schools Exclusions from maintained schools, academies and PRUs.

542. School can be a significant protective factor for children who have displayed HSB, and continued access to school, with a comprehensive safeguarding management plan in place, is an important factor to consider before final decisions are made. It is important that if an alleged perpetrator does move to another educational institution (for any reason), that the new educational institution is made aware of any ongoing support needs and where appropriate, potential risks to other children and staff. The designated safeguarding lead should take responsibility to ensure this happens as well as transferring the child protection file. Information sharing advice referenced at paragraphs 114-122 will help support this process.

Discipline and the alleged perpetrator(s)

Schools

543. With regard to the alleged perpetrator(s), advice on behaviour and discipline in schools is clear that teachers can discipline pupils whose conduct falls below the

standard which could be reasonably expected of them. Exclusions statutory guidance for maintained schools, academies and PRUs is here. Disciplinary action can be taken whilst other investigations by the police and/or local authority children's social care are ongoing. The fact that another body is investigating or has investigated an incident does not in itself prevent a school from coming to its own conclusion, on the balance of probabilities, about what happened, and imposing a penalty accordingly. This is a matter for the school and should be carefully considered on a case-by-case basis. The designated safeguarding lead (or a deputy) should take a leading role. The school should consider if, by taking any action, it would prejudice an investigation and/or any subsequent prosecution. Careful liaison with the police and/or local authority children's social care should help the school make a determination. It will also be important to consider whether there are circumstances that make it unreasonable or irrational for the school to reach its own view about what happened while an independent investigation is considering the same facts.

Colleges

544. Whilst colleges are not under the same legal obligations as schools with regard to behaviour and discipline, the principles set out in paragraph 540 will still be relevant and should be applied to their decision-making process.

Discipline and support

545. Taking disciplinary action and still providing appropriate support are not mutually exclusive actions. They can, and should, occur at the same time if necessary. The school or college should be very clear as to what its approach is. On the one hand there is preventative or forward-looking action to safeguard the victim and/or the perpetrator(s), especially where there are concerns that a perpetrator themselves may have been a victim of abuse; and, on the other, there is disciplinary action to punish a perpetrator for their past conduct. The school or college should be very clear as to which category any action they are taking falls or whether it is really both and should ensure that the action complies with the law relating to each relevant category.

Working with parents and carers

546. The school or college will, in most instances, engage with both the victim's and the alleged perpetrator's parents or carers when there has been a report of sexual violence (this **might** not be necessary or proportionate in the case of sexual harassment and should be considered on a case-by-case basis). The exception to this rule is if there is a reason to believe informing a parent or carer will put a child at additional risk. Schools and colleges should carefully consider what information they provide to the respective parents or carers about the other child involved and when they do so. In some cases, local authority children's social care and/or the police will have a very clear view and it

will be important for the school or college to work with relevant agencies to ensure a consistent approach is taken to information sharing.

547. It is good practice for the school or college to meet the victim's parents or carers with the victim present to discuss what arrangements are being put in place to safeguard the victim and understand their wishes in terms of support they may need and how the report will be progressed.

548. It is also good practice for the school or college to meet with alleged perpetrator's parents or carers to discuss any arrangements that are being put into place that impact an alleged perpetrator, such as, for example, moving them out of classes with the victim and what this means for their education. The reason behind any decisions should be explained. Support for the alleged perpetrator should be discussed.

549. The designated safeguarding lead (or a deputy) would generally attend any such meetings. Consideration to the attendance of other agencies should be considered on a case-by-case basis.

550. Clear behaviour policies and child protection policies, especially policies that set out the principles of how reports of sexual violence will be managed and how victims and alleged perpetrators are likely to be supported, that parents and carers have access to, will, in some cases, help manage what are inevitably very difficult conversations.

551. Parents and carers may well struggle to cope with a report that their child has been the victim of a sexual assault or is alleged to have sexually assaulted another child. Details of organisations that support parents are provided in Annex B. Schools and colleges should consider signposting parents and carers to this support.

Safeguarding other children

552. Consideration should be given to supporting children (and adult students) who have witnessed sexual violence, especially rape and assault by penetration. Witnessing such an event is likely to be traumatic and support may be required.

553. Following any report of sexual violence or sexual harassment, it is likely that some children will take "sides". The school or college should be doing all they can to ensure both the victim and alleged perpetrator(s), and any witnesses, are not being bullied or harassed.

554. Social media is very likely to play a central role in the fall out from any incident or alleged incident. There is the potential for contact between victim and alleged perpetrator(s) and a very high likelihood that friends from either side could harass the victim or alleged perpetrator(s) online and/or become victims of harassment themselves. Specialist online safety support is discussed at page 109.

555. School transport is a potentially vulnerable place for a victim or alleged perpetrator(s) following any incident or alleged incident. The school or college, as part of

its risk assessment, should consider any additional potential support needs to keep all of their children safe.

556. A whole school or college approach to safeguarding, a culture that makes clear that there is a **zero-tolerance** approach to sexual violence and sexual harassment and that it is never acceptable, and it will not be tolerated, and a strong preventative education programme will help create an environment in which all children at the school or college are supportive and respectful of their peers when reports of sexual violence or sexual harassment are made.

557. It is important that schools and colleges keep their policies, processes, and curriculum under constant review to protect all their children. Reports of sexual violence and/or harassment (especially where there is evidence of patterns of behaviour) may point to environmental and or systemic problems that could and should be addressed by updating relevant policies, processes, or relevant parts of the curriculum. Alongside this, patterns identified in schools may also be reflective of the wider issues within a local area and it would be good practice to share emerging trends with safeguarding partners.

Annex A: Safeguarding information for school and college staff

The following is a condensed version of Part one of Keeping children safe in education. It can be provided (instead of Part one) to those staff who do not directly work with children, if the governing body or proprietor think it will provide a better basis for those staff to promote the welfare of and safeguard children.

The role of school and college staff

558. Safeguarding and promoting the welfare of children is **everyone's** responsibility. **Everyone** who comes into contact with children has an important role to play.

559. School and college staff are particularly important as they are in a position to identify concerns early, provide help for children, promote children's welfare and prevent concerns from escalating. It is important all staff (including those who do not work directly with children) recognise the important role they play in protecting children.

What school and college staff need to know

560. For the purposes of safeguarding, a child is anyone under the age of 18. 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 mental and physical 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.

All staff should:

- Be aware of the systems in their school or college which support safeguarding, and these should be explained to them as part of staff induction. As a minimum this Annex and the child protection policy should be shared with staff at induction
- Receive appropriate safeguarding and child protection training (including online safety) which is regularly updated. In addition, all staff should receive safeguarding and child protection updates (including online safety) (for example, via emails, e-bulletins and staff meetings), as required, and at least annually, to provide them with the skills and knowledge to safeguard children effectively
- Know the identity of the designated safeguarding lead (and any deputies) and how to contact them

- know what to do if a child tells them they are being abused or neglected. This includes understanding they should never promise a child that they will not tell anyone else about a report of abuse, as this is unlikely to be in the best interests of the child, and,
- should be able to reassure all victims 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 abuse, sexual violence or sexual harassment, nor should a victim ever be made to feel ashamed for making a report.
- All staff should be aware that technology is a significant component in many safeguarding and wellbeing issues. Children are at risk of abuse and other risks online as well as face to face. In many cases abuse and other risks will take place concurrently both online and offline. Children can also abuse other children online, this can take the form of abusive, harassing, and misogynistic/misandrist messages, the non-consensual sharing of indecent images, especially around chat groups, and the sharing of abusive images and pornography, to those who do not want to receive such content.

What school and college staff should look out for

Abuse and neglect

561. Knowing what to look for is vital to the early identification of abuse and neglect. **All** staff should be aware of indicators of abuse and neglect, including exploitation, so that they are able to identify cases of children who may be in need of help or protection. Abuse can take place wholly online, or technology may be used to facilitate offline abuse.

562. If staff are unsure, they should always speak to the designated safeguarding lead (or deputy).

Forms of abuse and neglect

563. **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 by other children or adults, in a family or in an institutional or community setting by those known to them or, more rarely, by others.

564. **Physical abuse**: a form of abuse that may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing physical harm to a child.

565. **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. Some level of emotional abuse is involved in all types of maltreatment of a child, although it may occur alone.

566. **Sexual abuse**: involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving 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. Sexual abuse can take place online, and technology can be used to facilitate offline abuse. Sexual abuse is not solely perpetrated by adult males. Females can also be abusers as can other children. The sexual abuse of children by other children is a specific safeguarding issue (also known as child-on-child abuse) in education and **all** staff should be aware of it and their school or colleges policy and procedures for dealing with it.

567. **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 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.

568. **All** staff should be aware that child sexual and child criminal exploitation are forms of child abuse.

Safeguarding issues

569. **All** staff should have an awareness of safeguarding issues that can put children at risk of harm. Behaviours linked to issues such as drug taking and/or alcohol misuse, deliberately missing education, serious violence (including that linked to county lines), radicalisation and consensual and non-consensual sharing of nude and semi-nude images and/or videos[144] (also known as youth produced sexual imagery) put children in danger.

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[144] Consensual image sharing, especially between older children of the same age, may require a different response. It might not be abusive – but children still need to know it is illegal- whilst non-consensual is illegal and abusive. UKCIS provides detailed advice about sharing of nudes and semi-nude images and videos.

Child-on-child abuse

570. **All** staff should be aware that children can abuse other children at any age (often referred to as child-on-child abuse).And that it can happen both inside and outside of school or college and online. It is important that all staff recognise the indicators and signs of abuse and know how to identify it and respond to reports.

571. **All** staff should be clear as to the school or college's policy and procedures with regards to child-on-child abuse. Child-on-child abuse is most likely to include, but may not be limited to:

- bullying (including cyberbullying, prejudice-based and discriminatory bullying)
- abuse in intimate personal relationships between children (sometimes known as 'teenage relationship abuse')
- physical abuse which can include hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm
- sexual violence, such as rape, assault by penetration and sexual assault
- sexual harassment, such as sexual comments, remarks, jokes and online sexual harassment

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

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

573. Staff should not assume a colleague or another professional will take action and share information that might be critical in keeping children safe.

574. If staff have **any concerns** about a child's welfare, they should act on them immediately. They should follow their school or college's child protection policy and speak to the designated safeguarding lead (or deputy). In the absence of the designated safeguarding lead (or deputy) staff should speak to a member of the school or college's senior leadership team.

575. The designated safeguarding lead (or deputy) will generally lead on next steps, including who else, if anyone, in the school or college should be informed and whether to pass a concern to local authority children's social care and/or the police. In some instances, staff may be expected to support the local authority children social care assessment process. If this is the case, the designated safeguarding lead (or deputy) will support them.

Why is all of this important?

576. It is important for children to receive the right help at the right time to address

safeguarding risks and prevent issues escalating and to promote children's welfare. Research and serious case reviews have repeatedly shown the dangers of failing to take effective and immediate action. Examples of poor practice includes failing to act on and refer the early signs of abuse and neglect.

What school and college staff should do if they have a safeguarding concern or an allegation about another staff member who may pose a risk of harm to children

577. If staff have safeguarding concerns or an allegation is made about another member of staff (including supply staff, contractors, volunteers, and visitors) posing a risk of harm to children, they should speak to the headteacher or principal (unless it relates to them), in which case they should speak to another member of the school's or college's senior leadership team.

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

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

579. Appropriate whistleblowing procedures should be in place for concerns to be raised with the school's or college's senior leadership team.

580. Where staff feel unable to raise an issue with their employer or feel that their genuine safeguarding concerns are not being addressed NSPCC whistleblowing advice line is available. Staff can call 0800028 0285 – 8:00 AM to 8:00 PM, Monday to Friday and email: help@nspcc.org.uk. Alternatively, staff can write to: National Society for the Prevention of Cruelty to Children (NSPCC), Weston House, 42 Curtain Road, London EC2A 3NH.

Annex B: Further information

Annex B 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 this annex.

As per Part one of this guidance, if staff have any concerns about a child's welfare, they should act on them immediately. They should follow their own organisation's child protection policy and speak to the designated safeguarding lead (or deputy).

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

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Child abduction and community safety incidents

Child abduction is the unauthorised removal or retention of a minor from a parent or anyone with legal responsibility for the child. Child abduction can be committed by parents or other family members; by people known but not related to the victim (such as neighbours, friends and acquaintances); and by strangers.

Other community safety incidents in the vicinity of a school can raise concerns amongst children and parents, for example, people loitering nearby or unknown adults engaging children in conversation.

As children get older and are granted more independence (for example, as they start walking to school on their own) it is important they are given practical advice on how to keep themselves safe. Many schools provide outdoor-safety lessons run by teachers or by local police staff.

It is important that lessons focus on building children's confidence and abilities rather than simply warning them about all strangers. Further information is available at: www.actionagainstabduction.org and www.clevernevergoes.org.

Child Criminal Exploitation (CCE) and Child Sexual Exploitation (CSE)

We know that different forms of harm often overlap, and that perpetrators may subject children and young people to multiple forms of abuse, such as criminal exploitation (including county lines) and sexual exploitation.

In some cases the exploitation or abuse will be in exchange for something the victim needs or wants (for example, money, gifts or affection), and/or will be to the financial benefit or other advantage, such as increased status, of the perpetrator or facilitator.

Children can be exploited by adult males or females, as individuals or in groups. They may also be exploited by other children, who themselves may be experiencing exploitation – where this is the case, it is important that the child perpetrator is also recognised as a victim.

Whilst the age of the child may be a contributing factor for an imbalance of power, there are a range of other factors that could make a child more vulnerable to exploitation, including, sexual identity, cognitive ability, learning difficulties, communication ability, physical strength, status, and access to economic or other resources.

Some of the following can be indicators of both child criminal and sexual exploitation where children:

- appear with unexplained gifts, money or new possessions

- associate with other children involved in exploitation
- suffer from changes in emotional well-being
- misuse alcohol and other drugs
- go missing for periods of time or regularly come home late, and
- regularly miss school or education or do not take part in education.

Children who have been exploited will need additional support to help keep them in education.

Child Sexual Exploitation (CSE) can be a one-off occurrence or a series of incidents over time and range from opportunistic to complex organised abuse. It can involve force and/or enticement-based methods of compliance and may, or may not, be accompanied by violence or threats of violence.

Some additional specific indicators that may be present in CSE are children who:

- have older boyfriends or girlfriends; and
- suffer from sexually transmitted infections, display sexual behaviours beyond expected sexual development or become pregnant.

Further information on signs of a child's involvement in sexual exploitation is available in Home Office guidance: Child sexual exploitation: guide for practitioners

County lines

County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs using dedicated mobile phone lines or other form of "deal line". This activity can happen locally as well as across the UK - no specified distance of travel is required. Children and vulnerable adults are exploited to move, store and sell drugs and money. Offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims.

Children can be targeted and recruited into county lines in a number of locations including any type of schools (including special schools), further and higher educational institutions, pupil referral units, children's homes and care homes.

Children are also increasingly being targeted and recruited online using social media. Children can easily become trapped by this type of exploitation as county lines gangs can manufacture drug debts which need to be worked off or threaten serious violence and kidnap towards victims (and their families) if they attempt to leave the county lines network.

A number of the indicators for CSE and CCE as detailed above may be applicable to where children are involved in county lines. Some additional specific indicators that may be present where a child is criminally exploited through involvement in county lines are children who:

- go missing and are subsequently found in areas away from their home
- have been the victim or perpetrator of serious violence (e.g. knife crime)
- are involved in receiving requests for drugs via a phone line, moving drugs, handing over and collecting money for drugs
- are exposed to techniques such as 'plugging', where drugs are concealed internally to avoid detection
- are found in accommodation that they have no connection with, often called a 'trap house or cuckooing' or hotel room where there is drug activity
- owe a 'debt bond' to their exploiters
- have their bank accounts used to facilitate drug dealing.

Further information on the signs of a child's involvement in county lines is available in guidance published by the Home Office and The Children's Society County Lines Toolkit For Professionals

Children and the court system

Children are sometimes required to give evidence in criminal courts, either for crimes committed against them or for crimes they have witnessed. There are two age appropriate guides to support children 5-11-year olds and 12-17 year olds.

The guides explain each step of the process, support and special measures that are available. There are diagrams illustrating the courtroom structure and the use of video links is explained.

Making child arrangements via the family courts following separation can be stressful and entrench conflict in families. This can be stressful for children. The Ministry of Justice has launched an online child arrangements information tool with clear and concise information on the dispute resolution service. This may be useful for some parents and carers.

Children missing from education

All staff should be aware that children going missing, particularly repeatedly, can act as a vital warning sign of a range of safeguarding possibilities. This may include abuse and neglect, which may include sexual abuse or exploitation and can also be a sign of child

criminal exploitation including involvement in county lines. It may indicate mental health problems, risk of substance abuse, risk of travelling to conflict zones, risk of female genital mutilation, 'honour'-based abuse or risk of forced marriage. Early intervention is essential to identify the existence of any underlying safeguarding risk and to help prevent the risks of a child going missing in future. It is important that staff are aware of their school's or college's unauthorised absence and children missing from education procedures.

Children with family members in prison

Approximately 200,000 children in England and Wales have a parent sent to prison each year. These children are at risk of poor outcomes including poverty, stigma, isolation and poor mental health. The National Information Centre on Children of Offenders, NICCO provides information designed to support professionals working with offenders and their children, to help mitigate negative consequences for those children.

Cybercrime

Cybercrime is criminal activity committed using computers and/or the internet. It is broadly categorised as either 'cyber-enabled' (crimes that can happen off-line but are enabled at scale and at speed on-line) or 'cyber dependent' (crimes that can be committed only by using a computer). Cyber-dependent crimes include:

- unauthorised access to computers (illegal 'hacking'), for example accessing a school's computer network to look for test paper answers or change grades awarded
- 'Denial of Service' (Dos or DDoS) attacks or 'booting'. These are attempts to make a computer, network or website unavailable by overwhelming it with internet traffic from multiple sources, and,
- making, supplying or obtaining malware (malicious software) such as viruses, spyware, ransomware, botnets and Remote Access Trojans with the intent to commit further offence, including those above.

Children with particular skills and interest in computing and technology may inadvertently or deliberately stray into cyber-dependent crime.

If there are concerns about a child in this area, the designated safeguarding lead (or a deputy), should consider referring into the **Cyber Choices** programme. This is a nationwide police programme supported by the Home Office and led by the National Crime Agency, working with regional and local policing. It aims to intervene where young people are at risk of committing, or being drawn into, low-level cyber-dependent offences and divert them to a more positive use of their skills and interests.

Note that **Cyber Choices** does not currently cover 'cyber-enabled' crime such as fraud, purchasing of illegal drugs on-line and child sexual abuse and exploitation, nor other areas of concern such as on-line bullying or general on-line safety.

Additional advice can be found at: Cyber Choices, 'NPCC- When to call the Police' and National Cyber Security Centre - NCSC.GOV.UK.

Domestic abuse

The Domestic Abuse Act 2021 received Royal Assent on 29 April 2021. The Act introduces the first ever statutory definition of domestic abuse and recognises the impact of domestic abuse on children, as victims in their own right, if they see, hear or experience the effects of abuse. The statutory definition of domestic abuse, based on the previous cross-government definition, ensures that different types of relationships are captured, including ex-partners and family members. The definition captures a range of different abusive behaviours, including physical, emotional and economic abuse and coercive and controlling behaviour. Under the statutory definition, both the person who is carrying out the behaviour and the person to whom the behaviour is directed towards must be aged 16 or over and they must be "personally connected" (as defined in section 2 of the 2021 Act).

Types of domestic abuse include intimate partner violence, abuse by family members, teenage relationship abuse and child to parent abuse. Anyone can be a victim of domestic abuse, regardless of sexual identity, age, ethnicity, socio-economic status, sexuality or background and domestic abuse can take place inside or outside of the home. The government will issue statutory guidance to provide further information for those working with domestic abuse victims and perpetrators, including the impact on children.

All children can witness and be adversely affected by domestic abuse in the context of their home life where domestic abuse occurs between family members. Experiencing domestic abuse 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.

Young people can also experience domestic abuse within their own intimate relationships. This form of child-on-child abuse is sometimes referred to as 'teenage relationship abuse'. Depending on the age of the young people, this may not be recognised in law under the statutory definition of 'domestic abuse' (if one or both parties are under 16). However, as with any child under 18, where there are concerns about safety or welfare, child safeguarding procedures should be followed and both young victims and young perpetrators should be offered support.

Operation Encompass

Operation Encompass operates in all police forces across England. It helps police and schools work together to provide emotional and practical help to children. The system ensures that when the police are called to an incident of domestic abuse, where there are children in the household who have experienced the domestic incident, the police will inform the key adult (usually the designated safeguarding lead (or deputy)) in school before the child or children arrive at school the following day. This ensures that the school has up to date relevant information about the child's circumstances and can enable immediate support to be put in place, according to the child's needs. Operation Encompass does not replace statutory safeguarding procedures. Where appropriate, the police and/or schools should make a referral to local authority children's social care if they are concerned about a child's welfare. More information about the scheme and how schools can become involved is available on the Operation Encompass website.

Operation Encompass provides an advice and helpline service for all staff members from educational settings who may be concerned about children who have experienced domestic abuse. The helpline is available 8AM to 1PM, Monday to Friday on 0204 513 9990 (charged at local rate).

National Domestic Abuse Helpline

Refuge runs the National Domestic Abuse Helpline, which can be called free of charge and in confidence, 24 hours a day on 0808 2000 247. Its website provides guidance and support for potential victims, as well as those who are worried about friends and loved ones. It also has a form through which a safe time from the team for a call can be booked.

Additional 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
- Safe Young Lives: Young people and domestic abuse | Safelives
- Domestic abuse: specialist sources of support (includes information for adult victims, young people facing abuse in their own relationships and parents experiencing child to parent violence/abuse)
- Home : Operation Encompass (includes information for schools on the impact of domestic abuse on children)

Homelessness

Being homeless or being at risk of becoming homeless presents a real risk to a child's welfare. The designated safeguarding lead (and any deputies) should be aware of contact details and referral routes into the Local Housing Authority so they can raise/progress concerns at the earliest opportunity. Indicators that a family may be at risk of homelessness include household debt, rent arrears, domestic abuse and anti-social behaviour, as well as the family being asked to leave a property. Whilst referrals and/or discussion with the Local Housing Authority should be progressed as appropriate, and in accordance with local procedures, this does not, and should not, replace a referral into local authority children's social care where a child has been harmed or is at risk of harm.

The Homelessness Reduction Act 2017 places a new legal duty on English councils so that everyone who is homeless or at risk of homelessness will have access to meaningful help including an assessment of their needs and circumstances, the development of a personalised housing plan, and work to help them retain their accommodation or find a new place to live. The following factsheets usefully summarise the new duties: Homeless Reduction Act Factsheets. The new duties shift the focus to early intervention and encourages those at risk to seek support as soon as possible, before they are facing a homelessness crisis.

In most cases school and college staff will be considering homelessness in the context of children who live with their families, and intervention will be on that basis. However, it should also be recognised in some cases 16 and 17 year olds could be living independently from their parents or guardians, for example through their exclusion from the family home, and will require a different level of intervention and support. Local authority children's social care will be the lead agency for these children and the designated safeguarding lead (or a deputy) should ensure appropriate referrals are made based on the child's circumstances. The Department for Levelling Up, Housing and Communities have published joint statutory guidance on the provision of accommodation for 16 and 17 year olds who may be homeless and/or require accommodation: here.

Mental health

Where children have suffered abuse and neglect, or other potentially traumatic adverse childhood experiences, this can have a lasting impact throughout childhood, adolescence and into adulthood. It is key that staff are aware of how these children's experiences, can impact on their mental health, behaviour, and education.

More information can be found in the Mental health and behaviour in schools guidance, colleges may also wish to follow this guidance as best practice. Public Health England has produced a range of resources to support secondary school teachers to promote

positive health, wellbeing and resilience among children. See Every Mind Matters for links to all materials and lesson plans.

Modern Slavery and the National Referral Mechanism

Modern slavery encompasses human trafficking and slavery, servitude and forced or compulsory labour. Exploitation can take many forms, including: sexual exploitation, forced labour, slavery, servitude, forced criminality and the removal of organs.

Further information on the signs that someone may be a victim of modern slavery, the support available to victims and how to refer them to the NRM is available in Statutory Guidance. Modern slavery: how to identify and support victims - GOV.UK

Preventing radicalisation

Children are vulnerable to extremist ideology and radicalisation. Similar to protecting children from other forms of harms and abuse, protecting children from this risk should be a part of a schools or colleges safeguarding approach.

Extremism[145] is the vocal or active opposition to our fundamental values, including democracy, the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs. This also includes calling for the death of members of the armed forces.

Radicalisation[146] refers to the process by which a person comes to support terrorism and extremist ideologies associated with terrorist groups.

Terrorism[147] is an action that endangers or causes serious violence to a person/people; causes serious damage to property; or seriously interferes or disrupts an electronic system. The use or threat **must** be designed to influence the government or to intimidate the public and is made for the purpose of advancing a political, religious or ideological cause.

Although there is no single way of identifying whether a child is likely to be susceptible to an extremist ideology, there are possible indicators that should be taken into consideration alongside other factors and contexts. Background factors combined with specific influences such as family and friends may contribute to a child's vulnerability.

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[145] As defined in the Government's Counter Extremism Strategy https://www.gov.uk/government/publications/counter-extremism-strategy.
[146] As defined in the Revised Prevent Duty Guidance for England and Wales. https://www.gov.uk/government/publications/prevent-duty-guidance/revised-prevent-duty-guidance-for-england-and-wales
[147] As defined in the Terrorism Act 2000 (TACT 2000) http://www.legislation.gov.uk/ukpga/2000/11/contents

Similarly, radicalisation can occur through many different methods (such as social media or the internet) and settings (such as within the home).

However, it is possible to protect vulnerable people from extremist ideology and intervene to prevent those at risk of radicalisation being radicalised. 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 the designated safeguarding lead (or deputy) making a Prevent referral.

Although not a cause for concern on their own, possible indicators when taken into consideration alongside other factors or context may be a sign of being radicalised. Further information and a list of such indicators can be found at Radicalisation and Extremism - Examples and Behavioural Traits (educateagainsthate.com)

The Prevent duty

All schools and colleges 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[148] to the need to prevent people from being drawn into terrorism".[149] This duty is known as the Prevent duty.

The Prevent duty should be seen as part of schools' and colleges' wider safeguarding obligations. Designated safeguarding leads (and deputies) and other senior leaders in schools should familiarise themselves with the revised Prevent duty guidance: for England and Wales, especially paragraphs 57-76, which are specifically concerned with schools (and also covers childcare). Designated safeguarding leads (and deputies) and other senior leaders in colleges should familiar themselves with the Prevent duty guidance: for further education institutions in England and Wales. The guidance is set out in terms of four general themes: risk assessment, working in partnership, staff training, and IT policies.

The school's or college's designated safeguarding lead (and any deputies) should be aware of local procedures for making a Prevent referral.

Channel

Channel is a voluntary, confidential support programme which focuses on providing support at an early stage to people who are identified as being vulnerable to being drawn

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[148] 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.
[149] "Terrorism" for these purposes has the same meaning as for the Terrorism Act 2000 (section 1(1) to (4) of that Act).

into terrorism. Prevent referrals may be passed to a multi-agency Channel panel, which will discuss the individual referred to determine whether they are vulnerable to being drawn into terrorism and consider the appropriate support required. A representative from the school or college may be asked to attend the Channel panel to help with this assessment. An individual's engagement with the programme is entirely voluntary at all stages.

The designated safeguarding lead (or deputy) should consider if it would be appropriate to share any information with the new school or college in advance of a child leaving. For example, information that would allow the new school or college to continue supporting victims of abuse or those who are currently receiving support through the 'Channel' programme, and have that support in place for when the child arrives.

Statutory guidance on Channel is available at: Channel guidance.

Additional support

The Department has published further advice for schools on the Prevent duty. The advice is intended to complement the Prevent guidance and signposts to other sources of advice and support.

The Home Office has developed three e-learning modules:

- Prevent awareness e-learning offers an introduction to the Prevent duty.
- Prevent referrals e-learning supports staff to make Prevent referrals that are **robust, informed** and with **good intention**.
- Channel awareness e-learning is aimed at staff who may be asked to contribute to or sit on a multi-agency Channel panel.

Educate Against Hate, is a government website designed to support school teachers and leaders to help them safeguard their students from radicalisation and extremism. The platform provides free information and resources to help school staff identify and address the risks, as well as build resilience to radicalisation.

For advice specific to further education, the Education and Training Foundation (ETF) hosts the Prevent for FE and Training. This hosts a range of free, sector specific resources to support further education settings comply with the Prevent duty. This includes the Prevent Awareness e-learning, which offers an introduction to the duty, and the Prevent Referral e-learning, which is designed to support staff to make robust, informed and proportionate referrals.

The ETF Online Learning environment provides online training modules for practitioners, leaders and managers, support staff and governors/Board members outlining their roles and responsibilities under the duty.

London Grid for Learning have also produced useful resources on Prevent (Online Safety Resource Centre - London Grid for Learning (lgfl.net).

Sexual violence and sexual harassment between children in schools and colleges

Sexual violence and sexual harassment can occur between two children of any age and sex from primary to secondary stage and into colleges. It can also occur online. It 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 and will be exacerbated if the alleged perpetrator(s) attends the same school or college. Sexual violence and sexual harassment exist on a continuum and may overlap, they can occur online and face to face (both physically and verbally) and are never acceptable.

It is essential that **all** 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. Detailed advice is available in Part five of this guidance.

Serious Violence

There are a number of indicators, which may signal children are at risk from, or are involved with, serious violent crime. These may include:

increased absence from school

- a change in friendships or relationships with older individuals or groups
- a significant decline in performance
- signs of self-harm or a significant change in wellbeing, or signs of assault or unexplained injuries
- Unexplained gifts or new possessions could also indicate that children have been approached by, or are involved with, individuals associated with criminal networks or gangs and may be at risk of criminal exploitation.

The likelihood of involvement in serious violence may be increased by factors such as:

- being male
- having been frequently absent or permanently excluded from school

- having experienced child maltreatment and having been involved in offending, such as theft or robbery.

A fuller list of risk factors can be found in the Home Office's Serious Violence Strategy.

Professionals should also be aware that violence can often peak in the hours just before or just after school, when pupils are travelling to and from school. These times can be particularly risky for young people involved in serious violence.

Advice for schools and colleges is provided in the Home Office's Criminal exploitation of children and vulnerable adults: county lines guidance. The Youth Endowment Fund (YEF) Toolkit sets out the evidence for what works in preventing young people from becoming involved in violence.

Home Office funded Violence Reduction Units (VRU) operate in the 20 police force areas across England and Wales that have the highest volumes of serious violence, as measured by hospital admissions for injury with a sharp object. A list of these locations can be found here. As the strategic co-ordinators for local violence prevention, each VRU is mandated to include at least one local education representative within their Core Membership group, which is responsible for setting the direction for VRU activity. Schools and educational partners within these areas are encouraged to reach out to their local VRU, either directly or via their education Core Member, to better ingrain partnership working to tackle serious violence across local areas and ensure a joined up approach to young people across the risk spectrum.

The Police, Crime, Sentencing and Courts Act will introduce early in 2023 a new duty on a range of specified authorities, such as the police, local government, youth offending teams, health and probation services, to work collaboratively, share data and information, and put in place plans to prevent and reduce serious violence within their local communities. Educational authorities and prisons/youth custody authorities will be under a separate duty to co-operate with core duty holders when asked, and there will be a requirement for the partnership to consult with all such institutions in their area.

The Duty is not intended to replace or duplicate existing safeguarding duties. Local partners may choose to meet the requirements of the Duty through existing multi-agency structures, such as multi-agency safeguarding arrangements, providing the correct set of partners are involved.

So-called 'honour'-based abuse (including Female Genital Mutilation and Forced Marriage)

So-called 'honour'-based abuse (HBA) 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 HBA are abuse (regardless of the motivation) and should be handled and escalated as such. 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 HBA, or already having suffered HBA.

Actions

If staff have a concern regarding a child who might be at risk of HBA or who has suffered from HBA, they should speak to the designated safeguarding lead (or deputy). As appropriate, the designated safeguarding lead (or deputy) will activate local safeguarding procedures, using existing national and local protocols for multi-agency liaison with the police and local authority children's social care. Where FGM has taken place, since 31 October 2015 there has been a mandatory reporting duty placed on **teachers**[150] that requires a different approach (see below).

FGM

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.

FGM mandatory reporting duty for teachers

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 may face disciplinary sanctions. It will be rare for teachers to see visual evidence, and they should **not** be examining pupils or students, 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.

[150] 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).

Teachers **must** personally report to the police cases where they discover that an act of FGM appears to have been carried out.[151] Unless the teacher has good reason not to, they should still consider and discuss any such case with the school's or college's designated safeguarding lead (or deputy) and involve local authority 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.

Further information can be found in the Multi-agency statutory guidance on female genital mutilation and the FGM resource pack particularly section 13.

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 perpetrators use perceived cultural practices to coerce a person into marriage. Schools and colleges can play an important role in safeguarding children from forced marriage.

The Forced Marriage Unit (FMU) has created: Multi-agency practice guidelines: handling cases of forced marriage (pages 75-80 of which focus on the role of schools and colleges) and, Multi-agency statutory guidance for dealing with forced marriage, which can both be found at The right to choose: government guidance on forced marriage - GOV.UK (www.gov.uk) School and college staff can contact the Forced Marriage Unit if they need advice or information: Contact: 020 7008 0151 or email fmu@fcdo.gov.uk.

Additional advice and support

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

[151] 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.

Abuse

Supporting practice in tackling child sexual abuse - CSA Centre Centre of Expertise on Child Sexual Abuse has free evidence-based practice resources to help professionals working with children and young people to identify and respond appropriately to concerns of child sexual abuse.

What to do if you're worried a child is being abused – DfE advice

Domestic abuse: Various Information/Guidance - Home Office (HO)

Faith based abuse: National Action Plan - DfE advice

Disrespect NoBody campaign - GOV.UK - Home Office website

Tackling Child Sexual Abuse Strategy – Home Office policy paper

Together we can stop child sexual abuse – HM Government campaign

Bullying

Preventing bullying including cyberbullying - DfE advice

Children missing from education, home or care

Children missing education - DfE statutory guidance

Child missing from home or care - DfE statutory guidance

Children and adults missing strategy - Home Office strategy

Children with family members in prison

National Information Centre on Children of Offenders - Barnardo's in partnership with HM Prison and Probation Service

Child Exploitation

Trafficking: safeguarding children - DfE and Home Office guidance

Care of unaccompanied and trafficked children – DfE statutory guidance

Modern slavery: how to identify and support victims – HO statutory guidance

Child exploitation disruption toolkit - HO statutory guidance

County Lines Toolkit For Professionals - The Children's Society in partnership with Victim Support and National Police Chiefs' Council

Confidentiality

Gillick competency Fraser guidelines - Guidelines to help with balancing children's rights along with safeguarding responsibilities.

Drugs

Drug strategy 2021 - Home Office strategy

Information and advice on drugs - Talk to Frank website

Drug and Alcohol education — teacher guidance & evidence review – PSHE Association

(so called) "Honour Based Abuse" including FGM and forced marriage

Female genital mutilation: information and resources- Home Office guidance

Female genital mutilation: multi agency statutory guidance - DfE, Department for Health, and Home Office

Forced marriage - Forced Marriage Unit (FMU) resources

Forced marriage - Government multi-agency practice guidelines and multi-agency statutory guidance

FGM resource pack – HM Government guidance

Health and Well-being

Rise Above: Free PSHE resources on health, wellbeing and resilience - Public Health England

Supporting pupils at schools with medical conditions - DfE statutory guidance

Mental health and behaviour in schools - DfE advice

Overview - Fabricated or induced illness - NHS advice

Homelessness

Homelessness code of guidance for local authorities – Department for Levelling Up, Housing and Communities guidance

Information Sharing

Government information sharing advice - Guidance on information sharing for people who provide safeguarding services to children, young people, parents and carers.

Information Commissioner's Office: Data sharing information hub - Information to help schools and colleges comply with UK data protection legislation including UK GDPR.

Online safety-advice

Childnet provide guidance for schools on cyberbullying

Educateagainsthate provides practical advice and support on protecting children from extremism and radicalisation

London Grid for Learning provides advice on all aspects of a school or college's online safety arrangements

NSPCC E-safety for schools provides advice, templates, and tools on all aspects of a school or college's online safety arrangements

Safer recruitment consortium "guidance for safe working practice", which may help ensure staff behaviour policies are robust and effective

Searching screening and confiscation is departmental advice for schools on searching children and confiscating items such as mobile phones

South West Grid for Learning provides advice on all aspects of a school or college's online safety arrangements

Use of social media for online radicalisation - A briefing note for schools on how social media is used to encourage travel to Syria and Iraq

Online Safety Audit Tool from UK Council for Internet Safety to help mentors of trainee teachers and newly qualified teachers induct mentees and provide ongoing support, development and monitoring

Online safety guidance if you own or manage an online platform DCMS advice

A business guide for protecting children on your online platform DCMS advice

UK Safer Internet Centre provide tips, advice, guides and other resources to help keep children safe online

Online safety- Remote education, virtual lessons and live streaming

Case studies for schools to learn from each other

Guidance Get help with remote education resources and support for teachers and school leaders on educating pupils and students

Departmental guidance on safeguarding and remote education including planning remote education strategies and teaching remotely

London Grid for Learning guidance, including platform specific advice

National cyber security centre guidance on choosing, configuring and deploying video conferencing

UK Safer Internet Centre guidance on safe remote learning

Online Safety- Support for children

Childline for free and confidential advice

UK Safer Internet Centre to report and remove harmful online content

CEOP for advice on making a report about online abuse

Online safety- Parental support

Childnet offers a toolkit to support parents and carers of children of any age to start discussions about their online life, and to find out where to get more help and support

Commonsensemedia provide independent reviews, age ratings, & other information about all types of media for children and their parents

Government advice about protecting children from specific online harms such as child sexual abuse, sexting, and cyberbullying

Internet Matters provide age-specific online safety checklists, guides on how to set parental controls, and practical tips to help children get the most out of their digital world

How Can I Help My Child? Marie Collins Foundation – Sexual Abuse Online

Let's Talk About It provides advice for parents and carers to keep children safe from online radicalisation

London Grid for Learning provides support for parents and carers to keep their children safe online, including tips to keep primary aged children safe online

Stopitnow resource from The Lucy Faithfull Foundation can be used by parents and carers who are concerned about someone's behaviour, including children who may be displaying concerning sexual behaviour (not just about online)

National Crime Agency/CEOP Thinkuknow provides support for parents and carers to keep their children safe online

Net-aware provides support for parents and carers from the NSPCC and O2, including a guide to social networks, apps and games

Parentzone provides help for parents and carers on how to keep their children safe online

Talking to your child about online sexual harassment: A guide for parents – This is the Children's Commissioner's parent guide on talking to your children about online sexual harassment

#Ask the awkward – Child Exploitation and Online Protection Centre guidance to parents to talk to their children about online relationships

Private fostering

Private fostering: local authorities - DfE statutory guidance

Radicalisation

Prevent duty guidance- Home Office guidance

Prevent duty: additional advice for schools and childcare providers - DfE advice

Educate Against Hate website - DfE and Home Office advice

Prevent for FE and Training - Education and Training Foundation (ETF)

Extremism and Radicalisation Safeguarding Resources – Resources by London Grid for Learning

Serious Violence

Serious violence strategy - Home Office Strategy

Factors linked to serious violence and how these factors can be used to identify individuals for intervention – Home Office

Youth Endowment Fund – Home Office

Gangs and youth violence: for schools and colleges - Home Office advice

Tackling violence against women and girls strategy- Home Office strategy

Violence against women and girls: national statement of expectations for victims - Home Office guidance

Sexual violence and sexual harassment

Specialist Organisations

Barnardo's - UK charity caring for and supporting some of the most vulnerable children and young people through their range of services.

Lucy Faithful Foundation - UK-wide child protection charity dedicated to preventing child sexual abuse. They work with families affected by sexual abuse and also run the confidential Stop it Now! Helpline.

Marie Collins Foundation – Charity that, amongst other things, works directly with children, young people, and families to enable their recovery following sexual abuse.

NSPCC - Children's charity specialising in child protection with statutory powers enabling them to take action and safeguard children at risk of abuse.

Rape Crisis - National charity and the umbrella body for their network of independent member Rape Crisis Centres.

UK Safer Internet Centre - Provides advice and support to children, young people, parents, carers and schools about staying safe online.

Harmful sexual behaviour

Rape Crisis (England & Wales) or The Survivors Trust for information, advice, and details of local specialist sexual violence organisations.

NICE guidance contains information on, amongst other things: developing interventions;

working with families and carers; and multi-agency working.

HSB toolkit The Lucy Faithfull Foundation - designed for parents, carers, family members and professionals, to help everyone play their part in keeping children safe. It has links to useful information, resources, and support as well as practical tips to prevent harmful sexual behaviour and provide safe environments for families.

NSPCC Learning: Protecting children from harmful sexual behaviour and NSPCC - Harmful sexual behaviour framework- free and independent advice about HSB.

Contextual Safeguarding Network – Beyond Referrals (Schools) provides a school self-assessment toolkit and guidance for addressing HSB in schools.

Preventing harmful sexual behaviour in children - Stop It Now provides a guide for parents, carers and professionals to help everyone do their part in keeping children safe, they also run a free confidential helpline.

Support for Victims

Anti-Bullying Alliance - Detailed information for anyone being bullied, along with advice for parents and schools. Signposts to various helplines and websites for further support.

Rape Crisis - Provide and signpost to a range of services to support people who have experienced rape, child abuse or any kind of sexual violence.

The Survivors Trust- UK-wide national umbrella agency with resources and support dedicated to survivors of rape, sexual violence and child sex abuse.

Victim Support - Supporting children and young people who have been affected by crime. Also provides support to parents and professionals who work with children and young people – regardless of whether a crime has been reported or how long ago it was.

Childline provides free and confidential advice for children and young people.

Toolkits

ask AVA - The Ask AVA prevention platform has been created to support education practitioners across the UK to develop and deliver a comprehensive programme to stop Violence Against Women and Girls.

NSPCC - Online Self-assessment tool to ensure organisations are doing everything they can to safeguard children.

NSPCC - Resources which help adults respond to children disclosing abuse.

NSPCC also provides free and independent advice about HSB: NSPCC - Harmful sexual behaviour framework

Safeguarding Unit, Farrer and Co. and Carlene Firmin, MBE, University of Bedfordshire - Peer-on-Peer Abuse toolkit provides practical guidance for schools on how to prevent, identify early and respond appropriately to peer-on-peer abuse.

Contextual Safeguarding Network – self-assessment toolkit for schools to assess their own response to HSB.

Childnet - STAR SEND Toolkit equips, enables and empowers educators with the knowledge to support young people with special educational needs and disabilities.

Childnet - Just a joke? provides lesson plans, activities, a quiz and teaching guide designed to explore problematic online sexual behaviour with 9-12 year olds.

Childnet - Step Up, Speak Up a practical campaign toolkit that addresses the issue of online sexual harassment amongst young people aged 13-17 years old.

NSPCC - Harmful sexual behaviour framework An evidence-informed framework for children and young people displaying HSB.

Contextual Safeguarding Network – Beyond Referrals - Schools levers for addressing HSB in schools.

Sharing nudes and semi-nudes

London Grid for Learning-collection of advice - Various information and resources dealing with the sharing of nudes and semi-nudes.

UKCIS Sharing nudes and semi-nudes: advice for education settings working with children and young people - Advice for schools and colleges on responding to incidents of non-consensual sharing of nudes and semi-nudes.

Support for parents/carers

NCA CEOP Thinkuknow: Advice/resources on how to deal with concerns about what children may be doing online including advice on how to help challenge harmful sexual attitudes and start a conversation to support positive sexual behaviour.

Annex C: Role of the designated safeguarding lead

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 (including online safety). This should be explicit in the role holder's job description.

The designated safeguarding lead should have the appropriate status and authority within the school or college to carry out the duties of the post. The role of the designated safeguarding lead carries a significant level of responsibility, and they should be given the additional time, funding, training, resources and support they need to carry out the role effectively. Their additional responsibilities include providing advice and support to other staff on child welfare, safeguarding and child protection matters, taking part in strategy discussions and inter-agency meetings, and/or supporting other staff to do so, and to contributing 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.

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.

Manage referrals

The designated safeguarding lead is expected to refer cases:

- of suspected abuse and neglect to the local authority children's social care as required and support staff who make referrals to local authority children's social care
- to the Channel programme where there is a radicalisation concern as required and support staff who make referrals to the Channel programme
- where a person is dismissed or left due to risk/harm to a child to the Disclosure and Barring Service as required, and
- where a crime may have been committed to the Police as required. NPCC - When to call the police should help understand when to consider calling the police and what to expect when working with the police.

Working with others

The designated safeguarding lead is expected to:

- act as a source of support, advice and expertise for all staff
- act as a point of contact with the safeguarding partners
- 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.This should include being aware of the requirement for children to have an Appropriate Adult. Further information can be found in the Statutory guidance - PACE Code C 2019.
- as required, liaise with the "case manager" (as per Part four) and the local authority designated officer(s) (LADO) for child protection concerns in cases which concern a staff member
- liaise with staff (especially teachers, pastoral support staff, school nurses, IT technicians, senior mental health leads and special educational needs co-ordinators (SENCO's), or the named person with oversight for SEND in a college and senior mental health leads) on matters of safety and safeguarding and welfare (including online and digital safety) and when deciding whether to make a referral by liaising with relevant agencies so that children's needs are considered holistically
- liaise with the senior mental health lead and, where available, the mental health support team, where safeguarding concerns are linked to mental health
- promote supportive engagement with parents and/or carers in safeguarding and promoting the welfare of children, including where families may be facing challenging circumstances
- work with the headteacher and relevant strategic leads, taking lead responsibility

for promoting educational outcomes by knowing the welfare, safeguarding and child protection issues that children in need are experiencing, or have experienced, and identifying the impact that these issues might be having on children's attendance, engagement and achievement at school or college[152]. This includes:

- ensuring that the school or college knows who its cohort of children who have or have had a social worker are, understanding their academic progress and attainment, and maintaining a culture of high aspirations for this cohort, and
- supporting teaching staff to provide additional academic support or reasonable adjustments to help children who have or have had a social worker reach their potential, recognising that even when statutory social care intervention has ended, there is still a lasting impact on children's educational outcomes.

Information sharing and managing the child protection file

The designated safeguarding lead is responsible for ensuring that child protection files are kept up to date.

Information should be kept confidential and stored securely. It is good practice to keep concerns and referrals in a separate child protection file for each child.

Records should include:

- a clear and comprehensive summary of the concern
- details of how the concern was followed up and resolved
- a note of any action taken, decisions reached and the outcome.

They should ensure the file is only accessed by those who need to see it and where the file or content within it is shared, this happens in line with information sharing advice as set out in Part one and Part two of this guidance.

Where children leave the school or college (including in year transfers) the designated safeguarding lead should ensure their child protection file is transferred to the new school or college as soon as possible, and within 5 days for an in-year transfer or within the first

[152] We recognise that in some settings there may be a different strategic lead for promoting the educational outcomes of children who have or have had a social worker, particularly in larger schools or colleges. Where this is the case, it is important that the DSL works closely with the lead to provide strategic oversight for the outcomes of these children and young people.

5 days of the start of a new term. This should be transferred separately from the main pupil file, ensuring secure transit, and confirmation of receipt should be obtained. Receiving schools and colleges should ensure key staff such as designated safeguarding leads and special educational needs co-ordinators (SENCO's) or the named person with oversight for SEND in colleges, are aware as required.

Lack of information about their circumstances can impact on the child's safety, welfare and educational outcomes. In addition to the child protection file, the designated safeguarding lead should also consider if it would be appropriate to share any additional information with the new school or college in advance of a child leaving to help them put in place the right support to safeguard this child and to help the child thrive in the school or college. For example, information that would allow the new school or college to continue supporting children who have had a social worker and been victims of abuse and have that support in place for when the child arrives.

Raising Awareness

The designated safeguarding lead should:

- ensure each member of staff has access to, and understands, the school's or college's child protection policy and procedures, especially new and part-time staff
- ensure the school's 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
- ensure the child protection policy is available publicly and parents know that referrals about suspected abuse or neglect may be made and the role of the school or college in this
- link with the safeguarding partner arrangements to make sure staff are aware of any training opportunities and the latest local policies on local safeguarding arrangements, and
- help promote educational outcomes by sharing the information about the welfare, safeguarding and child protection issues that children who have or have had a social worker are experiencing with teachers and school and college leadership staff.

Training, knowledge and skills

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 (and any deputies) should undertake Prevent awareness training. Training should provide designated

safeguarding leads with a good understanding of their own role, how to identify, understand and respond to specific needs that can increase the vulnerability of children, as well as specific harms that can put children at risk, and the processes, procedures and responsibilities of other agencies, particularly local authority children's social care, 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[153]
- 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
- understand the importance of the role the designated safeguarding lead has in providing information and support to local authority children social care in order to safeguard and promote the welfare of children
- understand the lasting impact that adversity and trauma can have, including on children's behaviour, mental health and wellbeing, and what is needed in responding to this in promoting educational outcomes
- are alert to the specific needs of children in need, those with special educational needs and disabilities (SEND), those with relevant health conditions and young carers[154]
- understand the importance of information sharing, both within the school and college, and with the safeguarding partners, other agencies, organisations and practitioners
- 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 special educational needs and disabilities (SEND) face online, for example, from bullying, grooming and radicalisation and are confident they have the capability to support children with

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[153] Full details in Chapter one of Working Together to Safeguard Children.

[154] 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.

SEND 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.

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.

Providing support to staff

Training should support the designated safeguarding lead in developing expertise, so they can support and advise staff and help them feel confident on welfare, safeguarding and child protection matters. This includes specifically to:

- ensure that staff are supported during the referrals processes, and
- support staff to consider how safeguarding, welfare and educational outcomes are linked, including to inform the provision of academic and pastoral support.

Understanding the views of children

It is important that all children feel heard and understood. Therefore, designated safeguarding leads (and deputies) should be supported in developing knowledge and skills to:

- encourage a culture of listening to children and taking account of their wishes and feelings, among all staff, and in any measures the school or college may put in place to protect them, and,
- understand the difficulties that children may have in approaching staff about their circumstances and consider how to build trusted relationships which facilitate communication.

Holding and sharing information

The critical importance of recording, holding, using and sharing information effectively is set out in Parts one, two and five of this document, and therefore the designated safeguarding lead should be equipped to:

- understand the importance of information sharing, both within the school and college, and with other schools and colleges on transfer including in-year and between primary and secondary education, and with the safeguarding partners, other agencies, organisations and practitioners
- understand relevant data protection legislation and regulations, especially the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR), and
- be able to keep detailed, accurate, secure written records of concerns and referrals and understand the purpose of this record-keeping.

Annex D: Host families - homestay during exchange visits

Schools and colleges often make arrangements for children to take part in exchange visits, either to other parts of the UK or abroad. Exchanges can benefit learning across a range of subjects. In particular, foreign 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 duty to safeguard and promote children's welfare, as defined at paragraph 4. This extends to considering their safety and how best to minimise risk of harm to those children during any exchange visit the school or college arranges, and when organising the care and accommodation for 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[155] the responsible adults will be engaging in regulated activity for the period of the stay.[156] 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.[157]

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.[158]

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[155] This includes where a person has parental responsibility for the visiting child.
[156] 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.
[157] Section 53(3) and (4) of the Safeguarding Vulnerable Groups Act 2006.
[158] Section 9 of the Safeguarding Vulnerable Groups Act 2006.

Where the child's parent(s) or a student themselves arranges their own homestay, this would be a private arrangement[159] therefore, the school or college would not be the regulated activity provider.

When a school or college arrange a homestay, it should consider what intelligence/information will best inform its assessment of the suitability of the adults in those families responsible for the visiting child during the stay. It will be for the school or college to use their professional judgement to decide what factors it considers to be relevant. However, to help inform that assessment, schools and colleges should[160] obtain a DBS enhanced certificate with children's barred list information. This check will not only establish whether the adults are barred from engaging in regulated activity relating to children, but where criminal record information is disclosed it will also allow the school or college to consider, alongside all other intelligence that it has obtained, whether the adults would be suitable hosts for a child.

DBS enhanced certificates with children's barred list information for volunteer roles[161] can be obtained free of charge.[162] 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 are free to decide whether they consider it necessary to 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, and agreement to the arrangements in place for the visit. They should use their professional judgement to satisfy themselves that the arrangements are appropriate and sufficient to safeguard effectively every child who will take part in the exchange. Parents should be aware of the

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[159] Where it is a private arrangement, the school or college are not entitled to obtain a standard or enhanced DBS check.
[160] See page 3 for interpretation of 'should' used throughout the document.
[161] 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."
[162] Some checking bodies will charge an admin fee to process a DBS certificate/barred list request. As these fees will vary, schools should assess what services are being offered and consider what is known about the performance and reputation of the organisation.

agreed arrangement. Schools and colleges are also free to decide whether they consider it necessary 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.

During the visit

Pupils should understand who to contact during a homestay should an emergency occur, or a situation arise which makes them feel uncomfortable.

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.[163] 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 paragraphs 336-339 for additional information about private fostering and local authority notifications.

[163] 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 E: 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.

581. This document fulfils the duty in legislation [i,ii] 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.

582. 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.

583. We start with a presumption of trust and confidence in those who work with children, and the good sense and judgement 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[iii]
- 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".

584. 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 follows.

585. Supervision by a person in regulated activity/regular and day to day: supervisors **must** be in regulated activity themselves[iv]. 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.

586. 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[164] 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), and
- how many workers would be supervised by each supervising worker.

587. 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 headteacher 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

[164] See page 8 of DBS guidance: Regulated activity with children England which can be found at: DBS guidance leaflets

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 4 of this guidance above; and if it is a specified place such as a school, and
- consider whether the supervised worker is a volunteer.

[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.
If the work is in a specified place such as a school, paid workers remain in regulated activity even if supervised.
[iii.]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 standalone barring check. These are yet to be commenced.
[iv.]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 F: Table of substantive changes from September 2021

This table explains where we made substantive changes.

Summary	About the guidance
About this guidance Who is this guidance for?	Reiterated that 'college' includes providers of post 16 Education as set out in the Apprenticeships, Skills, Children and Learning Act 2009 (as amended) : 16-19 Academies, Special Post-16 institutions and Independent Training Providers.
Part one	**Safeguarding information for all staff**
Paragraph 19	New paragraph setting out that children may not feel ready or know how to tell someone they are being abused.
Paragraph 43	New paragraph added on Domestic Abuse.
Part two	**The management of safeguarding**
Paragraph 81	New paragraph explaining how safeguarding and child protection training will help governors and trustees.
Paragraph 82-93	Added clarification to paragraphs regarding the Human Rights Act 1998, the Equality Act 2010, and the Public Sector Equality Duty.
Paragraph 132	Added link to Harmful online challenges and online - this includes advice on preparing for any online challenges and hoaxes, sharing information with parents and carers and where to get help and support.
Paragraphs 139	Added a paragraph to reinforce the importance of schools and colleges speaking with parents and carers about children's access to online sites when away from school or college.
Paragraph 140	Provided clarity on the role of governors and proprietors when considering filters and monitoring and ensuring the effectiveness is regularly reviewed.
Paragraphs 191-196	Added further information on the role of the virtual school head.

Paragraphs 202-204	Extended the information about schools and colleges ensuring children who may be LGBT have a trusted adult who they can be open with.
Part three	**Safer recruitment**
Footnote 101	Added a reminder that DBS for checks on volunteers are free.
Part four	**Allegations made against/Concerns raised in relation to teachers, including supply teachers, other staff, volunteers and contractors.**
Retitled heading	Safeguarding concerns and allegations made about staff, including supply teachers, volunteers and contractors
Paragraph 432-434	Added information to provide clarity on the process for sharing low-level concerns.
Part five	**Child-on-child sexual violence and sexual harassment**
Paragraphs 465	Added bullet point and link to London Grid for Learning 'Undressed' guidance.
Paragraph 468	Added paragraph to highlight the importance of ensuring children understand the law on child on child abuse is there to protect them rather than criminalise them.
Paragraphs 482	Added a bullet point to emphasise the importance of understanding intra familial harms and any necessary support for siblings following incidents.
Paragraphs 492	Paragraph added to emphasise the need for schools and colleges as relevant agencies should be part of discussion with statutory safeguarding partners.
Annex B	**Further information**
Forced Marriage	Added link to The right to choose: government guidance on forced marriage.
County lines toolkit	Added link to the County Lines Toolkit For Professionals - The Children's Society in partnership with Victim Support and National Police Chiefs' Council
Operation Encompass	Added contact details.

Abuse	Added link to CSA centre of Expertise on Child Sexual abuse – free resources
Annex C	**Designated Safeguarding Lead (DSL)**
Working with others	Added reference and link to the Statutory guidance PACE Code C 2019 – Appropriate adult.

Department for Education

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