Department for Education

Keeping children safe in education

Statutory guidance for schools and colleges

September 2019

Contents

Summary 3

What is the status of this guidance? 3

About this guidance 3

Who this guidance is for 4

Part one: Safeguarding information for all staff 5

What school and college staff should know and do 5

Indicators of abuse and neglect 8

Part two: The management of safeguarding 17

The responsibility of governing bodies, proprietors and management committees 17

Part three: Safer recruitment 30

Recruitment, selection and pre-employment vetting 30

Types of check 33

Part four: Allegations of abuse made against teachers and other staff 53

Duties as an employer and an employee 53

Initial considerations 53

Supporting those involved 56

Managing the situation and exit arrangements 58

Specific actions 63

Part five: Child on Child Sexual Violence and Sexual Harassment 65

Responding to reports of sexual violence and sexual harassment 65

The immediate response to a report 65

Action following a report of sexual violence and/or sexual harassment 67

Ongoing response 74

Annex A: Further information 78

Annex B: Role of the designated safeguarding lead 92

Annex C: Online safety 96

Annex D: Boarding schools, residential special schools, residential colleges and children's homes 100

Annex E: Host families - homestay during exchange visits 101

Annex F: Statutory guidance - Regulated activity (children) - Supervision of activity with children which is regulated activity when unsupervised 104

Annex G: Disclosure and Barring Service checks 107

Annex H: Table of substantive changes from September 2018 108

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, the Education (Independent School Standards) Regulations 2014, and the Non-Maintained Special Schools (England) Regulations 2015. Schools and colleges in England must have regard to it when carrying out their duties to safeguard and promote the welfare of children. 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] It relates to their responsibilities towards children who are receiving education or training at the college. It excludes 16-19 academies and free schools (which are required to comply with relevant safeguarding legislation by virtue of their funding agreement).

[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 14 for further detail on this requirement).
[2] Under section 28 of the Further and Higher Education Act 1992 ('designated institutions').

Who this guidance is for

This statutory guidance should be read and followed by:

- governing bodies of maintained schools (including maintained nursery schools) and colleges;
- proprietors of independent schools (including academies, free schools and alternative provision academies) and non-maintained special schools. In the case of academies, free schools and alternative provision academies, the proprietor will be the academy trust; and
- management committees of pupil referral units (PRUs).

The above persons should ensure that **all staff** in their school or college **read** at least Part one of this guidance. The above persons should ensure that mechanisms are in place to assist staff to understand and discharge their role and responsibilities as set out in Part one of this guidance.

This guidance replaces Keeping Children Safe in Education September 2018.

A table of substantive changes is included at Annex H.

Part one: Safeguarding information for all staff

What school and college staff should know and do

A child centred and coordinated approach to safeguarding

1. Schools and colleges and their staff are an important part of the wider safeguarding system for children. This system is described in statutory guidance Working Together to Safeguard Children.

2. Safeguarding and promoting the welfare of children is **everyone's** responsibility. **Everyone** who comes into contact with children and their families 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 interests** 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 impairment of children's health or development;
- ensuring that children grow up in circumstances consistent with the provision of safe and effective care; and
- taking action to enable all children to have the best outcomes.

5. Children includes everyone under the age of 18.

The role of school and college staff

6. School and college staff are particularly important as they are in a position to identify concerns early, provide help for children, and prevent concerns from escalating.

7. **All** staff have a 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.[3] 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 a concern about a child's welfare should follow the referral processes set out in paragraphs 36-47. 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 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.[4]

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;
- behaviour policy;[5]
- staff behaviour policy (sometimes called a code of conduct);
- safeguarding response to children who go missing from education; and
- role of the designated safeguarding lead (including the identity of the designated safeguarding lead and any deputies).

[3] Detailed information on early help can be found in Chapter 1 of Working Together to Safeguard Children.
[4] 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.
[5] 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 as described above.

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

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

15. **All** staff should be aware of their local early help[6] process and understand their role in it.

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

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

What school and college staff should look out for

Early help

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

- is disabled and has specific additional needs;
- has special educational needs (whether or not they have a statutory Education, Health and Care Plan);
- is a young carer;
- is showing signs of being drawn in to anti-social or criminal behaviour, including gang involvement and association with organised crime groups;
- is frequently missing/goes missing from care or from home;
- is at risk of modern slavery, trafficking or exploitation;

---

[6] Detailed information on early help can be found in Chapter 1 of Working Together to Safeguard Children.
[7] More information on statutory assessments is included at paragraph 42. Detailed information on statutory assessments can be found in Chapter 1 of Working Together to Safeguard Children.

- is at risk of being radicalised or exploited;
- 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 drugs or alcohol themselves;
- has returned home to their family from care; and
- is a privately fostered child.

Abuse and neglect

19. 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 so that they are able to identify cases of children who may be in need of help or protection. If staff are unsure, they should **always** speak to the designated safeguarding lead (or deputy).

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

Indicators of abuse and neglect

21. **Abuse**: a form of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm or by failing to act to prevent harm. Children may be abused in a family or in an institutional or community setting by those known to them or, more rarely, by others. 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.

22. **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.

23. **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.

24. **Sexual abuse**: involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse. 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 (see paragraph 27).

25. **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

26. **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, alcohol abuse, deliberately missing education and sexting (also known as youth produced sexual imagery) put children in danger.

Peer on peer abuse

27. **All** staff should be aware that children can abuse other children (often referred to as peer on peer abuse). This is most likely to include, but may not be limited to:

- bullying (including cyberbullying);
- physical abuse such as hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm;
- sexual violence,[8] such as rape, assault by penetration and sexual assault;

[8] For further information about sexual violence see Annex A.

- sexual harassment,[9] such as sexual comments, remarks, jokes and online sexual harassment, which may be stand-alone or part of a broader pattern of abuse;
- upskirting,[10] which typically involves taking a picture under a person's clothing without them knowing, with the intention of viewing their genitals or buttocks to obtain sexual gratification, or cause the victim humiliation, distress or alarm;
- sexting (also known as youth produced sexual imagery); and
- initiation/hazing type violence and rituals.

28. **All** staff should be clear as to the school's or college's policy and procedures with regards to peer on peer abuse.

Serious violence

29. All staff should be aware of indicators, which may signal that 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.

30. All staff should be aware of the associated risks and understand the measures in place to manage these. Advice for schools and colleges is provided in the Home Office's Preventing youth violence and gang involvement and its Criminal exploitation of children and vulnerable adults: county lines guidance[11].

Female Genital Mutilation

31. 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**.[12] 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. See Annex A for further details.

Contextual safeguarding

32. Safeguarding incidents and/or behaviours can be associated with factors outside the school or college and/or can occur between children outside the school or college. **All** staff, but especially the designated safeguarding lead (and deputies) should be considering the context within which such incidents and/or behaviours occur. This is

[9] For further information about sexual harassment see Annex A.
[10] For further information about 'upskirting' see Annex A.
[11] For further information about violent crime see Annex A.
[12] 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).

known as contextual safeguarding, which simply means assessments of children should consider whether wider environmental factors are present in a child's life that are a threat to their safety and/or welfare. Children's social care assessments should consider such factors 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 the full context of any abuse. Additional information regarding contextual safeguarding is available here: Contextual Safeguarding.

Additional information and support

33. 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.

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

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

35. 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.

36. If staff have **any concerns** about a child's welfare, they should act on them immediately. See page 16 for a flow chart setting out the process for staff when they have concerns about a child.

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

38. Options will then include:

- managing any support for the child internally via the school's or college's own pastoral support processes;
- an early help assessment;[13] or

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

- a referral for statutory services,[14] for example as the child might be in need, is in need or suffering or likely to suffer harm.

39. 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 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.

40. 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 that early information sharing is vital for effective identification, assessment and allocation of appropriate service provision. 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 and General Data Protection Regulation (GDPR). 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 promote the welfare, and protect the safety of children.

Early help

41. 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 children's social care for assessment for statutory services, if the child's situation does not appear to be improving or is getting worse.

Statutory assessments

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

---

[14] 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.

Children in need

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

Children suffering or likely to suffer significant harm

Local authorities, with the help of other organisations as appropriate, have a duty to make 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, including all forms of abuse and neglect, female genital mutilation or other so-called honour based violence, and extra-familial threats like radicalisation and sexual exploitation.

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

What will the local authority do?

44. Within one working day of a referral being made, a local authority social worker should acknowledge 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;
- the child is in need, and should be assessed under section 17 of the Children Act 1989;
- 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;
- any services are required by the child and family and what type of services
- further specialist assessments are required to help the local authority to decide what further action to take;
- to see the child as soon as possible if the decision is taken that the referral requires further assessment.

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

46. 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).

47. 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

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

Why is all of this important?

49. It is important for children to receive the right help at the right time to address risks and prevent issues escalating. Research and serious case reviews have repeatedly shown the dangers of failing to take effective action.[15] 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;
- sharing information too slowly; and
- a lack of challenge to those who appear not to be taking action.

What school and college staff should do if they have concerns about another staff member who may pose a risk of harm to children

50. If staff have safeguarding concerns, or an allegation is made about another member of staff (including volunteers) 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, allegations should be reported directly to the designated officer(s) at the local authority. (Further details can be found in Part four of this guidance).

[15] An analysis of serious case reviews can be found at Serious case reviews, 2011 to 2014.

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

51. 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.

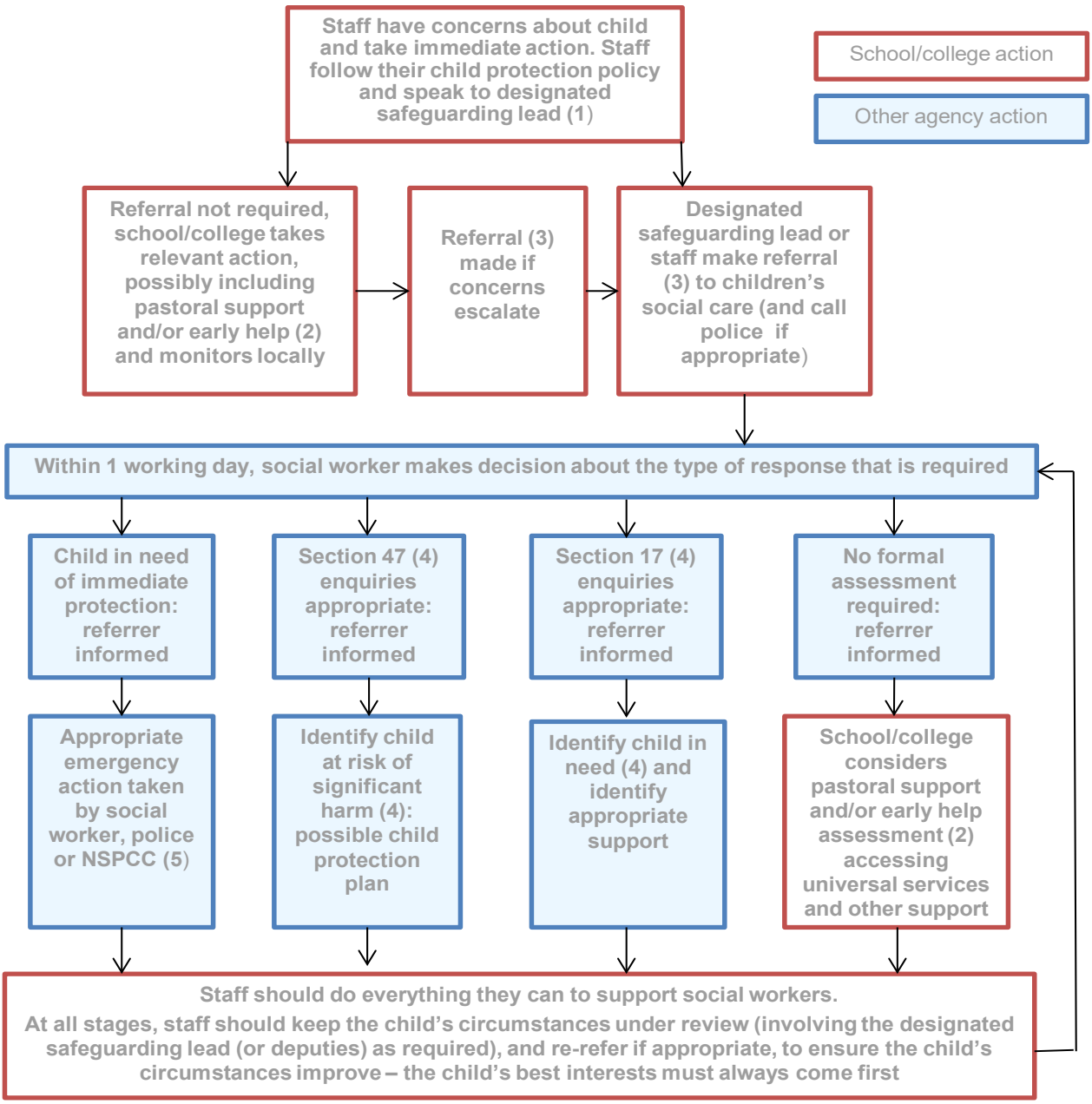
52. Appropriate whistleblowing procedures should be put in place for such concerns to be raised with the school's or college's senior leadership team.

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

- general guidance on whistleblowing can be found via: Advice on Whistleblowing; and
- 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.[16]

[16] 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

The responsibility of governing bodies, proprietors and management committees

Legislation and the law

54. Governing bodies and proprietors[17] (in Part two, unless otherwise stated, includes management committees) must ensure that they comply with their duties under legislation. They must have regard to this guidance, ensuring that policies, procedures and training in their schools or colleges are effective and comply with the law at all times.[18]

55. 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.[19]

Safeguarding policies and procedures

56. 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.

57. This should include:

- Individual schools and colleges having an effective child protection policy. The child protection policy should describe procedures which are in accordance with government guidance and refer to locally agreed multi-agency safeguarding arrangements put in place by the three safeguarding partners. It should be

[17] In the case of academies, free schools and alternative provision academies the proprietor will be the academy trust.
[18] 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. 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.
[19] Chapter 2 of Working Together to Safeguard Children.

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

- A staff behaviour policy (sometimes called the code of conduct) which should, amongst other things, include: acceptable use of technologies, staff/pupil relationships and communications including the use of social media.[20]
- Governing bodies and proprietors should put in place appropriate safeguarding responses to children who go missing from education, particularly on repeat occasions, to help identify the risk of abuse and neglect, including sexual abuse or exploitation, and to help prevent the risk of them going missing in future.
    - Where reasonably possible, schools and colleges should hold more than one emergency contact number for each pupil or student. This goes beyond the legal minimum[21] and is good practice to give the school or college additional options to make contact with a responsible adult when a child missing education is also identified as a welfare and/or safeguarding concern. Further information for schools can be found in the department's School Attendance Guidance.
    - Further information on 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.

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

59. Governing bodies and proprietors should take a proportionate risk-based

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

[21] legislation.gov.uk.

approach to the level of information that is provided to temporary staff and volunteers.

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

The designated safeguarding lead

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

62. 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.

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

64. The designated safeguarding lead and any deputies should liaise with the three safeguarding partners and work with other agencies in line with Working Together to Safeguard Children.

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

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

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

Multi-agency working[22]

68. 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. It is especially important that schools and colleges understand their role in the new safeguarding partner arrangements.

69. New safeguarding partners and child death review partner arrangements are to be in place by 29 September 2019. Locally, the three safeguarding partners (the local authority; a clinical commissioning group for an area within the local authority; and the chief officer of police for a police area in 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.

70. Governing bodies, proprietors, management committees and their senior leadership teams, especially their designated safeguarding leads, should make themselves aware of and follow their new local arrangements.

71. The three 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.[23] Relevant agencies are those organisations and agencies whose involvement that the three safeguarding partners consider may be required to safeguard and promote the welfare of children with regard to local need. The three safeguarding partners must 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 new arrangements.

72. The three safeguarding partners should make arrangements to allow all schools (including multi-academy trusts) and colleges in the local area to be fully engaged, involved and included in the new safeguarding arrangements. It is expected that, locally, the three safeguarding partners will name schools and colleges as relevant agencies and will reach their own conclusions on how best to achieve the active engagement of individual institutions in a meaningful way.

---

[22] The department published Working Together Transitional Statutory Guidance to support Local Safeguarding Children Boards (LSCBs), the new safeguarding and child death review partners, and the new Child Safeguarding Practice Review Panel in the transition from LSCBs and serious case reviews (SCRs) to a new system of multi-agency arrangements and local and national child safeguarding practice reviews. Locally, the three safeguarding partners (the local authority; a clinical commissioning group for an area within the local authority; and the chief officer of police for a police area in the local authority area) must make arrangements to work together to safeguard and promote the welfare of local children, including identifying and responding to their needs. Governing bodies, proprietors, management committees and their senior leadership teams, especially their designated safeguarding leads, should be aware of their local arrangements.

[23] A list of relevant agencies is available at:legislation.gov.uk. Schools and colleges are included.

73. If 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.

74. Governing bodies and proprietors should understand the local criteria for action[24] and the local protocol for assessment[25] and ensure they are reflected in their own policies and procedures. They should also be prepared to supply information as requested by the three safeguarding partners.[26]

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

Information sharing

76. Information sharing is vital in identifying and tackling all forms of abuse and neglect. 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 process and principles for sharing information within the school or college and with the three safeguarding partners, other organisations, agencies and practitioners as required. 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.

77. It is important that governing bodies and proprietors are aware that among other obligations, the Data Protection Act 2018 and the GDPR place duties on organisations and individuals to process personal information fairly and lawfully and to keep the

[24] 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, including 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, 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.
[25] 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 children's social care.
[26] More details on information requests by the safeguarding partners is provided in Part 3 of Working Together to Safeguard Children.

information they hold safe and secure.

78. **The Data Protection Act 2018 and 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 promote the welfare and protect the safety of children.**

79. Governing bodies and proprietors should ensure relevant staff have due regard to the data protection principles, which allow them to share personal information, as provided for in the Data Protection Act 2018 and the GDPR. Relevant staff should be confident of the processing conditions under the Data Protection Act 2018 and the GDPR 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'. Schools should not under the GDPR as supplemented by the Data Protection Act 2018 provide pupils' education data where the serious harm test under that legislation is met. Therefore, in a situation where a child is in a refuge, this could mean that schools can withhold education data under the GDPR; they should do so where the serious harm test is satisfied.

80. Governing bodies and proprietors should ensure that staff who need to share 'special category personal data' are aware that the Data Protection Act 2018 contains 'safeguarding of children and individuals at risk' as a processing condition that allows practitioners to share information. This includes allowing practitioners to share information without consent, if it is not possible to gain consent, it cannot be reasonably expected that a practitioner gains consent, or if to gain consent would place a child at risk.

81. 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; and
- at The Information Commissioner's Office (ICO), which includes ICO GDPR FAQs and guidance from the department.

82. 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, ensuring 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 SENCOs or the named person with oversight for SEN in a college, are aware as required.

83. 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 victims of abuse and have that support in place for when the child arrives.

Staff training

84. 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 advice from the local three safeguarding partners.

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

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

Online safety

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

Opportunities to teach safeguarding

88. Governing bodies and proprietors should ensure that children are taught about safeguarding, including online safety. Schools should consider this as part of providing a broad and balanced curriculum.

89. This may include covering relevant issues through Relationships Education and Relationships and Sex Education (formerly known as Sex and Relationship Education), tutorials (in colleges) and/or where delivered, through Personal, Social, Health and Economic (PSHE) education. The Government has made regulations which will make the subjects of Relationships Education (for all primary pupils) and Relationships and Sex Education (for all secondary pupils) and Health Education (for all pupils in state-funded schools) mandatory from September 2020.

90. Whilst it is essential that governing bodies and proprietors ensure that appropriate filters and monitoring systems are in place, they should be careful that “over

blocking" does not lead to unreasonable restrictions as to what children can be taught with regard to online teaching and safeguarding.

Inspection

91. From September 2019, Ofsted's inspections of early years, schools and post-16 provision will be carried out under: Ofsted's Education Framework. Inspectors will always report on whether or not arrangements for safeguarding children and learners are effective. 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. 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 they inspect at Independent Schools Inspectorate.

Safer recruitment

92. In line with Part three of this guidance, governing bodies and proprietors should prevent people who pose a risk of harm from working with children by adhering to statutory responsibilities to check staff who work with children, taking proportionate decisions on whether to ask for any checks beyond what is required and ensuring volunteers are appropriately supervised. The school or college should have written recruitment and selection policies and procedures in place.

93. The School Staffing (England) Regulations 2009 require governing bodies of maintained schools to ensure that at least one of the persons who conducts an interview has completed safer recruitment training.[27] Governing bodies of maintained schools may choose appropriate training and may take advice from the local three safeguarding partners in doing so. The training should cover, as a minimum, the content of this guidance.

What school and college staff should do if they have concerns about another staff member who may pose a risk of harm to children

94. Governing bodies and proprietors should ensure there are procedures in place (as described in paragraph 35) to manage concerns/allegations, against staff (including volunteers) that might indicate they would pose a risk of harm to children. Such

[27] Regulation 9 of the School Staffing (England) Regulations 2009.

allegations should be referred to the designated officer(s) at the local authority by the appropriate person as set out in Part four of this guidance.

95. 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.[28]

96. **This is a legal duty and failure to refer when the criteria are met is a criminal offence**.[29] More detail is provided at paragraph 169.

Peer on peer abuse

97. **All** staff should recognise that children are capable of abusing their peers. All staff should be clear about their school's or college's policy and procedures with regard to peer on peer abuse.

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

- procedures to minimise the risk of peer on peer abuse;
- how allegations of peer on peer abuse will be recorded, investigated and dealt with;
- clear processes as to how victims, perpetrators and any other child affected by peer on peer abuse will be supported;
- a clear statement that abuse is abuse and should never be tolerated or passed off as "banter", "just having a laugh" or "part of growing up";
- recognition of the gendered nature of peer on peer abuse (i.e. that it is more likely that girls will be victims and boys perpetrators), but that all peer on peer abuse is unacceptable and will be taken seriously; and
- the different forms peer on peer abuse can take, such as:
    - sexual violence and sexual harassment. Part five of this guidance sets out how schools and colleges should respond to reports of sexual violence and sexual harassment;
    - physical abuse such as hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm;
    - sexting (also known as youth produced sexual imagery): the policy should include the school's or college's approach to it. The department provides

[28] Section 35 of the Safeguarding Vulnerable Groups Act 2006.
[29] Section 38 of the Safeguarding Vulnerable Groups Act 2006.

Searching Screening and Confiscation Advice for schools. The UK Council for Internet Safety (UKCIS) Education Group has published Advice for Schools and Colleges on Responding to Sexting Incidents; and

- initiation/hazing type violence and rituals.

The child's wishes

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

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

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

Looked after children and previously looked after children

101. The most common reason for children becoming looked after[30] 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.

102. In particular, they should ensure that appropriate staff have the information they need in relation to a child's looked after legal status (whether they are looked after under voluntary arrangements with consent of parents, or on an interim or full care order) and 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[31] 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.

---

[30] 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.

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

103. 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

104. Governing bodies of maintained schools and proprietors of academies must appoint a designated teacher[32] 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.[33] The designated teacher must have appropriate training and the relevant qualifications and experience.[34] In other schools and colleges, an appropriately trained teacher should take the lead.

105. Statutory guidance contains further information on The Role and Responsibilities of the Designated Teacher.

Virtual school heads

106. Virtual school heads[35] manage pupil premium plus for looked after children;[36] 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.[37] The designated teacher should also work with the virtual school head to promote the educational achievement of previously looked after children.

---

[32] 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.
[33] 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.
[34] 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.
[35] 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.
[36] Pupil premium plus for previously looked after children is managed by their school.
[37] 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.

In other schools and colleges, an appropriately trained teacher should take the lead.

107. 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.[38]

108. Statutory guidance on Promoting the Education of Looked After Children contains further information on the roles and responsibilities of virtual school heads.

Care leavers

109. Local authorities have on-going responsibilities to the young people who cease to be looked after and become care leavers.[39] That includes keeping in touch with them, preparing an assessment of their needs and appointing a personal adviser 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

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

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

---

[38] 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.

[39] 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 s/he reached the age of 14 and ended after s/he reached the age of 16.

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

The use of 'reasonable force' in schools and colleges

111. There are circumstances when it is appropriate for staff in schools and colleges to use reasonable force to safeguard children and young people. 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 young person 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.

112. Departmental advice for schools is available at Use of Reasonable Force in Schools.

113. 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. It encourages headteachers, 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 and should always depend on individual circumstances.

114. When using reasonable force in response to risks presented by incidents involving children with SEN or disabilities 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[40] in relation to making reasonable adjustments, non-discrimination and their Public Sector Equality Duty.[41] 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.

[40] Advice for Schools and Advice for Further and Higher Education.

[41] Compliance with the Public Sector Equality Duty (PSED) is a legal requirement for schools and colleges that are public bodies. The Equality and Human Rights Commission provides the following general guidance for schools that are subject to the PSED.

Part three: Safer recruitment

Recruitment, selection and pre-employment vetting

115. It is vital that schools and colleges create a culture of safe recruitment and, as part of that, adopt recruitment procedures that help deter, reject or identify people who might abuse children (see also paragraphs 92-93 about safer recruitment). This part of the guidance describes in detail those checks that are, or may be required for any individual working in any capacity at, or visiting the school or college. Governing bodies and proprietors must act reasonably in making decisions about the suitability of the prospective employee based on checks and evidence, including criminal record checks (Disclosure and Barring Service (DBS) checks), barred list checks and prohibition checks, together with references and interview information.[42]

116. As outlined in this guidance, the level of DBS certificate required, and whether a check for any prohibition, direction, sanction, or restriction is required (see paragraphs 121-133), will depend on the role that is being offered and duties involved.

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

- will be responsible, on a regular basis (in a school or college) for teaching, training instructing, caring for or supervising children; or
- will carry out paid, or unsupervised unpaid work regularly in a school or college where that work provides an opportunity for contact with children;[43] or
- engage in intimate or personal care, or overnight activity, even if this happens only once.

A more detailed description of regulated activity is provided at page 32.

118. For all other staff who have an opportunity for regular contact with children who are not engaging in regulated activity, an enhanced DBS certificate, which does not

---

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

[43] Applies to any college that provides, exclusively or mainly, full-time education to children, i.e. persons under the age of 18.

include a barred list check, will be appropriate. This would include contractors (see paragraphs 180-183 for further information about contractors) who would have the opportunity for contact with children and who work under a temporary or occasional contract.[44]

119. In a school or college, a **supervised** volunteer who regularly teaches or looks after children is not in regulated activity.[45] The government has published separate statutory guidance on supervision in relation to regulated activity (see Annex F). When schools and colleges are considering which checks should be undertaken on volunteers, they should have regard to that guidance, together with paragraphs 167-172. However, schools and colleges may choose to carry out an enhanced DBS check, without barred list information, in certain circumstances (see paragraph 171).

120. In addition to obtaining any DBS certificate as described above, any member of staff who is appointed to carry out teaching work will require an additional check to ensure they are not prohibited from teaching.[46] For those engaged in management roles (in independent schools - including academies and free schools) an additional check is required to ensure they are not prohibited under section 128 provisions.[47] See the 'Pre-appointment checks' section from page 37.

[44] Temporary or occasional is not further defined by legislation. Employers should apply the ordinary meaning of these terms, i.e. occasional - 'a particular occasion or on an irregular basis'; temporary services - 'lasting only for a limited period, not permanent'.
[45] 'Supervised' and 'unsupervised' have a particular meaning in relation to regulated activity.
[46] The Teachers' Disciplinary (England) Regulations 2012 apply to schools and sixth form colleges and any person that is subject to a prohibition order is prohibited from carrying out teaching work in those establishments. By virtue of their Conditions of Funding in respect of funding received from the Education and Skills Funding Agency, before employing a person to carry out teaching work in relation to children, colleges must take reasonable steps to establish whether that person is subject to a prohibition order made under section 141B of the Education Act 2002, and may not employ or engage a person who is subject to a prohibition order in such a role. The School Staffing (England) Regulations 2009, the Non-Maintained Special Schools (England) Regulations 2015 and the Education (Independent School Standards) Regulations 2014 require governing bodies or proprietors to check that a person to be appointed is not subject to an interim prohibition order.
[47] Section 128 of the Education and Skills Act 2008 provides for the Secretary of State to direct that a person may be prohibited or restricted from participating in the management of an independent school (which includes academies and free schools).

Regulated activity

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

Regulated activity includes:

a) teaching, training, instructing, caring for (see (c) below) or supervising children if the person is unsupervised, or providing advice or guidance on physical, emotional or educational well-being, or driving a vehicle only for children;

b) work for a limited range of establishments (known as 'specified places', which include schools and colleges), with the opportunity for contact with children, but not including work done by supervised volunteers.

Work under (a) or (b) is regulated activity only if done regularly.[48] Some activities are always regulated activities, regardless of frequency or whether they are supervised or not. This includes:

c) relevant personal care, or health care provided by or provided under the supervision of a health care professional:

- personal care includes helping a child with eating and drinking for reasons of illness or disability or in connection with toileting, washing, bathing and dressing for reasons of age, illness of disability;[49]
- health care means care for children provided by, or under the direction or supervision of, a regulated health care professional.

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

[49] It is not intended that personal care includes such activities as, for example, parent volunteers helping with costumes for school plays or helping a child lace up football boots.

Types of check

Disclosure and Barring Service (DBS) checks

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

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

A more detailed description of the three types of DBS checks is provided on the DBS website.

122. The DBS maintains 'barred lists' of individuals who are unsuitable to work with children and vulnerable adults[50]. Where barred list information is requested, and 'children's workforce independent schools' is specified in the parameters for that check, the certificate will also detail whether the applicant is subject to a direction made under section 128 of the Education and Skills Act 2008. Such a direction prohibits an individual from taking part in the management (including being a governor) of independent educational institutions in England and/or Wales respectively, see paragraphs 128-131. A person prohibited under section 128 is also disqualified from holding or continuing to hold office as a governor of a maintained school.

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

124. Where a school or college allows an individual to start work in regulated activity before the DBS certificate is available, they should ensure that the individual is

[50] 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 subject to a section 128 direction. The process for using the Secure Access Portal to make this check is set out in paragraph 134.

appropriately supervised and that all other checks, including a separate barred list check, have been completed.

125. **If a school or college knows or has reason to believe that an individual is barred, it commits an offence if it allows the individual to carry out any form of regulated activity.**[51] **There are penalties of up to five years in prison if a barred individual is convicted of attempting to engage or engaging in such work.**[52]

Prohibitions, directions, sanctions and restrictions

Secretary of State teacher prohibition and interim prohibition, orders[53] [54]

126. Teacher prohibition and interim prohibition, orders prevent a person from carrying out teaching work[55] in schools, sixth form colleges, 16 to 19 academies, relevant youth accommodation and children's homes in England. A person who is prohibited must not be appointed to a role that involves teaching work (see footnote 51).

127. 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 process used to impose them are described in more detail in its publication Teacher Misconduct: The Prohibition of Teachers.

Secretary of State Section 128 direction

128. A section 128 direction prohibits or restricts a person from taking part in the management of an independent school, including academies and free schools. A person who is prohibited is unable to participate in any management of an independent school

---

[51] Section 9, Safeguarding Vulnerable Groups Act 2006.
[52] Section 7, Safeguarding Vulnerable Groups Act 2006.
[53] 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.
[54] 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 a prohibition order made under section 141B of the Education Act 2002.
[55] The Teachers' Disciplinary (England) Regulations 2012 define teaching work as: planning 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. These activities are not teaching work for the purposes of these Regulations if the person carrying out the activity does so (other than for the purposes of induction) subject to the direction and supervision of a qualified teacher or other person nominated by the head teacher to provide such direction and supervision.

such as:

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

129. The Secretary of State is able to make directions prohibiting individuals from taking part in independent school management under section 128 of the Education and Skills Act 2008. Individuals taking part in 'management" may include individuals who are members of proprietor bodies (including governors if the governing body is the proprietor body for the school), and such staff positions as follows: head teacher, any teaching positions on the senior leadership team, and any teaching positions which carry a department headship. Whether other individuals such as teachers with additional responsibilities could be prohibited from 'taking part in management' depends on the facts of each case.

130. A section 128 direction disqualifies a person from holding or continuing to hold office as a governor of a maintained school.[56]

131. The grounds on which a section 128 direction may be made by the Secretary of State are found in the relevant regulations.[57]

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

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

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

133. These sanctions and restrictions are imposed by EEA professional regulating authorities on or after 18 January 2016 and which have been notified to the TRA (see also paragraphs 156-157).

[56] School Governance (Constitution) (England) Regs 2012 as amended by the School Governance (Constitution and Federations) England) (Amendment) Regulations 2014.
[57] The Independent Educational Provision in England (Prohibition on Participation in Management) Regulations 2014.

How to check for prohibitions, directions, sanctions and restrictions - Teacher Services checking system

134. Checks for all prohibitions, sanctions and restrictions described at paragraphs 121-133 can be carried out by logging onto the Secure Access/DfE Sign-in Portal via the Teacher Services' web page**.** Secure Access/DfE Sign-in is a free service available to all schools and colleges. Registration is required for first time users and can be requested from Teacher Services. Further information about using this system to carry out a range of 'teacher status checks'[58] including verification of qualified teacher status (QTS) and the completion of teacher induction or teacher probation can be found at GOV.UK.

135. A section 128 direction will also be disclosed where an enhanced DBS check with barred list information is requested, provided that 'children's workforce independent schools' is specified in the parameters for the barred list check.

Childcare disqualification

136. For staff who work in childcare provision or who are directly concerned with the management of such provision, the school needs to ensure that appropriate checks are carried out to ensure that individuals are not disqualified under the Childcare (Disqualification) Regulations 2018. Further information on the staff to whom these regulations apply, the checks that should be carried out, and the recording of those checks can be found in Disqualification under the Childcare Act 2006 statutory guidance.

[58] The Teacher Services' system can also be used to check for the award of qualified teacher status (QTS) and the completion of teacher induction or probation.

Pre-appointment checks

All new appointments

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

138. When appointing new staff, schools and colleges must (subject to paragraph 140):

- verify a candidate's identity. Identification checking guidelines can be found on the GOV.UK website;
- obtain (via the applicant) an enhanced DBS certificate (including barred list information, for those who will be engaging in regulated activity);[59] [60] [61]
- obtain a separate barred list check if an individual will start work in regulated activity before the DBS certificate is available;
- verify the candidate's mental and physical fitness to carry out their work responsibilities.[62] 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;[63]
- verify the person's right to work in the UK. If there is uncertainty about whether an individual needs permission to work in the UK, then prospective employers, or volunteer managers, should follow advice on the GOV.UK website;
- if the person has lived or worked outside the UK, make any further checks the

[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) (England) Regulations 2014 applies to independent schools, including free schools and academies. The Schedule to the Non-Maintained Special Schools (England) Regulations 2015 applies to non-maintained special schools.
[61] Regulation 5 of the Further Education (Providers of Education) (England) Regulations 2006 set out requirements in respect of checks on staff providing education at colleges. For staff members who are providing education and regularly caring for, training, supervising or being solely in charge of persons aged under 18, which would fall within the definition of regulated activity, colleges are required to obtain an enhanced DBS check including a barred list check by virtue of regulations 5(4) and 5(5). Regulation 10 requires that staff moving from a position that does not involve the provision of education into a position involving the provision of education are to be treated as new staff members and, as such, all appropriate checks for the role must be carried out.
[62] Education (Health Standards) (England) Regulations 2003.
[63] Section 60 of the Equality Act 2010.

school or college consider appropriate (see paragraph 156); and

- verify professional qualifications, as appropriate. The Teacher Services' system should be used to verify any award of qualified teacher status (QTS), and the completion of teacher induction or probation.

In addition:

- schools must ensure that a candidate to be employed to carry out teaching work [64] is not subject to a prohibition order issued by the Secretary of State (see footnote 55 for college requirements), or any sanction or restriction imposed (that remains current) by the GTCE before its abolition in March 2012;[65] and

- independent schools, including academies and free schools, must check[66] that a person taking up a management position as described at paragraph 129 is not subject to a section 128 direction made by the Secretary of State.

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

140. 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:
    - which brought the person regularly into contact with children or young persons; or
    - to which the person was appointed on or after 12th May 2006 and which did not bring the person regularly into contact with children or young persons; or
- in an institution within the further education sector in England, 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.

For a college 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

[64] The Teachers' Disciplinary (England) Regulations 2012 define teaching work as: planning 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.
[65] See paragraph 134 for how to carry out this check.
[66] See paragraph 134 for how to carry out this check.

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 regularly into contact with persons 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.

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

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

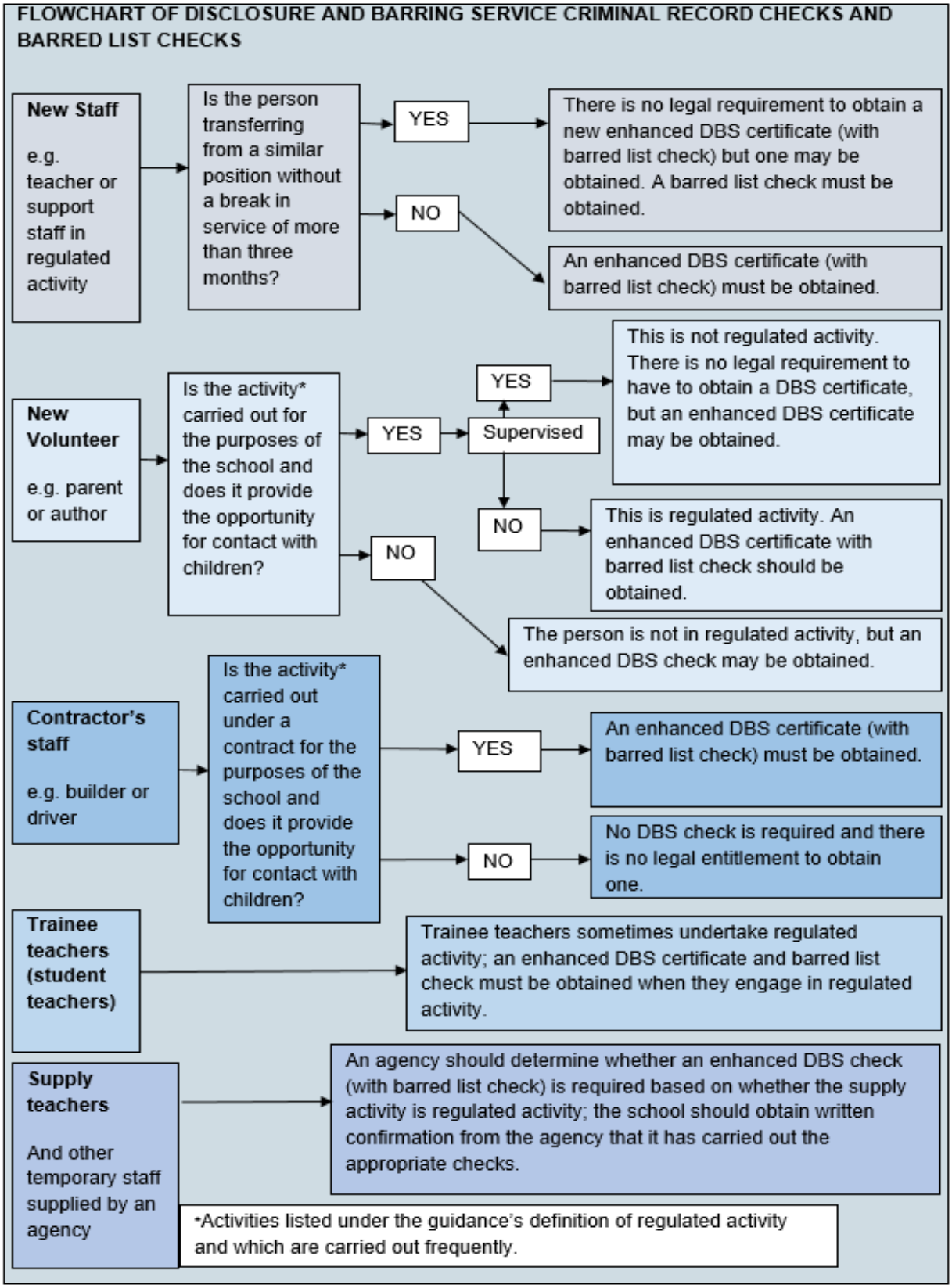
DBS Update Service

142. Individuals can join the DBS Update Service[67] at the point an application for a new DBS check is made, enabling future status checks to be carried out to confirm that no new information has been added to the certificate since its issue. This allows for portability of a certificate across employers. Before using the Update Service, schools or colleges must:

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

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

[67] There is an annual fee for applicants using the update service.


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.

Employment history and references

144. Employers should always ask for written information about previous employment history and check that information is not contradictory or incomplete. The purpose of seeking references is to allow the school or college to obtain objective and factual information to support appointment decisions. References should always be obtained from the candidate's current employer. Where a candidate is not currently employed, verification of their most recent period of employment and reasons for leaving should be obtained from the school, college, local authority or organisation at which they were employed.

145. References should be scrutinised and any concerns resolved satisfactorily, before the appointment is confirmed, including for any internal candidate. Obtaining references before interview, would allow any concerns they raise to be explored further with the referee and taken up with the candidate at interview. They should always be requested directly from the referee and preferably from a senior person with appropriate authority, not just a colleague. Employers should not rely on open references, for example in the form of 'to whom it may concern' testimonials, nor should they only rely on information provided by the candidate as part of the application process without verifying that the information is correct. Where electronic references are received, employers should ensure they originate from a legitimate source.

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

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

Single central record

148. Schools and colleges must maintain a single central record of pre-appointment checks, referred to in the Regulations (listed in paragraph 149) as the register and more commonly known as the single central record. For requirements for schools in Multi-academy trusts (MATs), see paragraph 153. The single central record must cover the following people:

- all staff, including teacher trainees on salaried routes (see paragraph 160), agency and third party supply staff (see paragraph 158) who work at the school. In colleges, this means those providing education to children; and
- for independent schools, all members of the proprietor body. In the case of academies and free schools, this means the members and trustees of the academy trust.

149. The bullet points below set out the minimum information that must be recorded in respect of staff members (including teacher trainees on salaried routes). The 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/certificate obtained:

- an identity check. Identification checking guidelines can be found on the GOV.UK website;
- a barred list check;
- an enhanced DBS check/certificate;
- a prohibition from teaching check;[68]
- further checks on people who have lived or worked outside the UK (see paragraphs 156-157); this would include recording checks for those European Economic Area (EEA) teacher sanctions and restrictions described in paragraph 133;
- 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 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
- a section 128 check (for management positions as set out in paragraph 128-129 for independent schools (including academies and free schools).

150. For agency and third party supply staff, schools and colleges must also include whether written confirmation has been received that the employment business supplying the member of supply staff has carried out the relevant checks and obtained the appropriate certificates, and the date that confirmation was received and whether any

[68] 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.

enhanced DBS certificate check has been provided in respect of the member of staff.[69]

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

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

153. Multi Academy Trusts (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 described at paragraph 91.

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

- for maintained schools - Regulations 12(7) and 24(7) and Schedule 2 to the School Staffing (England) Regulations 2009 and the School Staffing (England) (Amendment) Regulations 2013 (applied to pupil referral units through the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007);
- for independent schools - (including academies and free schools and alternative provision academies and free schools): Part 4 of the Schedule to the Education (Independent School Standards) Regulations 2014;
- for colleges - Regulations 20-25 and the Schedule to the Further Education (Providers of Education) (England) Regulations 2006;[70] and
- for non-maintained special schools - Regulation 3 and paragraph 7 of Part 1 and paragraph 18 of Part 2 of the Schedule to the Non-Maintained Special Schools (England) Regulations 2015.

155. 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, it should not be retained for longer than six months. A copy of the other documents used to verify the successful candidate's identity, right to work and required qualifications should be kept for the personnel file. Further information on

[69] Independent schools and non-maintained special schools should also include the date on which any certificate was obtained.
[70] 16-19 academies and free schools are covered through their funding agreements.

handling DBS certificate information can be found on GOV.UK.

Individuals who have lived or worked outside the UK

156. Individuals who have lived or worked outside the UK must undergo the same checks as all other staff in schools or colleges. In addition, schools and colleges must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered. The Home Office guidance on criminal records checks for overseas applicants can be found on GOV.UK. These further checks should include a check for information about any teacher sanction or restriction that an EEA professional regulating authority has imposed, using the TRA Teacher Services' system. See paragraph 134 for further information on using this service. Although restrictions imposed by another EEA regulating authority do not prevent a person from taking up teaching positions in England, schools and colleges should consider the circumstances that led to the restriction or sanction being imposed when considering a candidate's suitability for employment.

157. Some overseas qualified teachers can apply to the Teaching Regulation Agency (TRA) for the award of qualified teacher status (QTS) in England. More information about this is available here.

Agency and third-party staff (supply staff)

158. Schools and colleges must obtain written notification from any agency, or third-party organisation they use that the organisation has carried out the checks (in respect of the enhanced DBS certificate, written notification that confirms the certificate has been obtained by either the employment business or another such business), on an individual who will be working at the school or college that the school or college would otherwise perform.[71]

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

[71] 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.

Trainee/student teachers

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

161. 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.[72] There is no requirement for the school to record details of fee-funded trainees on the single central record.

Existing staff

162. If a school or college has concerns about an existing staff member's suitability to work with children, the school or college should carry out all relevant checks as if the person were a new member of staff. Similarly, if a person working at the school or college moves from a post that was not regulated activity into work which is considered to be regulated activity, the relevant checks for that regulated activity must be carried out.[73] 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 be carried out (see paragraph 138). Apart from these circumstances, the school or college is not required to request a DBS check or barred list check.

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

- **the harm test is satisfied in respect of that individual;**
- **the individual has received a caution or conviction for a relevant offence, or if there is reason to believe that the individual has committed a listed relevant offence; and**

---

[72] Teaching Regulation Agency (TRA) - Initial teacher training provider supporting advice and initial teacher training criteria.

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

- **the individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.**[74]

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

165. The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation, removal or redeployment of the individual. Detailed guidance on when to refer to the DBS can be found on GOV.UK.

166. Where a teacher's employer, including an agency, dismisses or ceases to use the services of a teacher because of serious misconduct, or might have dismissed them or ceased to use their services had they not left first, they must consider whether to refer the case to the Secretary of State, as required by sections 141D and 141E of the Education Act 2002. The Secretary of State may investigate the case, and if s/he finds there is a case to answer, must then decide whether to make a prohibition order in respect of the person see paragraphs 126-127.[75] How to refer can be found on GOV.UK.

Volunteers

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

168. Volunteers who, on an unsupervised basis teach or look after children regularly, or provide personal care on a one-off basis in schools and colleges, will be in regulated activity. The school or college should obtain an enhanced DBS certificate (which should include barred list information) for all volunteers who are new to working in regulated activity. Existing volunteers in regulated activity do not have to be re-checked if they have already had a DBS check (which includes barred list information). However, schools and colleges may conduct a repeat DBS check (which should include barred list information) on any such volunteer should they have concerns.

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

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

[74] The list of offences is set out in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (SI 2009 No. 37) (amended).
[75] Sections 141D and 141E of the Education Act 2002 do not apply to colleges (other than sixth form colleges).

should consider:

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

Details of the risk assessment should be recorded. [76]

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

- by a person who is in regulated activity;[77]
- regular and day to day; and
- "reasonable in all the circumstances to ensure the protection of children."

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

Maintained school governors

173. Governors in maintained schools are required to have an enhanced criminal records certificate from the DBS.[78] It is the responsibility of the governing body to apply for the certificate for any of their governors who do not already have one. Governance is not a regulated activity and so governors do not need a barred list check unless, in addition to their governance duties, they also engage in regulated activity. Schools should also carry out a section 128 check for school governors, because a person subject to one is disqualified from being a governor. Using the free Employer Secure Access sign-in portal via the Teaching Regulation Agency's (TRA) Teacher Services' web page, schools can easily check if a person they propose to recruit as a governor is barred as a result of being subject to a section 128 direction.

[76] Schools and colleges are free to determine where to store this information.
[77] 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.
[78] The School Governance (Constitution) (England) Regulations 2012 were amended by the School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016 to include this requirement.

Associate members

174. 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 made enhanced DBS checks mandatory for maintained school governors but not associate members.

Sixth form college governors

175. Governing bodies in sixth form colleges can request an enhanced DBS certificate without a barred list check on an individual as part of the appointment process for governors. An enhanced DBS certificate (which will include a barred list check) should only be requested if the governor will be engaging in regulated activity. This applies equally to volunteer governors who will be engaging in regulated activity and should be treated on the same basis as other volunteers in this respect.

Proprietors of independent schools, including academies and free schools and proprietors of alternative provision academies[79]

176. 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: [80] [81]

- carry out an enhanced DBS check; and where such a check is made, obtain an enhanced DBS certificate (either including or not including barred list information as appropriate);[82]
- confirm the individual's identity; and
- if the individual lives or has lived outside of the UK, where making an enhanced check is insufficient, such other checks as the Secretary of State considers appropriate.

The Secretary of State also undertakes these checks in respect of the chair of governing bodies of non-maintained special schools.[83]

177. 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

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

person has already been subject to a check carried out by the local authority.[84]

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

179. 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.[85] Academy trusts, including those established to run a free school, have the same responsibilities as all independent schools in relation to requesting enhanced DBS certificates for permanent and supply staff.[86] Where an academy trust delegates responsibilities to any delegate or committee (including a local governing body), the trust must require DBS checks on all delegates and all member of such committees.[87] Academy trusts must also check that members are not barred from taking part in the management of the school as a result of a section 128 direction (see paragraph 128).

Contractors

180. Schools and colleges should ensure that any contractor, or any employee of the contractor, who is to work at the school or college, has been subject to the appropriate level of DBS check. Contractors engaging in regulated activity will require an enhanced DBS certificate (including barred list information). For all other contractors who are not engaging in regulated activity, but whose work provides them with an opportunity for regular contact with children, an enhanced DBS check (not including barred list information) will be required.[88] In considering whether the contact is regular, it is irrelevant whether the contractor works on a single site or across a number of sites.

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

[84] Paragraph 20(7) of the Schedule to the Education (Independent School Standards) Regulations 2014.
[85] As required in the funding agreement.
[86] The Education (Independent School Standards) Regulations 2014. The regulations do not apply to 16-19 free schools and academies.
[87] As required in an academy trust's articles of association.
[88] 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.

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

182. 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.

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

Visitors

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

Alternative Provision

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

Adults who supervise children on work experience

186. Schools and colleges organising work experience placements should ensure that the placement provider has policies and procedures in place to protect children from harm.[89]

187. Barred list checks by the DBS might be required on some people who supervise a child under the age of 16 on a work experience placement.[90] The school or college should consider the specific circumstances of the work experience. Consideration must be given in particular to the nature of the supervision and the frequency of the activity being supervised, to determine what, if any, checks are necessary. These considerations would include whether the person providing the teaching/training/instruction/supervision

[89] Guidance on work experience.
[90] Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012, which came into force on 10 September 2012.

to the child on work experience will be:

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

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

189. Schools and colleges are not able to request an enhanced DBS check with barred list information for staff supervising children aged 16 to 17 on work experience.[91]

190. If the activity undertaken by the child on work experience takes place in a 'specified place', such as a school or college, and gives the opportunity for contact with children, this may itself be considered to be regulated activity. In these cases and where the child is 16 years of age or over, the work experience provider should consider whether a DBS enhanced check should be requested for the child/young person in question. DBS checks cannot be requested for children/young people under the age of 16.[92]

Children staying with host families (homestay)

191. Schools and colleges quite often make arrangements for their children to have learning experiences where, for short periods, the children may be provided with care and accommodation by a host family to whom they are not related. This might happen, for example, as part of a foreign exchange visit or sports tour, often described as 'homestay' arrangements (see Annex E for further details). In some circumstances the arrangement where children stay with UK families could amount to "private fostering" under the Children Act 1989 see paragraphs 192-194 for further information about action that should be taken to alert the local authority in those circumstances.

Private fostering - LA notification when identified

192. Private fostering[93] 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

[91] 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.
[92] Under the Police Act 1997, an individual must be 16 or over to be able to make an application for a DBS check.
[93] Part 9 of the Children Act 1989.

fostered if the person caring for and accommodating them has done so for less than 28 days and does not intend to do so for longer. Such arrangements may come to the attention of school staff through the normal course of their interaction, and promotion of learning activities, with children.

193. The school or college should then notify the local authority to allow the local authority to check the arrangement is suitable and safe for the child.

194. A link to comprehensive guidance on private fostering can be found at Annex A of this guidance.

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

Duties as an employer and an employee

195. This part of the guidance is about managing cases of allegations that might indicate a person would pose a risk of harm[94] if they continue to work in regular or close contact with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including volunteers) in a school or college that provides education for children under 18 years of age has:

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

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

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

Initial considerations

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

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

[94] The harm test is explained on the Disclosure and Barring service website on GOV.UK.

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

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

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

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

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

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

However, where a strategy discussion[95] is needed, or police or children's social care services need to be involved, the case manager should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the accused. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or college or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step (see paragraphs 230-236 for information about suspension).

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

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

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

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

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

Supporting those involved

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

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

210. Parents or carers of the child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a strategy discussion is required, or police or children's social care services need to be involved, the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed but the parents or carers of the child should be told the outcome in confidence.[96]

211. Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing as set out in section 141F of the Education Act 2002 (see paragraphs 213-214). If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

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

[96] In deciding what information to disclose, 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.

consider what support the child or children involved may need.

Confidentiality

213. It is extremely important that when an allegation is made, the school or college make every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State[97] or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions are disapplied if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. The provisions commenced on 1 October 2012.

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

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

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

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

[97] Carried out by the Teaching Regulation Agency.

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

Managing the situation and exit arrangements

Resignations and 'settlement agreements'

217. If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. **A referral to the DBS *must* be made, if the criteria are met - see paragraphs 163-164**. Schools and sixth form colleges must also consider whether a referral to the Secretary of State is appropriate - see paragraph 166. If the accused person resigns or their services cease to be used and the criteria are met, it will not be appropriate to reach a settlement/compromise agreement. Any settlement/compromise agreement that would prevent a school or college from making a DBS referral even though the criteria for referral are met, is likely to result in a criminal offence being committed. This is because the school or college would not be complying with its legal duty to make the referral.

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

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

Record keeping

220. Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up

and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.

221. The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time.

222. 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.

223. 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.[98]

References

224. Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious should also not be included in any reference. See paragraphs 144-147 for further information on references.

Timescales

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

226. For those cases where it is clear immediately that the allegation is

[98] Information Commissioner's Office – Guidance on employment records in its Employment Practices Code and supplementary guidance.

unsubstantiated or malicious, they should be resolved within one week. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child protection, the employer should discuss them with the designated officer(s). In such cases, if the nature of the allegation does not require formal disciplinary action, the employer should instigate appropriate action within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

Oversight and monitoring

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

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

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

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

Suspension

230. The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved in the allegations. In some rare cases that will require the case manager to consider suspending the accused until the case is resolved. Suspension should not be an automatic response when an allegation is reported: all options to avoid suspension should be considered prior to taking that step. If the case manager is concerned about the welfare of other children in

the community or the teacher's family, those concerns should be reported to the designated officer(s), children's social care or the police as required. But suspension is highly unlikely to be justified on the basis of such concerns alone.

231. Suspension should be considered only in a case where there is cause to suspect a child or other children at the school or college is/are at risk of harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically: the case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or college or until the allegation is resolved, and may wish to seek advice from their personnel adviser and the designated officer(s). In cases where the school or 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 the school or sixth form college, immediate action should be taken to ensure the individual does not carry out work in contravention of the order, i.e. pending the findings of the TRA investigation, the individual must not carry out teaching work.

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

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

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

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

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

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

Information sharing

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

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

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

Specific actions

Following a criminal investigation or a prosecution

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

On conclusion of a case

241. If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the designated officer(s) should discuss with the case manager and their personnel adviser whether the school or college will decide to make a referral to the DBS for consideration of whether inclusion on the barred lists is required;[99] and, in the case of a member of teaching staff at a school or sixth form college, whether to refer the matter to the TRA to consider prohibiting the individual from teaching.

242. **There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. See paragraph 163.**

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

[99] Disclosure and Barring Service – guidance on Referrals to the DBS.

In respect of malicious or unsubstantiated allegations

244. If an allegation is determined to be unsubstantiated or malicious, the designated officer(s) should refer the matter to the children's social care services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the headteacher, principal or proprietor should consider whether any disciplinary action is appropriate against the pupil or student who made it; or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she were not a pupil or student.

Learning lessons

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

Further information

246. See the College of Policing: Engagement, Communication and Media relations.

Part five: Child on Child Sexual Violence and Sexual Harassment

247. This part of the guidance is about managing reports of child on child sexual violence and sexual harassment.

248. Governing bodies and proprietors should be aware that the department has published detailed advice to support schools and colleges. The advice is available here: Sexual Violence and Sexual Harassment Between Children in Schools and Colleges and includes, what sexual violence and sexual harassment look like, important context to be aware of, related legal responsibilities for schools and colleges and advice on a whole school or college approach to preventing child on child sexual violence and sexual harassment.

Responding to reports of sexual violence and sexual harassment

249. 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.

250. 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 particular case. The guidance provides effective safeguarding practice and principles for schools and colleges to consider in their decision making process.

251. 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 children's social care and the police as required.

252. There is support available for schools and colleges. Paragraph 43 and Annex A in the Sexual Violence and Sexual Harassment Between Children in Schools and Colleges advice provides information and links to resources.

The immediate response to a report

Responding to the report

253. The school's or college's initial response to a report from a child is important. 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.

254. 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:

- 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 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 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;
- listening carefully to the child, being non-judgmental, 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;
- 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 children's social care and/or part of a criminal investigation;
- where the report includes an online element, being aware of searching, screening and confiscation advice (for schools) and UKCCIS sexting advice (for schools and colleges). 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.
- if possible, managing reports with two members of staff present, (preferably one of them being the designated safeguarding lead or a deputy). However, this might not always be possible; 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.

Risk Assessment

255. 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 should consider:

- the victim, especially their protection and support;
- the alleged perpetrator; and
- 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.

256. Risk assessments should be recorded (written 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 putting adequate measures in place to protect them and keep them safe.

257. The designated safeguarding lead (or a deputy) should ensure they are engaging with 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 risk assessment at paragraph 248 is not intended to replace the detailed assessments of expert professionals. Any such professional assessments should be used to inform the school's or college's 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

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

- the wishes of the victim in terms of how they want to proceed. This is especially important in the context of sexual violence and sexual harassment. Victims should be given as much control as is reasonably possible over decisions regarding how

any investigation will be progressed and any support that they will be offered;

- the nature of the alleged incident(s), including: whether a crime may have been committed and consideration of harmful sexual behaviour;
- the ages of the children involved;
- the developmental stages of the children involved;
- any power imbalance between the children. For example, is the alleged perpetrator significantly older, more mature or more confident? Does the victim have a disability or learning difficulty?;
- if the alleged incident is a one-off or a sustained pattern of abuse;
- are there ongoing risks to the victim, other children, adult students or school or college staff; and
- other related issues and wider context. Contextual safeguarding is discussed at paragraph 32.

259. 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 (and any other children involved/impacted).

260. The starting point regarding any report should always be that sexual violence and sexual harassment is not acceptable and will not be tolerated. Especially important is not to pass off any sexual violence or sexual harassment as ‘banter’, ‘part of growing up’ or ‘having a laugh’.

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

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

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

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

In all cases, the initial report should be carefully evaluated, reflecting the considerations set out at paragraph 251. 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

261. It is important that schools and colleges consider every report on a case-by-case basis as per paragraph 251. When to inform the alleged perpetrator will be a decision that should be carefully considered. Where a report is going to be made to children's social care and/or the police, then, as a general rule, the school or college should speak to the relevant agency and discuss next steps and how the alleged perpetrator 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 their children, where required. There are four likely scenarios for schools and colleges to consider when managing any reports of sexual violence and/or sexual harassment.

1. Manage internally

- 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 statutory intervention and that it would be appropriate to handle the incident internally, perhaps through utilising their behaviour policy and by providing pastoral support.

- Whatever the school's or college's response, it should be underpinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated.

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

2. Early help

- In line with 1 above, the school or college may decide that the children involved do not require statutory interventions, 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 harmful sexual behaviour and may prevent escalation of sexual violence.

- Full details of the early help process are in Chapter one of Working Together to Safeguard Children.

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

- Whatever the response, it should be under-pinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated.

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

3. Referrals to children's social care

- 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 children's social care.

- At the referral to children's social care stage, 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 children's social care.

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

- 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 and any other children that

require support.

- Schools and colleges should not wait for the outcome (or even the start) of a 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 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 255 will help inform any decision. Consideration of safeguarding the victim, alleged perpetrator, any other children directly involved in the safeguarding report and all children at the school or college should be **immediate**.

- In some cases, children's social care will review the evidence and decide 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. 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.

- Whatever the response, it should be under-pinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated.
- All concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

4. Reporting to the Police

- **Any report to the police will generally be in parallel with a referral to children's social care (as above).**
- It is important that the designated safeguarding lead (and their deputies) are clear about the local process for referrals and follow that process.
- Where a report of rape, assault by penetration or sexual assault is made, the starting point is this should be passed on to the police. Whilst the age of criminal responsibility is ten, if the alleged perpetrator is under ten, the starting principle of reporting to the police remains. The police will take a welfare, rather than a criminal justice, approach.
- 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 children's social care and any appropriate specialist agencies.

- 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 and their parents or carers. They should also discuss the best way to protect the victim and their anonymity.

- 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.

- 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 as required.
- Whatever the response, it should be under-pinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated.
- All concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

Considering bail conditions

- From April 2017, the use of police bail has been dramatically reduced and will only be used when deemed necessary and proportionate in exceptional circumstances. Consideration will be given to less invasive options to safeguard victims and witnesses and the administration of justice. Therefore, it is less likely that a child attending school or college will be on police bail with conditions attached if there are alternative measures to mitigate any risk.
- In the absence of bail conditions, when there is a criminal investigation, early engagement and joined up working between the school or college, children's social care and the police will be critical to support the victim, alleged perpetrator and other children involved (especially potential witnesses). Where required, advice from the police should be sought in order to help the school or college manage their safeguarding responsibilities.
- The term 'Released Under Investigation' or 'RUI' will replace those previously on bail for offences in circumstances that do not warrant the application of bail to either re-attend on a particular date or to include conditions preventing activity or in some cases ensuring compliance with an administrative process.
- Where bail is deemed proportionate and necessary, the school or college should work with children's social care and the police to manage any implications and safeguard their children. An important consideration will be to ensure that the victim can continue in their normal routine, including continuing to receive a

suitable education.

Managing any delays in the criminal process

- 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 and other children in the school or college. The risk assessment as per paragraph 255 will help inform any decision.
- Whilst protecting children and/or taking any disciplinary measures against the alleged perpetrator, 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.
- 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

- 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 light of their behaviour policy. If the perpetrator 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 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.
- 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 alleged perpetrator remain protected, especially from any bullying or harassment (including online).
- Where cases are classified as "no further action" (NFA'd) 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 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 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 is also likely to require ongoing support for what will have likely been a difficult experience.

Ongoing response

Safeguarding and supporting the victim

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

- Consider the age and the developmental stage of the victim, the nature of the allegations and the potential risk of further abuse. Schools and colleges should be aware that, by the very nature of sexual violence and sexual harassment, a power imbalance is likely to have been created between the victim and alleged perpetrator.

- The needs and wishes of the victim should be paramount (along with protecting the child) in any response. It is important they feel in as much control of the process as is 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.

- 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. Support can include:

    - 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 adolescent mental health services (CAMHS)

    - Rape Crisis Centre's can provide therapeutic support for children who have experienced sexual violence.

- Internet Watch Foundation (to potentially remove illegal images).

263. 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. Schools and colleges should respect and support this choice.

264. A victim of sexual violence is likely to be traumatised and, in some cases, may struggle in a normal classroom environment. 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.

265. 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 children's social care and other agencies as required.

266. 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.

267. 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).

268. 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 paragraph 76 will help support this process.

Ongoing Considerations: Victim and alleged perpetrator sharing classes

Page 65 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 consider again the question of the victim and alleged perpetrator sharing classes and sharing space at school or college. This will inevitably involve complex and difficult professional decisions, including considering their duty to safeguard children and their duty to educate them. It is important each report is considered on a case-by-case basis and risk assessments are updated as appropriate. As always when concerned about the welfare of a child, the best interests of the child should come first. In all cases, schools and colleges should follow general safeguarding principles as per this guidance.

Where there is a criminal investigation into a rape, assault by penetration or sexual assault, the alleged perpetrator should be removed from any classes they share with the victim. The school or college should also consider how best to keep the victim and alleged perpetrator a reasonable distance apart on school or college premises and on transport to and from school or college where appropriate. This is in the best interests of both children and should not be perceived to be a judgement on the guilt of the alleged perpetrator. As per paragraph 261, close liaison with the police is essential.

Where a criminal investigation into a rape or assault by penetration leads to a conviction or caution, the school or college should take suitable action, if they have not already done so. In all but the most exceptional of circumstances, the rape or assault is likely to constitute a serious breach of discipline and lead to the view that allowing the perpetrator to remain in the same school or college would seriously harm the education or welfare of the victim (and potentially other pupils 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.[100] Where the perpetrator is going to remain at the school or college, the principle would be to continue keeping the victim and perpetrator in separate classes and continue to consider the most appropriate way to manage potential contact on school and college premises and transport. The nature of the conviction or caution and wishes of the victim will be especially important in determining how to proceed in such cases.

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

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

process will have affected both victim and alleged perpetrator. Appropriate support should be provided to both as required and consideration given to sharing classes and potential contact as required on a case-by-case basis. In all cases, schools and colleges should record and be able to justify their decision-making.

All 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

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

- The school or college will have a difficult balancing act to consider. On one hand, they need to safeguard the victim (and the wider pupil/student body) and on the other hand provide the alleged perpetrator with an education, safeguarding support as appropriate and implement any disciplinary sanctions.
- Consider the age and the developmental stage of the alleged perpetrator and nature of the allegations. Any child will likely experience stress as a result of being the subject of allegations and/or negative reactions by their peers to the allegations against them.
- Consider the proportionality of the response. Support (and sanctions) should be considered on a case-by-case basis. An alleged perpetrator may potentially have unmet needs (in some cases these may be considerable) as well as potentially posing a risk of harm to other children. Harmful sexual behaviours in young children may be (and often are[101]) a symptom of either their own abuse or exposure to abusive practices and or materials. Advice should be taken, as appropriate, from children's social care, specialist sexual violence services and the police.
- It is important that if the 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 paragraph 76 will help support this process.

[100] 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.
[101] 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.

Annex A: Further information

Annex A contains important additional information about specific forms of abuse and safeguarding issues. School and college leaders and those staff who work directly with children should read 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 significant harm, it is important that a referral to children's social care (and if appropriate the police) is made immediately.

Table of Contents

Children and the court system 79

Children missing from education 79

Children with family members in prison 79

Child sexual exploitation 79

Child criminal exploitation: county lines 80

Domestic abuse 81

Homelessness 82

So-called 'honour-based' violence (including Female Genital Mutilation and Forced Marriage) 83

Preventing radicalisation 84

Peer on peer abuse 86

Sexual violence and sexual harassment between children in schools and colleges 87

What is Sexual violence and sexual harassment? 87

Upskirting 89

The response to a report of sexual violence or sexual harassment 89

Additional advice and support 89

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 child criminal exploitation. It may indicate mental health problems, risk of substance abuse, risk of travelling to conflict zones, risk of female genital mutilation or risk of forced marriage. Early intervention is necessary to identify the existence of any underlying safeguarding risk and to help prevent the risks of a child going missing in future. Staff should be 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. NICCO provides information designed to support professionals working with offenders and their children, to help mitigate negative consequences for those children.

Child sexual exploitation

Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or

increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact, it can also occur through the use of technology. Like all forms of child sex abuse, child sexual exploitation:

- can affect any child or young person (male or female) under the age of 18 years, including 16 and 17 year olds who can legally consent to have sex;
- can still be abuse even if the sexual activity appears consensual;
- can include both contact (penetrative and non-penetrative acts) and non-contact sexual activity;
- can take place in person or via technology, or a combination of both;
- can involve force and/or enticement-based methods of compliance and may, or may not, be accompanied by violence or threats of violence;
- may occur without the child or young person's immediate knowledge (e.g. through others copying videos or images they have created and posted on social media);
- can be perpetrated by individuals or groups, males or females, and children or adults. The abuse can be a one-off occurrence or a series of incidents over time, and range from opportunistic to complex organised abuse; and
- is typified by some form of power imbalance in favour of those perpetrating the abuse. Whilst age may be the most obvious, this power imbalance can also be due to a range of other factors including gender, sexual identity, cognitive ability, physical strength, status, and access to economic or other resources.

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

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

Child criminal exploitation: county lines

Criminal exploitation of children is a geographically widespread form of harm that is a typical feature of county lines criminal activity, drug networks or gangs groom and exploit children and young people to carry drugs and money from urban areas to suburban and rural areas, market and seaside towns. Key to identifying potential involvement in county

lines are missing episodes, when the victim may have been trafficked for the purpose of transporting drugs and a referral to the National Referral Mechanism[102] should be considered. Like other forms of abuse and exploitation, county lines exploitation:

- can affect any child or young person (male or female) under the age of 18 years;
- can affect any vulnerable adult over the age of 18 years;
- can still be exploitation even if the activity appears consensual;
- can involve force and/or enticement-based methods of compliance and is often accompanied by violence or threats of violence;
- can be perpetrated by individuals or groups, males or females, and young people or adults; and
- is typified by some form of power imbalance in favour of those perpetrating the exploitation. Whilst age may be the most obvious, this power imbalance can also be due to a range of other factors including gender, cognitive ability, physical strength, status, and access to economic or other resources.

Domestic abuse

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

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

- psychological;
- physical;
- sexual;
- financial; and
- emotional.

Exposure to domestic abuse and/or violence can have a serious, long lasting emotional and psychological impact on children. In some cases, a child may blame themselves for the abuse or may have had to leave the family home as a result. Domestic abuse affecting young people can also occur within their personal relationships, as well as in the context of their home life.

[102] Home Office - Modern slavery victims: referral and assessment forms.

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
- Safelives: young people and domestic abuse.

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 in to 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 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 focus to early intervention and encourage 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. Children's services will be the lead agency for these young people and the designated safeguarding lead (or a deputy) should ensure appropriate referrals are made based on the child's circumstances. The department and the Ministry of Housing, Communities and Local Government 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.

So-called 'honour-based' violence (including Female Genital Mutilation and Forced Marriage)

So-called 'honour-based' violence (HBV) encompasses incidents or crimes which have been committed to protect or defend the honour of the family and/or the community, including female genital mutilation (FGM), forced marriage, and practices such as breast ironing. Abuse committed in the context of preserving "honour" often involves a wider network of family or community pressure and can include multiple perpetrators. It is important to be aware of this dynamic and additional risk factors when deciding what form of safeguarding action to take. All forms of HBV are abuse (regardless of the motivation) and should be handled and escalated as such. Professionals in all agencies, and individuals and groups in relevant communities, need to be alert to the possibility of a child being at risk of HBV, or already having suffered HBV.

Actions

If staff have a concern regarding a child that might be at risk of HBV or who has suffered from HBV, they should speak to the designated safeguarding lead (or deputy). As appropriate, they will activate local safeguarding procedures, using existing national and local protocols for multi-agency liaison with police and children's social care. Where FGM has taken place, since 31 October 2015 there has been a mandatory reporting duty placed on **teachers**[103] that requires a different approach (see following section).

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 will 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

[103] 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).

professionals to whom this mandatory reporting duty applies. Information on when and how to make a report can be found at: Mandatory reporting of female genital mutilation procedural information

Teachers **must** personally report to the police cases where they discover that an act of FGM appears to have been carried out.[104] 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 children's social care as appropriate. The duty does not apply in relation to at risk or suspected cases (i.e. where the teacher does not discover that an act of FGM appears to have been carried out, either through disclosure by the victim or visual evidence) or in cases where the woman is 18 or over. In these cases, teachers should follow local safeguarding procedures. The following is a useful summary of the FGM mandatory reporting duty: FGM Fact Sheet.

Forced marriage

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

The Forced Marriage Unit has published statutory guidance and Multi-agency guidelines, pages 35-36 of which focus on the role of schools and colleges. School and college staff can contact the Forced Marriage Unit if they need advice or information: Contact: 020 7008 0151 or email fmu@fco.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.

[104] 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.

Extremism[105] 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[106] refers to the process by which a person comes to support terrorism and extremist ideologies associated with terrorist groups.

There is no single way of identifying whether a child is likely to be susceptible to an extremist ideology. Background factors combined with specific influences such as family and friends may contribute to a child's vulnerability. Similarly, radicalisation can occur through many different methods (such as social media) and settings (such as the internet).

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 referral to the Channel programme.

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[107] to the need to prevent people from being drawn into terrorism".[108] 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 other senior leaders 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). The guidance is set out in terms of four general themes: risk assessment, working in partnership, staff training, and IT policies.

---

[105] As defined in the Government's Counter Extremism Strategy.
[106] As defined in the Revised Prevent Duty Guidance for England and Wales.
[107] 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.
[108] "Terrorism" for these purposes has the same meaning as for the Terrorism Act 2000 (section 1(1) to (4) of that Act).

Additional support

The department has published advice for schools on the Prevent duty. The advice is intended to complement the Prevent guidance and signposts other sources of advice and support.

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

Educate Against Hate, a website launched by the Her Majesty's Government has been developed to support and equip school and college leaders, teachers, and parents with information, tools and resources (including on the promotion of fundamental British values) to help recognise and address extremism and radicalisation in young people. The platform provides information on and access to training resources for teachers, staff and school and college leaders, some of which are free such as Prevent e-learning, via the Prevent Training catalogue.

Channel

Channel is a programme which focuses on providing support at an early stage to people who are identified as being vulnerable to being drawn into terrorism. It provides a mechanism for schools to make referrals if they are concerned that an individual might be vulnerable to radicalisation. An individual's engagement with the programme is entirely voluntary at all stages. Guidance on Channel is available at: Channel guidance, and a Channel awareness e-learning programme is available for staff at: Channel General Awareness.

The school's or college's designated safeguarding lead (and any deputies) should be aware of local procedures for making a Channel referral. As a Channel partner, the school or college may be asked to attend a Channel panel to discuss the individual referred to determine whether they are vulnerable to being drawn into terrorism and consider the appropriate support required.

Peer on peer abuse

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

Sexual violence and sexual harassment between children in schools and colleges

Context

Sexual violence and sexual harassment can occur between two children of **any** age and sex. 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. Sexual violence and sexual harassment exist on a continuum and may overlap, they can occur online and offline (both physical and verbal) and are never acceptable. It is important that **all** victims are taken seriously and offered appropriate support. Staff should be aware that some groups are potentially more at risk. Evidence shows girls, children with SEND and LGBT children are at greater risk.

Staff should be aware of the importance of:

- making clear that sexual violence and sexual harassment is not acceptable, will never be tolerated and is not an inevitable part of growing up;
- not tolerating or dismissing sexual violence or sexual harassment as “banter”, “part of growing up”, “just having a laugh” or “boys being boys”; and
- challenging behaviours (potentially criminal in nature), such as grabbing bottoms, breasts and genitalia, flicking bras and lifting up skirts. Dismissing or tolerating such behaviours risks normalising them.

What is sexual violence and sexual harassment?

Sexual violence

It is important that school and college staff are aware of sexual violence and the fact children can, and sometimes do, abuse their peers in this way. When referring to sexual violence we are referring to sexual violence offences under the Sexual Offences Act 2003[109] 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

[109] Legislation.gov.uk

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.

What is consent?[110] 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.[111]

Sexual harassment

When referring to sexual harassment we mean 'unwanted conduct of a sexual nature' that can occur online and offline. 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.

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 this crosses a line into sexual violence - it is important to talk to and consider the experience of the victim) and displaying pictures, photos or drawings of a sexual nature; and
- online sexual harassment. This may be standalone, or part of a wider pattern of sexual harassment and/or sexual violence.[112] It may include:

    - non-consensual sharing of sexual images and videos;
    - sexualised online bullying;
    - unwanted sexual comments and messages, including, on social media;

---

[110] 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. More information: here.
[111] PSHE Teaching about consent from the PSHE association provides advice and lesson plans to teach consent at Key stage 3 and 4.
[112] Project deSHAME from Childnet provides useful research, advice and resources regarding online sexual harassment.

- sexual exploitation; coercion and threats; and
- upskirting.

Upskirting[113]

'Upskirting' typically involves taking a picture under a person's clothing without them knowing, with the intention of viewing their genitals or buttocks to obtain sexual gratification, or cause the victim humiliation, distress or alarm. It is now a criminal offence.

The response to a report of sexual violence or sexual harassment

The initial response to a report from a child is important. 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.

If staff have a concern about a child or a child makes a report to them, they should follow the referral process as set out from paragraph 35 in Part one of this guidance. As is always the case, if staff are in any doubt as to what to do they should speak to the designated safeguarding lead (or a deputy).

Additional advice and support

Abuse or Safeguarding issue	Link to Guidance/Advice	Source
Abuse	What to do if you're worried a child is being abused	DfE advice
	Domestic abuse: Various Information/Guidance	Home Office
	Faith based abuse: National Action Plan	DfE advice
	Relationship abuse: disrespect nobody	Home Office website
Bullying	Preventing bullying including cyberbullying	DfE advice
	Advice for 5-11-year olds witnesses in criminal courts	MoJ advice

[113] Additional information can be found at GOV.UK.

Abuse or Safeguarding issue	Link to Guidance/Advice	Source
Children and the courts	Advice for 12-17 year old witnesses in criminal courts	MoJ 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 Her Majesty's Prison and Probation Service (HMPPS) advice
Child Exploitation	County Lines: criminal exploitation of children and vulnerable adults	Home Office guidance
	Child sexual exploitation: guide for practitioners	DfE
	Trafficking: safeguarding children	DfE and HO guidance
Drugs	Drugs: advice for schools	DfE and ACPO advice
	Drug strategy 2017	Home Office strategy
	Information and advice on drugs	Talk to Frank website
	ADEPIS platform sharing information and resources for schools: covering drug (& alcohol) prevention	Website developed by Mentor UK
"Honour Based Violence" (so called)	Female genital mutilation: information and resources	Home Office
	Female genital mutilation: multi agency statutory guidance	DfE, DH, and HO statutory guidance
	Forced marriage: statutory guidance and government advice	Foreign Commonwealth Office and Home Office
Health and Well-being	Fabricated or induced illness: safeguarding children	DfE, Department for Health and Home Office
	Rise Above: Free PSHE resources on health, wellbeing and resilience	Public Health England resources
	Medical-conditions: supporting pupils at school	DfE statutory guidance
	Mental health and behaviour	DfE advice
Homelessness	Homelessness: How local authorities should exercise their functions	MHCLG

Abuse or Safeguarding issue	Link to Guidance/Advice	Source
Online	Sexting: responding to incidents and safeguarding children	UK Council for Child Internet Safety
Private fostering	Private fostering: local authorities	DfE - statutory guidance
Radicalisation	Prevent duty guidance	Home Office guidance
	Prevent duty advice for schools	DfE advice
	Educate Against Hate Website	DfE and Home Office
Violence	Gangs and youth violence: for schools and colleges	Home Office advice
	Ending violence against women and girls 2016-2020 strategy	Home Office strategy
	Violence against women and girls: national statement of expectations for victims	Home Office guidance
	Sexual violence and sexual harassment between children in schools and colleges	DfE advice
	Serious violence strategy	Home Office Strategy

Annex B: Role of the designated safeguarding lead

Governing bodies, proprietors and management committees should ensure an appropriate **senior member** of staff, from the school or college **leadership team**, is appointed to the role of designated safeguarding lead.[114] 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. This person should have the appropriate status and authority within the school to carry out the duties of the post. They should be given the time, funding, training, resources and support to provide advice and support to other staff on child welfare and child protection matters, to take part in strategy discussions and inter-agency meetings, and/or to support other staff to do so, and to contribute to the assessment of children.

Deputy designated safeguarding leads

It is a matter for individual schools and colleges as to whether they choose to have one or more deputy designated safeguarding leads. Any deputies should be trained to the same standard as the designated safeguarding lead and the role should be explicit in their job description. Whilst the activities of the designated safeguarding lead can be delegated to appropriately trained deputies, the ultimate **lead responsibility** for child protection, as set out above, remains with the designated safeguarding lead, this **lead responsibility** should not be delegated.

Manage referrals

The designated safeguarding lead is expected to:

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

[114] 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 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.

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

Work with others

The designated safeguarding lead is expected to:

- act as a point of contact with the three 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;
- as required, liaise with the "case manager" (as per Part four) and the designated officer(s) at the local authority for child protection concerns in cases which concern a staff member;
- liaise with staff (especially pastoral support staff, school nurses, IT Technicians, and SENCOs or the named person with oversight for SEN in a college) on matters of safety and safeguarding (including online and digital safety) and when deciding whether to make a referral by liaising with relevant agencies; and
- act as a source of support, advice and expertise for all staff.

Training

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

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

- understand the assessment process for providing early help and statutory intervention, including local criteria for action and local authority children's social care referral arrangements.[115]

[115] Full details in Chapter one of Working Together to Safeguard Children.

- have a working knowledge of how local authorities conduct a child protection case conference and a child protection review conference and be able to attend and contribute to these effectively when required to do so;
- ensure each member of staff has access to, and understands, the school's or college's child protection policy and procedures, especially new and part time staff;
- are alert to the specific needs of children in need, those with special educational needs and young carers;[116]
- understand relevant data protection legislation and regulations, especially the Data Protection Act 2018 and the General Data Protection Regulation.
- understand the importance of information sharing, both within the school and college, and with the three safeguarding partners, other agencies, organisations and practitioners.
- are able to keep detailed, accurate, secure written records of concerns and referrals;
- understand and support the school or college with regards to the requirements of the Prevent duty and are able to provide advice and support to staff on protecting children from the risk of radicalisation;
- are able to understand the unique risks associated with online safety and be confident that they have the relevant knowledge and up to date capability required to keep children safe whilst they are online at school or college;
- can recognise the additional risks that children with SEN and disabilities (SEND) face online, for example, from online bullying, grooming and radicalisation and are confident they have the capability to support SEND children to stay safe online;
- obtain access to resources and attend any relevant or refresher training courses; and
- encourage a culture of listening to children and taking account of their wishes and feelings, among all staff, in any measures the school or college may put in place to protect them.

Raise Awareness

The designated safeguarding lead should:

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

- ensure the school's or college's child protection policies are known, understood and used appropriately;
- 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 are aware of the fact that referrals about suspected abuse or neglect may be made and the role of the school or college in this; and
- link with the safeguarding partner arrangements to make sure staff are aware of any training opportunities and the latest local policies on local safeguarding arrangements.

Child protection file

Where children leave the school or college the designated safeguarding lead should ensure their child protection file is transferred to the new school or college as soon as possible. This should be transferred separately from the main pupil file, ensuring secure transit, and confirmation of receipt should be obtained. Receiving schools and colleges should ensure key staff such as designated safeguarding leads and SENCOs or the named person with oversight for SEN in colleges, are aware as required.

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 victims of abuse and have that support in place for when the child arrives.

Availability

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

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

Annex C: Online safety

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

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

- **content**: being exposed to illegal, inappropriate or harmful material; for example pornography, fake news, racist or radical and extremist views;
- **contact:** being subjected to harmful online interaction with other users; for example commercial advertising as well as adults posing as children or young adults; and
- **conduct**: personal online behaviour that increases the likelihood of, or causes, harm; for example making, sending and receiving explicit images, or online bullying.

Education

Opportunities to teach safeguarding, including online safety, are discussed at paragraph 88-90. Resources that could support schools and colleges include:

- Teaching online safety in school - DfE guidance outlining how schools can ensure their pupils understand how to stay safe and behave online as part of existing curriculum requirements.
- UKCIS has recently published its Education for a connected world framework. Online safety is a whole school and college issue. The framework aims to support the development of the curriculum and is of particular relevance to PSHE education and Computing. It is designed, however, to be usable across the curriculum and beyond and to be central to a whole school or college approach to safeguarding and online safety. It covers early years through to age 18.
- The PSHE Association provides guidance to schools on developing their PSHE curriculum – www.pshe-association.org.uk
- Parent Zone and Google have developed Be Internet Legends a free internet safety curriculum with PSHE accredited lesson plans and teaching resources for Key Stage 2 pupils.

Filters and monitoring

Governing bodies and proprietors should be doing all that they reasonably can to limit children's exposure to the above risks from the school'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.

Whilst considering their responsibility to safeguard and promote the welfare of children, and provide them with a safe environment in which to learn, governing bodies and proprietors should consider the age range of their pupils, the number of pupils, how often they access the IT system and the proportionality of costs vs risks.

The appropriateness of any filters and monitoring systems are a matter for individual schools and colleges and will be informed in part, by the risk assessment required by the Prevent Duty.[117] 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.

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

Whilst filtering and monitoring is an important part of the online safety picture for schools and colleges to consider, it is only one part. Governors and proprietors should consider a whole school or college approach to online safety. This will include a clear policy on the use of mobile technology in the school or college. Many children have unlimited and unrestricted access to the internet via 3G, 4G and 5G in particular and the school and college should carefully consider how this is managed on their premises.

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

[117] The Prevent duty Departmental advice for schools and childcare providers and Prevent Duty Guidance For Further Education Institutions

Reviewing online safety

Technology in this area evolves and changes rapidly. A free online safety self-review tool for schools can be found via the 360 safe website. UKCIS has published Online safety in schools and colleges: Questions for the governing board

Staff training

Governors and proprietors should ensure that, as part of the requirement for staff to undergo regularly updated safeguarding training (paragraph 84) and the requirement to ensure children are taught about safeguarding, including online safety (paragraph 87), that online safety training for staff is integrated, aligned and considered as part of the overarching safeguarding approach.

Information and support

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

Organisation/Resource	What it does/provides
thinkuknow	NCA CEOPs advice on online safety
disrespectnobody	Home Office advice on healthy relationships, including sexting and pornography
UK safer internet centre	Contains a specialist helpline for UK schools and colleges
swgfl	Includes a template for setting out online safety policies
internet matters	Help for parents on how to keep their children safe online
parentzone	Help for parents on how to keep their children safe online
childnet cyberbullying	Guidance for schools on cyberbullying
pshe association	Guidance and useful teaching resources covering online safety issues including pornography and the sharing of sexual images
educateagainsthate	Practical advice for parents, teachers and governors on protecting children from extremism and radicalisation.
the 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
UKCIS	The UK Council for Internet Safety's website provides: • Sexting advice • Online safety: Questions for Governing Bodies • Education for a connected world framework

Organisation/Resource	What it does/provides
NSPCC	NSPCC advice for schools and colleges
net-aware	NSPCC advice for parents
commonsensemedia	Independent reviews, age ratings, & other information about all types of media for children and their parents
searching screening and confiscation	Guidance to schools on searching children in schools and confiscating items such as mobile phones
lgfl	Advice and resources from the London Grid for Learning

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

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

- The National Minimum Standards for Boarding Schools
- The National Minimum Standards for Residential Special Schools
- The National Minimum Standards for FE colleges which Accommodate under 18s
- Guide to the Children's Homes Regulations.

In addition, the Visits to Children in Long-Term Residential Care Regulations 2011[118] apply to children and young people living away from home in residential settings for periods of 3 months or more (including those placed in residential schools and colleges). An appropriate representative from the accommodating Local Authority must visit these settings to ensure the welfare of these children.

[118] www.legislation.gov.uk.

Annex E: 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 for the care and accommodation of a child with a host family (known as homestays) as part of the exchange.

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

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

In circumstances where a school or college arrange for a visiting child to be provided with care and accommodation in the UK (including where they engage a company to make those arrangements) in the home of a family to which the child is not related[119] the responsible adults will be engaging in regulated activity for the period of the stay.[120] 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.[121]

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.[122]

---

[119] This includes where a person has parental responsibility for the visiting child.
[120] 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.
[121] Section 53(3) and (4) of the Safeguarding Vulnerable Groups Act 2006.
[122] 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[123] 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 who will be responsible for the visiting child during the stay. It will be for the school or college to use their professional judgement to decide what it considers what will be relevant. However, to help inform that assessment, schools and colleges should[124] obtain a DBS enhanced certificate with barred list information. This check will not only establish whether the adults are barred from engaging in regulated activity relating to children, but 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 a suitable host for a child.

DBS enhanced certificates with barred list information for volunteer roles[125] can be obtained free of charge.[126] 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 agreed arrangement. Schools and colleges are also free to decide whether they consider

[123] Where it is a private arrangement, the school or college are not entitled to obtain a standard or enhanced DBS check.
[124] See page 3 for interpretation of 'should' used throughout the document.
[125] 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."
[126] 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.

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.[127] 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 192-194 for additional information about private fostering and local authority notifications.

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

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

This statutory guidance on the supervision of activity with children, which is regulated activity when unsupervised, is also published separately on GOV.UK.

1. 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.

2. For too long child protection policy has been developed in haste and in response to individual tragedies, with the well intentioned though misguided belief that every risk could be mitigated and every loophole closed. The pressure has been to prescribe and legislate more. This has led to public confusion, a fearful workforce and a dysfunctional culture of mistrust between children and adults. This Government is taking a different approach.

3. We start with a presumption of trust and confidence in those who work with children, and the good sense and judgment of their managers. This guidance applies when an organisation decides to supervise with the aim that the supervised work will not be regulated activity (when it would be, if not so supervised). In such a case, the law makes three main points:

    - there must be supervision by a person who is in regulated activity[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".

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

4. Supervision by a person in regulated activity/regular and day to day: supervisors must be in regulated activity themselves[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.

5. Reasonable in the circumstances: within the statutory duty, the level of supervision

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

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

6. An organisation is not entitled to request a barred list check on a worker who, because they are supervised, is not in regulated activity.

Examples

Volunteer, in a specified place

Mr Jones, a new volunteer, helps children with reading at a local school for two mornings a week. Mr Jones is generally based in the classroom, in sight of the teacher. Sometimes Mr Jones takes some of the children to a separate room to listen to them reading, where Mr Jones is supervised by a paid classroom assistant, who is in that room most of the time. The teacher and classroom assistant are in regulated activity. The 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 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.

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

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

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

Annex G: Disclosure and Barring Service checks

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

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

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

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

Annex H: Table of substantive changes from September 2018

Where	What
Summary	
Page 4	Removed reference to multi-agency “transitional” arrangements from the summary on page 4 (as the new three safeguarding partner arrangements must be in place by September 2019)
Part one	
Abuse and neglect	A number of paragraphs have been moved in Part 1 to improve the flow of this section. Content has not been changed but the information that was included at the end of Part 1 covering abuse, neglect and safeguarding issues has been moved to the “What school and college staff should look out for section”
Paragraph 27	Reference to upskirting included (which is now a criminal offence)
Paragraph 29-30	New paragraphs on serious violence
Paragraph 53	Updated the link to the NSPCC helpline
Part two	
Paragraphs 68-75	Multi-agency working updated to reflect new safeguarding partner arrangements
Paragraph 79	Updated to make it clear that the DPA/GDPR does not prevent schools from withholding education data where doing so would be in the interests of a child in a refuge
Paragraph 89	Updated to reflect the new requirements for Relationships Education, Relationships and Sex Education and Health Education
Paragraph 91	Updated to reflect new Ofsted framework
Paragraph 91	Removed the reference to the School Inspection Service as they no longer inspect independent schools
Part three	
Paragraph 122	Removed reference to section 167A of the Education Act

Paragraph 157	Wording changed for overseas trained teachers and directs to GOV.uk for further information. Removed direct link to guidance as it is currently being revised and GOV.uk will be updated in due course
Paragraph 173	Provided clarity regarding Section 128 checks for school governors
Paragraph 174	New paragraph about associate members appointed by the governing body to serve on governing body committees
Part four	No changes
Part five	No changes
Annex A	
Children with family members in prison	Added clarity that the number of children covers England and Wales
So called 'honour-based' violence	Added Female Genital Mutilation and Forced Marriage into the section header to be clear what it includes
Upskirting	New paragraph added to reflect the fact that this is now a criminal offence
Annex B	No changes
Annex C	Added link to new departmental guidance: Teaching online safety in school. This guidance outlines how schools can ensure their pupils understand how to stay safe and behave online as part of existing curriculum requirements
Annex D	No changes
Annex E	No changes
Annex F	No changes
Annex G	No changes

Department for Education

© Crown copyright 2019

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3

email psi@nationalarchives.gsi.gov.uk

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.education.gov.uk/contactus

download www.gov.uk/government/publications

Reference: DFE-00129 -2019

Follow us on Twitter: @educationgovuk

Like us on Facebook: facebook.com/educationgovuk