Department for Education

Keeping children safe in education

Statutory guidance for schools and colleges

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Summary

What is the status of this guidance?

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

About this guidance

This document contains information on what schools and colleges **should** do and sets out the legal duties with which schools and colleges **must** comply in order to keep children safe. It should be read alongside statutory guidance Working together to safeguard children, and departmental advice What to do if you are worried a child is being abused- Advice for practitioners.

Unless otherwise specified, 'school' means all schools whether maintained, non-maintained or independent schools, including academies and free schools, 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 relates to their responsibilities towards children under the age of 18, but excludes 16-19 academies and free schools (which are required to comply with relevant safeguarding legislation by virtue of their funding agreement).

Who this guidance is for

This statutory guidance should be read and followed by:

- governing bodies of maintained schools (including maintained nursery schools) and colleges;
- proprietors of independent schools (including academies, free schools), alternative provision academies and non-maintained special schools;[2] and

[1] The Early Years Foundation Stage Framework (EYFS) is mandatory for all early years providers. It applies to all schools that provide early years provision including maintained nursery schools. Maintained nursery schools, like the other schools listed under 'About this guidance', must have regard to Keeping Children Safe in Education 2016 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 10 for further detail on this requirement).

[2] The proprietor will be the Academy Trust, where the Academy Trust has entered into a funding arrangement under the Academies Act 2010 concerning an independent school or alternative provision academy.

- management committees of pupil referral units (PRUs).

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

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

What this guidance replaces

This guidance replaces Keeping children safe in education July 2015.

A table of changes is included at Annex H.

Part one: Safeguarding information for all staff

What school and college staff should know and do

A child centred and coordinated approach to safeguarding

1. Schools and colleges and their staff form part of the wider safeguarding system for children. This system is described in statutory guidance Working together to safeguard children.

2. Safeguarding and promoting the welfare of children is **everyone's** responsibility. **Everyone** who comes into contact with children and their families and carers has a role to play in safeguarding children. In order to fulfil this responsibility effectively, all professionals should make sure their approach is child-centred. This means that they should consider, at all times, what is in the **best interests** of the child.

3. No single professional can have a full picture of a child's needs and circumstances. If children and families are to receive the right help at the right time, **everyone** who comes into contact with them has a role to play in identifying concerns, sharing information and taking prompt action.

4. Safeguarding and promoting the welfare of children is defined for the purposes of this guidance as: protecting children from maltreatment; preventing impairment of children's health or development; ensuring that children grow up in circumstances consistent with the provision of safe and effective care; and taking action to enable all children to have the best outcomes.

5. Children includes everyone under the age of 18.

The role of school and college staff

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

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

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

9. **All** school and college 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

[3] Detailed information on early help can be found in Chapter 1 of Working together to safeguard children

years. In the first instance staff should discuss early help requirements with the designated safeguarding lead. Staff may be required to support other agencies and professionals in an early help assessment.

10. **Any staff member** who has a concern about a child's welfare should follow the referral processes set out in paragraphs 21-27. Staff may be required to support social workers and other agencies following any referral.

11. The Teachers' Standards 2012 state that teachers, including 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

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

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

Copies of policies and a copy of Part one of this document (Keeping children safe in education) should be provided to staff at induction.

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

14. **All** staff should be aware of the early help process, and understand their role in it. This includes identifying emerging problems, liaising with the designated safeguarding lead, sharing information with other professionals to support early identification and assessment and, in some cases, acting as the lead professional in undertaking an early help assessment.

15. **All** staff should be aware of the process for making referrals to children's social care and for statutory assessments under the Children Act 1989[5] that may follow a referral, along with the role they might be expected to play in such assessments.[6]

[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] Under the Children Act 1989, local authorities are required to provide services for children in need in their area for the purposes of safeguarding and promoting their welfare. Local authorities undertake assessments of the needs of individual children to determine which services to provide and what action to take. This can include:

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

What school and college staff should look out for

17. **All** school and college staff members should be aware of the signs of abuse and neglect so that they are able to identify cases of children who may be in need of help or protection. Types of abuse and neglect, and examples of safeguarding issues are described in paragraphs 35-44 of this guidance.

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

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

20. Knowing what to look for is vital to the early identification of abuse and neglect. If staff members are unsure they should always speak to the designated safeguarding lead.

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

21. If staff members have any **concerns** about a child (as opposed to a child being in immediate danger - see paragraph 28) they will need to decide what action to take. Where possible, there should be a conversation with the designated safeguarding lead to agree a course of action, although any staff member can make a referral to children's social care. Other options could include referral to specialist services or early help services and should be made in accordance with the referral threshold set by the Local Safeguarding Children Board.

22. If anyone other than the designated safeguarding lead makes the referral they should inform the designated safeguarding lead, as soon as possible. The local authority should make a decision within one working day of a referral being made about what

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Section 17- A child in need is defined under section 17(10) of the Children Act 1989 as a child who is unlikely to achieve or maintain a reasonable level of health or development, or whose health or development is likely to be significantly or further impaired, without the provision of services; or a child who is disabled.
Section 47- If the local authority have reasonable cause to suspect that a child is suffering, or likely to suffer, significant harm they have a duty to make enquires under section 47 to enable them to decide whether they should take any action to safeguard and promote the child's welfare. This duty also applies if a child is subject to an emergency protection order (under section 44 of the Children Act 1989) or in police protective custody under section 46 of the Children Act 1989.
[6] Detailed information on statutory assessments can be found in Chapter 1 of Working together to safeguard children

course of action they are taking and should let the referrer know the outcome. Staff should follow up on a referral should that information not be forthcoming. The online tool Reporting child abuse to your local council directs you to your local children's social care contact number.

23. See page 10 for a flow chart setting out the process for staff when they have concerns about a child.

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

25. If early help is appropriate the designated safeguarding lead should support the staff member in liaising with other agencies and setting up an inter-agency assessment as appropriate.

26. If early help and or other support is appropriate the case should be kept under constant review and consideration given to a referral to children's social care if the child's situation doesn't appear to be improving.

27. If a **teacher**[7], in the course of their work in the profession, discovers that an act of Female Genital Mutilation 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.

What school and college staff should do if a child is in danger or at risk of harm

28. **If, a child is in immediate danger or is at risk of harm a referral should be made to children's social care and/or the police immediately.** Anyone can make a referral. Where referrals are not made by the designated safeguarding lead the designated safeguarding lead should be informed, as soon as possible, that a referral has been made. Reporting child abuse to your local council directs you to your local children' social care contact number.

Record keeping

29. 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.

Why is all of this important?

30. 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

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

shown the dangers of failing to take effective action. Poor practice includes: failing to act on and refer the early signs of abuse and neglect, poor record keeping, failing to listen to the views of the child, failing to re-assess concerns when situations do not improve, sharing information too slowly and a lack of challenge to those who appear not to be taking action.[8]

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

31. If staff members have concerns about another staff member then this should be referred to the headteacher or principal. Where there are concerns about the headteacher or principal this should be referred to the chair of governors, chair of the management committee or proprietor of an independent school as appropriate. In the event of allegations of abuse being made against the headteacher, where the headteacher is also the sole proprietor of an independent school, allegations should be reported directly to the designated officer(s) at the local authority. Staff may consider discussing any concerns with the school's designated safeguarding lead and make any referral via them. Full details can be found in Part four of this guidance.

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

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

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

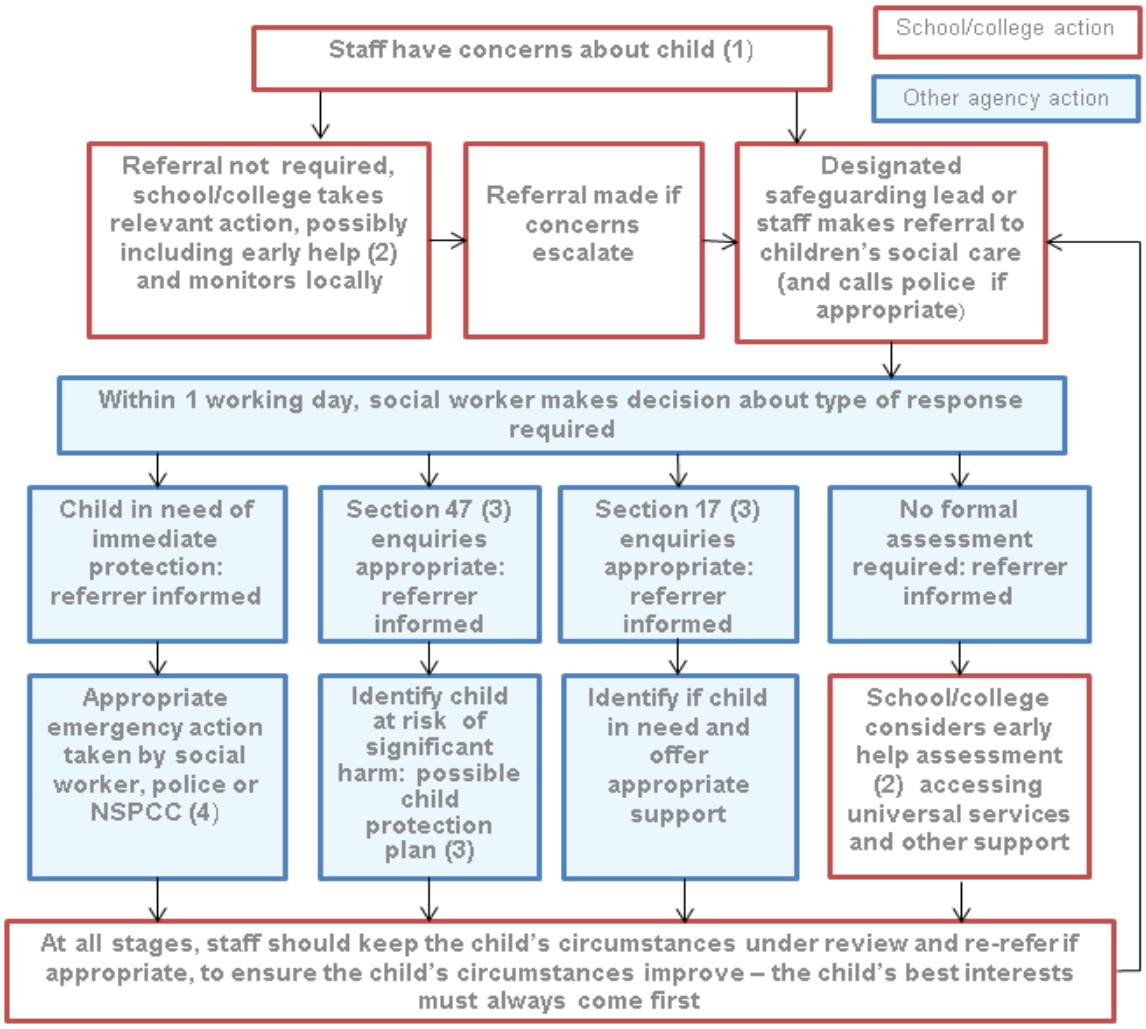
34. Where a staff member feels unable to raise an issue with their employer or feels that their genuine concerns are not being addressed, other whistleblowing channels may be open to them:

- General guidance can be found at- Advice on whistleblowing
- The NSPCC whistleblowing helpline is available for staff who do not feel able to raise concerns regarding child protection failures internally. 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.[9]

[8] New learning from serious case reviews: a two year report for 2009-2011 **(We will update with new evidence if it is available before September)**

[9] Alternatively, staff can write to: National Society for the Prevention of Cruelty to Children (NSPCC), Weston House, 42 Curtain, Road, London EC2A 3NH.

Actions where there are concerns about a child



1. In cases which also involve an allegation of abuse against a staff member, see Part four of this guidance.
2. 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. Under the Children Act 1989, local authorities are required to provide services for children in need for the purposes of safeguarding and promoting their welfare. This can include s17 assessments of children in need and s47 assessments of children at risk of significant harm. Full details are in Chapter one of Working together to safeguard children.
4. This could include applying for an Emergency Protection Order (EPO).

Types of abuse and neglect

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

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

37. **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.

38. **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 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.

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

40. **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 as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to: provide adequate food,

clothing and shelter (including exclusion from home or abandonment); protect a child from physical and emotional harm or danger; ensure adequate supervision (including the use of inadequate care-givers); or ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

Specific safeguarding issues

41. **All** staff should have an awareness of safeguarding issues- some of which are listed below. Staff should be aware that behaviours linked to the likes of drug taking, alcohol abuse, truanting and sexting put children in danger.

42. **All** staff should be aware safeguarding issues can manifest themselves via peer on peer abuse. This is most likely to include, but not limited to: bullying (including cyber bullying), gender based violence/sexual assaults and sexting. Staff should be clear as to the school or college's policy and procedures with regards to peer on peer abuse.

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

- bullying including cyberbullying
- children missing education – and Annex A
- child missing from home or care
- child sexual exploitation (CSE) – and Annex A
- domestic violence
- drugs
- fabricated or induced illness
- faith abuse
- female genital mutilation (FGM) – and Annex A
- forced marriage- and Annex A
- gangs and youth violence
- gender-based violence/violence against women and girls (VAWG)

- hate
- mental health
- missing children and adults strategy
- private fostering
- preventing radicalisation – and Annex A
- relationship abuse
- sexting
- trafficking

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

Part two: The management of safeguarding

The responsibility of governing bodies, proprietors and management committees

Legislation and the law

45. Governing bodies and proprietors (in Part two unless otherwise stated this includes management committees) must ensure that they comply with their duties under legislation. They must have regard to this guidance to ensure that the policies, procedures and training in their schools or colleges are effective and comply with the law at all times.[10]

46. Schools and colleges should have a senior board level (or equivalent) lead to take **leadership** responsibility for the organisation's safeguarding arrangements.[11]

Safeguarding policies

47. 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.

48. This should include:

- an effective child protection policy; and
- 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.[12]

[10] Section 175 of the Education Act 2002 requires governing bodies of maintained schools and further education colleges (including sixth form colleges) in relation to their functions relating to the conduct of the school or the institution to make arrangements for ensuring that such functions are exercised with a view to safeguarding and promoting the welfare of children who are either pupils at the school or who are students under 18 years of age attending the further education institution. The Education (Independent School Standards) Regulations 2014 apply the same duty to proprietors of independent schools (which include academies and free schools). 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.

[11] Chapter 2, pg 55, paragraph 11 and p53, paragraph 4 of Working together to safeguard children.

[12] When drafting 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.

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

49. The child protection policy should describe procedures which are in accordance with government guidance and refer to locally agreed inter-agency procedures put in place by the Local Safeguarding Children Board (LSCB), be updated annually (as a minimum), and be available publicly either via the school or college website or by other means.

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

51. 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 risks of their going missing in future. The government's missing children and adults strategy and the department's children missing education guidance provides information that governing bodies and proprietors might find useful when considering children who go missing from education.

The designated safeguarding lead

52. Governing bodies and proprietors should appoint an appropriate **senior member** of staff, from the school or college **leadership team**, 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).

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

54. 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.

55. The designated safeguarding lead and any deputies should liaise with the local authority and work with other agencies in line with Working together to safeguard children.

56. 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.

57. 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.

58. 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, but at least annually, to keep up with any developments relevant to their role.

Inter-agency working

59. Governing bodies and proprietors should ensure that the school or college contributes to inter-agency working in line with statutory guidance Working together to safeguard children. 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 co-ordinated 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.[13]

60. Governing bodies and proprietors of all schools and colleges should ensure that their safeguarding arrangements take into account the procedures and practice of the local authority as part of the inter-agency safeguarding procedures set up by the LSCB.[14] This should include understanding and reflecting local protocols for assessment[15] and the LSCB's threshold document[16] along with supplying information as requested by the

[13] For further information see Chapter 1 of Working together to safeguard children.

[14] Section 10 of the Children Act 2004 requires a local authority to make arrangements to promote co-operation between itself, its relevant partners and such other persons or organisations as the authority considers appropriate, being persons or organisations who exercise functions or who are engaged in activities relating to children in the authority's area. The relevant partners include maintained schools, non-maintained special schools, academies and free schools and colleges, which are under a duty to co-operate with the local authority in the making of such arrangements. The arrangements made by local authorities under section 10 may extend to other types of independent and non-maintained schools (i.e. other than academies and free schools) as such schools engage in activities relating to children. It applies to the management committee of pupil referral units through paragraph 20B of Schedule 1 to The Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007.

[15] Local authorities, with their partners, should develop local protocols for assessment. The protocol should set out clear arrangements for how cases will be managed once a child is referred into local authority children's social care.

[16] The LSCB should publish a threshold document that includes the process for early help assessments and the type and level of early help services; the criteria, including the level of need, for when cases should be referred to local authority children's social care for assessments and for statutory services under sections 17, 20, 31 and 47 of the Children Act 1989 and clear procedures and processes for cases relating to the sexual exploitation of children and young people.

LSCB.

61. As part of meeting a child's needs it is important for governing bodies and proprietors to recognise the importance of information sharing between professionals and local agencies. Further details on information sharing can be found in Chapter one of Working together to safeguard children and at Information sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers.

62. Whilst the Data Protection Act 1998 places duties on organisations and individuals to process personal information fairly and lawfully, it is not a barrier to sharing information where the failure to do so would result in a child being placed at risk of harm. Fears about sharing information **cannot** be allowed to stand in the way of the need to promote the welfare and protect the safety of children.

63. Although inter agency working and information sharing are vital in identifying and tackling all forms of abuse, it is clear they are especially important to identify and prevent child sexual exploitation.

Staff training

64. Governing bodies and proprietors should ensure that all staff members undergo safeguarding and child protection training at induction. The training should be regularly updated. Induction and training should be in line with advice from the LSCB.

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

66. 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

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

Opportunities to teach safeguarding

68. Governing bodies and proprietors should ensure children are taught about safeguarding, including online, through teaching and learning opportunities, as part of

providing a broad and balanced curriculum. This may include covering relevant issues through personal, social, health and economic education (PSHE), tutorials (in FE colleges) and/or – for maintained schools and colleges – through sex and relationship education (SRE).

69. 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 regards to online teaching and safeguarding.

Inspection

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

Safer recruitment

71. 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.

72. The School Staffing (England) Regulations 2009 require governing bodies of maintained schools to ensure that at least one person on any appointment panel has undertaken safer recruitment training.[17] Governing bodies of maintained schools may choose appropriate training and may take advice from their LSCB in doing so. The training should cover, as a minimum, the content of this guidance.

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

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

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

74. 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.[18]

75. **This is a legal duty and failure to refer when the criteria are met is a criminal offence**.[19] More detail is provided at paragraph 120.

Allegations of abuse made against other children

76. Staff should recognise that children are capable of abusing their peers. Governing bodies and proprietors should ensure their child protection policy includes procedures to minimise the risk of peer on peer abuse and sets out how allegations of peer on peer abuse will be investigated and dealt with. The policy should reflect the different forms peer on peer abuse can take, make clear that abuse is abuse and should never be tolerated or passed off as "banter" or "part of growing up". It should be clear as to how victims of peer on peer abuse will be supported.

77. Peer on peer abuse can manifest itself in many ways. Governors and proprietors should ensure sexting and the school or colleges approach to it is reflected in the child protection policy. The department provides searching screening and confiscation advice for schools. Child Exploitation Online Protection Centre (CEOP) has recently updated their sexting guidance: **NOTE: We will add this advice when it's available.**

78. Governors and proprietors should ensure the child protection policy reflects the different gender issues that can be prevalent when dealing with peer on peer abuse. This could for example include girls being sexually touched/assaulted or boys being subject to initiation/hazing type violence.

The child's wishes

79. 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 any systems and processes should operate with the **best** interests of the child at their heart.

Boarding schools, residential special schools and children's home

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

[18] Section 35 of the Safeguarding Vulnerable Groups Act 2006.
[19] Section 38 of the Safeguarding Vulnerable Groups Act 2006.

Looked after children

81. The most common reason for children becoming looked after[20] is as a result of abuse and/or neglect. Governing bodies and proprietors should ensure that staff have the skills, knowledge and understanding necessary to keep looked after children safe.

82. In particular, they should ensure that appropriate staff have the information they need in relation to a child's looked after legal status (whether they are looked after under voluntary arrangements with consent of parents or on an interim or full care order) and contact arrangements with birth parents or those with parental responsibility. They should also have information about the child's care arrangements and the levels of authority delegated to the carer by the authority looking after him/her. The designated safeguarding lead[21] 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.

The designated teacher

83. Governing bodies of maintained schools and proprietors of academy schools must appoint a designated teacher[22] to promote the educational achievement of children who are looked after and to ensure that this person has appropriate training.

Virtual school heads

84. Virtual school heads[23] receive pupil premium plus additional funding based on the latest published numbers of children looked after in the authority. In maintained schools and academies the designated teacher should work with the virtual school head to discuss how that 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[24]. In other schools and colleges an appropriately trained teacher should take the lead.

Children with special educational needs and disabilities

85. 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

[20] A child who is looked after by a local authority (referred to as a looked-after-child) as defined in section 22 Children Act 1989, means a child who is subject to a care order (interim or full care order) or who is voluntarily accommodated by a local authority.
[21] In maintained schools and academies the designated safeguarding lead should work closely with the designated teacher.
[22] 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.
[23] The Children and Families Act 2014 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 it's 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.
[24] 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.

abuse and neglect in this group of children. This can include:

- assumptions that indicators of possible abuse such as behaviour, mood and injury relate to the child's disability without further exploration;
- children with SEN and disabilities can be disproportionally impacted by things like bullying- without outwardly showing any signs; and
- communication barriers and difficulties in overcoming these barriers.

Part three: Safer recruitment

Recruitment, selection and pre-employment vetting

86. 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 paragraphs 71-72 about safer recruitment training). This part of the guidance describes in detail those checks that are, or may be, required for any individual working in any capacity at, or visiting, the school or college. Governing bodies and proprietors must act reasonably in making decisions about the suitability of the prospective employee based on checks and evidence including: criminal record checks (DBS checks), barred list checks and prohibition checks together with references and interview information. [25, 26]

87. The level of DBS certificate required, and whether a prohibition check is required, will depend on the role and duties of an applicant to work in a school or college, as outlined in this guidance.

88. For most appointments, an enhanced DBS certificate, which includes barred list information, will be required as the majority of staff will be engaging in regulated activity. 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; [27] 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 24.

89. 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

[25] Regulations 12 and 24 of the School Staffing (England) Regulations 2009 for maintained schools, apply also to the management committee of pupil referral units through the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007. Part 4 of the Schedule to the Education (Independent School Standards) (England) Regulations 2014, applies to independent schools, including free schools and academies. Regulation 3 and paragraphs 4, 5 and 6 of Part 1 and paragraphs 15, 16 and 17 of Part 2 of the Schedule to The Non-Maintained Special Schools (England) Regulations 2015 apply to non-maintained special schools. Regulation 5 of the Further Education (Providers of Education) (England) Regulations 2006 apply to further education colleges.
[26] 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. There is no duty for further education colleges (other than sixth form colleges) to conduct this additional prohibition check.
[27] 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 135-138 for further information on contractors) that would have the opportunity for contact with children and who work under a temporary or occasional contract.[28]

90. In a school or college, a **supervised** volunteer who regularly teaches or looks after children is not in regulated activity.[29] The Department for Education (DfE) has published separate statutory guidance on supervision and regulated activity which schools and colleges should have regard to when considering which checks should be undertaken on volunteers. This is set out at Annex F.

91. In addition to obtaining the DBS certificate described, anyone who is appointed to carry out teaching work will require an additional check to ensure they are not prohibited from teaching.[30] 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. See the pre-appointments section of this guidance.

[28] 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'.

[29] 'Supervised' and 'unsupervised' have a particular meaning in relation to regulated activity.

[30] 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. Further education colleges (other than sixth form colleges) are not legally required to conduct this additional prohibition check. 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 or a prohibition order.

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 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.[31] Some activities are always regulated activities, regardless of their 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, for reasons of age, illness or disability, with eating or drinking, or in connection with toileting, washing, bathing and dressing;[32]
- health care means care for children provided by, or under the direction or supervision of, a regulated health care professional.

[31] 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.

[32] 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

92. 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 additional information held by the police which a chief officer reasonably believes to be relevant and considers ought to be disclosed; and

- **Enhanced with barred list check:** where people are working or seeking to work in regulated activity with children, this allows for an additional checks to be made as to whether the person appears on the children's barred list.[33]

More information is available on the DBS website.

93. 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.

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

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

96. **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**

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

regulated activity.[34] 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.[35]

Secretary of State prohibitions

Teacher prohibition orders

97. Teacher prohibition orders prevent a person from carrying out teaching work in schools, sixth form colleges, 16 to 19 academies, relevant youth accommodation and children's homes in England.[36] A person who is prohibited from teaching must not be appointed to work as a teacher in such a setting. A check of any prohibition can be carried out using the Teacher Services' system.[37] Prohibition orders are described in the National College for Teaching and Leadership's (NCTL) publication Teacher misconduct: the prohibition of teachers.

98. Teacher prohibition orders are made by the Secretary of State following consideration by a professional conduct panel convened by NCTL. Pending such consideration, the Secretary of State may issue an interim prohibition order if it is considered to be in the public interest to do so.

Section 128 direction

99. A section 128 direction[38] prohibits or restricts a person from taking part in the management of an independent school, including academies and free schools. A person who is prohibited, is unable to participate in any management of an independent school such as: a management position in an independent school, academy or free school as an employee; a trustee of an academy or free school trust; a governor or member of a proprietor body for an independent school; or a governor on any governing body in an independent school, academy or free school that retains or has been delegated any management responsibilities. A check for a section 128 direction can be carried out using the Teacher Services' system . Where the person will be engaging in regulated activity, a DBS barred list check will also identify any section 128 direction.

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

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[34] Section 9, Safeguarding Vulnerable Groups Act 2006.
[35] Section 7, Safeguarding Vulnerable Groups Act 2006.
[36] Prohibition orders are made by the Secretary of State under section 141B of the Education Act 2002. Those made by the General Teaching Council for England (GTCE) prior to April 2012 have the same effect.
[37] The Teacher Services' system (formally known as, Employer Access Online) is a free service that allows schools and colleges to identify: existing prohibitions and sanctions made under section 142 of the 2002 Act; teacher prohibitions made under section 141 of the 2002 Act; any direction made under 128 of the 2008 Act; sanctions or restrictions imposed by the General Teaching Council for England (GTCE) before its abolition in March 2012; and teacher sanctions or restrictions imposed by European Economic Area regulating authorities on or after 18 January 2016. Teacher services can also be used to check for the award of Qualified Teacher Status (QTS), the completion of teacher induction or probation. The Teacher Services' system is accessed via the Department's Secure Access portal.
[38] The Independent Educational Provision in England (Prohibition on Participation in Management) Regulations 2014.

Pre-appointment checks

All new appointments

101. 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.

102. When appointing new staff, schools and colleges must (subject to paragraph 105):

- 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); [39,40]
- 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.[41] 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;[42]
- verify the person's right to work in the UK. If there is uncertainty about whether an individual needs permission to work in the UK, then prospective employers, or volunteer managers, should follow advice on the GOV.UK website;
- if the person has lived or worked outside the UK, make any further checks the school or college consider appropriate (see paragraph 114); and
- verify professional qualifications, as appropriate.
- Independent schools, including academies and free schools, check that a person taking up a management position as described at paragraph 99 is not subject to a section 128 direction made by the Secretary of State.

[39] Where the individual will be or is engaging in regulated activity, schools will need to ensure that they confirm on the DBS application that they have the right to barred list information.
[40] Regulations 12 and 24 of the School Staffing (England) Regulations 2009 for maintained schools also applied to the management committee of pupil referral units through the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007. Part 4 of the Schedule to The Education (Independent School Standards) (England) Regulations 2014 applies to independent schools, including free schools and academies. The Schedule to the Non-Maintained Special Schools (England) Regulations 2015 applies to non-maintained special schools. Regulation 5 of the Further Education (Providers of Education) (England) Regulations 2006 apply to further education institutions. Further Education providers should also note Regulation 10 of the Further Education (Providers of Education) (England) Regulations 2006, which requires that members of staff who move [within a college] from positions not involving the provision of education into a position involving the provision of education are to be treated as new staff members.
[41] Education (Health Standards) (England) Regulations 2003 see also fitness to teach circular.
[42] Section 60 of the Equality Act 2010.

103. Schools and sixth form colleges should use Teacher Services' system to ensure that a candidate to be employed as a teacher is not subject to a prohibition order issued by the Secretary of State.

104. 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.

105. There is **no requirement** to obtain an enhanced DBS certificate or carry out checks for events that may have occurred outside the UK if, in the three months prior to their appointment, the applicant has worked:

- in a school in England in a post which brought them into regular contact with children or young persons in any post in a school since 12 May 2006; 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.

  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 should they wish to do so.

106. 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

107. Individuals can join the DBS Update Service 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.[43] This allows for portability of a certificate across employers.

Before using the Update Service schools or colleges must:

a. obtain consent from the applicant to do so;

b. confirm the certificate matches the individual's identity; and

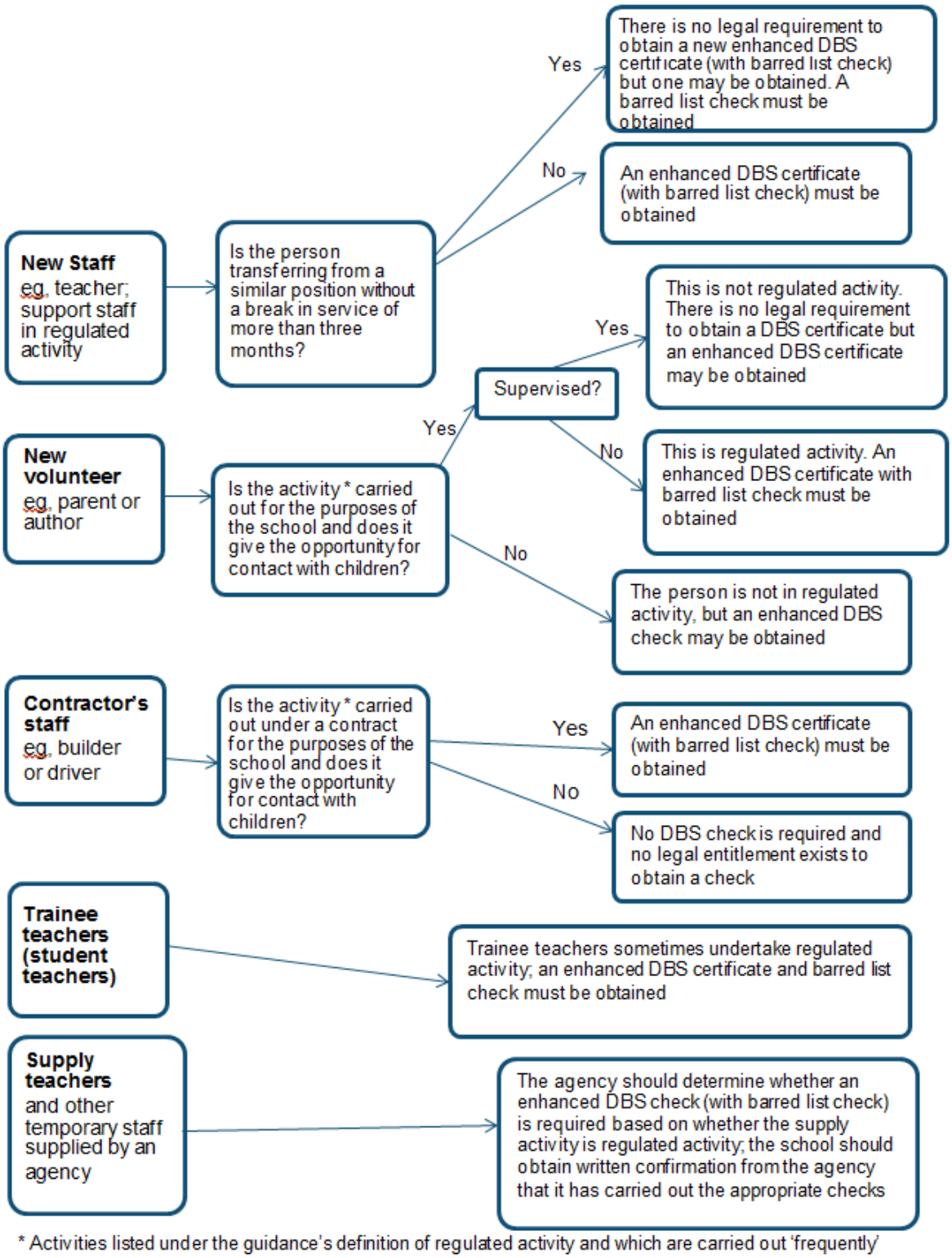
c. examine the original certificate to ensure that it is for the appropriate workforce and level of check, e.g. enhanced certificate/enhanced including barred list information.

The school or college can then 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

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

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 can be found at GOV.UK.

Flowchart of Disclosure and Barring Service criminal record checks and barred list checks



* Activities listed under the guidance's definition of regulated activity and which are carried out 'frequently'

Employment history and references

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

109. The purpose of seeking references is to obtain objective and factual information to support appointment decisions. References should always be obtained, scrutinised and any concerns resolved satisfactorily, before the appointment is confirmed. They should always be requested directly from the referee and employers should not rely on open references, for example in the form of 'to whom it may concern' testimonials. If a candidate for a teaching post is not currently employed as a teacher, it is also advisable to check with the school, college or local authority at which they were most recently employed, to confirm details of their employment and their reasons for leaving.

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

111. Any information about past disciplinary action or allegations should be considered carefully when assessing the applicant's suitability for the post (including information obtained from the Teacher Services' checks referred to previously).

Single central record

112. Schools and colleges must keep a single central record, referred to in the regulations (described in the following paragraph) as the register. The single central record must cover the following people:

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

The information that must be recorded in respect of staff members (including teacher trainees on salaried routes) is whether the following checks have been carried out or certificates obtained, and the date on which each check was completed/certificate obtained:

- an identity check;
- a barred list check;

- an enhanced DBS check/certificate;
- a prohibition from teaching check;
- a section 128 check (for management positions as set out in paragraph 99 for independent schools(including free schools and academies));
- further checks on people who have lived or worked outside the UK; this would include recording checks for those EEA teacher sanctions and restrictions described in paragraph 114;
- a check of professional qualifications; and
- a check to establish the person's right to work in the United Kingdom.

For supply staff, schools should also include whether written confirmation that the employment business supplying the member of supply staff has carried out the relevant checks and obtained the appropriate certificates, whether any enhanced DBS check certificate has been provided in respect of the member of supply staff, and the date that confirmation was received.[44]

Where checks are carried out on volunteers, schools should record this on the single central record.

113. For details of records that must be kept, see:

- 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;[45] 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.

Schools and colleges do not have to keep copies of DBS certificates in order to fulfil the duty of maintaining the single central record. To help schools and colleges comply with the requirements of the Data Protection Act, when a school or college chooses to retain a

[44] Independent schools and non-maintained special schools should also include the date on which any certificate was obtained.
[45] 16-19 academies and free schools are covered through their funding agreements.

copy they should not be retained for longer than six months. A copy of the other documents used to verify the successful candidate's identity, right to work and required qualifications should be kept for the personnel file. Further information on handling DBS certificate information can be found on GOV.UK.

Individuals who have lived or worked outside the UK

114. 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. These further checks should include a check for information about any teacher sanction or restriction that an EEA professional regulating authority has imposed, using the NCTL Teacher Services' system. 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.[46]

115. The Home Office has published guidance on criminal record checks for overseas applicants. The Department for Education has also issued guidance on the employment of overseas-trained teachers. This gives information on the requirements for overseas-trained teachers from the European Economic Area to teach in England, and the award of qualified teacher status for teachers qualified in Australia, Canada, New Zealand and the United States of America.

Agency and third-party staff

116. 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.[47] Where the position requires a barred list check this must be obtained, by the agency or third-party prior to appointing that individual. The school must also check that the person presenting themselves for work is the same person on whom the checks have been made.

[46] EEA regulators of the teaching profession will share details of any sanction or restriction that they impose on a teacher on or after 18 January 2016, with all other EEA teacher regulators. Teacher Services' system sets out how to obtain additional information about any EEA sanction/restrictions identified.

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

Trainee/student teachers

117. 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 and barred list information) must be obtained.

118. Where trainee teachers are fee-funded it is the responsibility of the initial teacher training provider to carry out the necessary checks, schools should obtain written confirmation from the training provider that these checks have been carried out and that the trainee has been judged by the provider to be suitable to work with children.[48] There is no requirement for the school to record details of fee-funded trainees on the single central record.

Existing staff

119. 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 regulated activity, the relevant checks for the regulated activity must be carried out.[49] Apart from these circumstances, the school or college is not required to request a DBS check or barred list check.

120. **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; where the individual has received a caution or conviction for a relevant offence, or if there is reason to believe that individual has committed a listed relevant offence; and that individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.**[50] The DBS will consider whether to bar the person. Referrals should be made as soon as possible after the resignation or removal of the individual. Guidance on referrals can be found on GOV.UK.

121. 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

[48] National College for Teaching and Leadership - Initial teacher training provider supporting advice and initial teacher training criteria.

[49] 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.

[50] 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).

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.[51]

Volunteers

122. 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.

123. 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.

124. Schools and colleges may obtain an enhanced DBS certificate (not including barred list information), for volunteers who are not engaging in regulated activity, but have the opportunity to come into contact with children on a regular basis, e.g. supervised volunteers (see paragraph 127 for supervision). Employers are not legally permitted to request barred list information on a volunteer who, because they are supervised, is not in regulated activity.

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

126. 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; and
- whether the role is eligible for an enhanced DBS check.

127. The Protection of Freedoms Act 2012 amended the Safeguarding Vulnerable Groups Act 2006, removing supervised volunteers from regulated activity and applying a duty on the Secretary of State to issue guidance to assist regulated activity providers such as schools and colleges, to decide what level of supervision is required so that this

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

exclusion would apply. If the volunteer is to be supervised while undertaking an activity, which would be regulated activity if it was unsupervised, the statutory guidance must be followed. This is replicated at Annex F. The guidance issued following this change requires that:

- there must be supervision by a person who is in regulated activity;[52]
- 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".

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

Maintained school governors

129. Governors in maintained schools are required to have an enhanced criminal records certificate from the DBS.[53] It is the responsibility of the governing body to apply for the certificate for any of their governors who does not already have one. Governance is not a regulated activity and so they do not need a barred list check unless, in addition to their governance duties, they also engage in regulated activity.

Other school and sixth form college governors

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

Proprietors of independent schools including academies and free schools or alternative provision academies and free schools[54]

131. 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: [55, 56]

- carry out an enhanced DBS check; where relevant, and where such a check is made, obtain an enhanced DBS check certificate (either including or not including

[52] If the work is in a specified place such as a school, paid workers remain in regulated activity even if supervised.
[53] The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016.
[54] The proprietor of an academy trustor free school or alternate provision academy is the academy trust.
[55] Paragraph 20 of the Schedule to the Education (Independent School Standards) Regulations 2014.
[56] This will include an academy trust of any academy or free school, other than for 16 – 19 academies or free schools.

barred list information as appropriate);[57]

- confirm the individual's identity; and
- if the individual lives or has lived outside of the UK, making an enhanced check 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 a non-maintained special school.[58]

132. The requirement for an enhanced DBS check and certificate is disapplied for the chair of an academy trust if the academy is converting from a maintained school and the person has already been subject to a check carried out by the local authority.[59]

133. Where the proprietor is a body of people, the chair must ensure that enhanced DBS checks are undertaken, where relevant, for the other members of the body and that where such a check has been undertaken, an enhanced DBS certificate is obtained, and that identity checks are completed before, or as soon as practicable after, any individual takes up their position. The chair must also ensure that other members are not subject to a section 128 direction that would prevent them from taking part in the management of an independent school (including academy 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.

134. In the case of an academy trust newly established to operate a free school, the DfE will ask the DBS to conduct checks on all members and trustees of the new trust. 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.[60]

Contractors

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

[57] Regulation 2(5) of the Education (Independent School Standards) Regulations 2014 sets out when such checks are considered relevant.
[58] Paragraphs 6 and 17 of the Schedule to The Non-Maintained Special Schools (England) Regulations 2015.
[59] Paragraph 20(7) of the Schedule to the Education (Independent School Standards) Regulations 2014.
[60] The Education (Independent School Standards) Regulations 2014. The regulations do not apply to 16-19 free schools and academies.

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

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

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

Visitors

139. 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.

Adults who supervise children on work experience

140. Schools and colleges organising work experience placements should ensure that policies and procedures are in place to protect children from harm.[61]

141. 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.[62] The school or college should consider the specific circumstances of the work experience, in particular 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 to the child will be:

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

142. 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.

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

143. 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.[63]

144. 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.[64]

Children staying with host families

145. 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 which they are not related. This might happen, for example, but not only, as part of a foreign exchange visit or sports tour. Such arrangements could amount to "private fostering" under the Children Act 1989 or the Safeguarding Vulnerable Groups Act 2006, or both. See Annex E for further details.

[63] 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.
[64] Under the Police Act 1997, an individual must be 16 or over to be able to make an application for a DBS check.

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

Duties as an employer and an employee

146. This part of the guidance is about managing cases of allegations that might indicate a person would pose a risk of harm 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 would pose a risk of harm to children.

147. This part of the guidance relates to members of staff 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.

148. 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

149. 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.

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

151. The following definitions should be used when determining the outcome of allegation investigations:[65]

- **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.

152. In the first instance, the headteacher or principal, or where the headteacher or principal is the subject of an allegation, the chair of governors, chair of the management committee or proprietor of an independent school (the 'case manager') should immediately discuss the allegation 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 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.

153. 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.

154. 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 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

[65] Schools may wish to use the additional definition of 'unfounded' to reflect cases where there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances.

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 further information on suspension which follows).

155. 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.

156. 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 office(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.

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

158. However, in other circumstances, such as lack of appropriate resource within the school or college, or the nature or complexity of 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.

Supporting those involved

159. 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.

160. 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.

161. Parents or carers of a 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.[66]

162. Parents and carers should also be made aware of the requirement to maintain confidentiality about any allegations made against teachers whilst investigations are ongoing as set out in section 141F of the Education Act 2002 (see paragraph 164). If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

163. 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 consider what support the child or children involved may need.

Confidentiality

164. It is extremely important that when an allegation is made, the school or college makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2002 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher 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 or the General Teaching Council for Wales publishes information about an investigation or decision in a disciplinary case

[66] In deciding what information to disclose, careful consideration should be given to the provisions of the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.

arising from the allegation.[67] The reporting restrictions also cease to apply 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.

165. 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).

166. In accordance with the Association of Chief Police Officers' (ACPO) guidance 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).

167. 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;
- 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'

168. 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 paragraph 120**. 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. A settlement/compromise agreement which prevents the school or college from making a DBS referral when the

[67] Carried out by the National College for Teaching and Leadership.

criteria are met would likely result in a criminal offence being committed as the school or college would not be complying with its legal duty to make the referral.

169. 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.

170. '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

171. 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.

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

173. 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.[68]

[68] Information Commissioners Office – Guidance on employment records in its Employment Practices Code and supplementary guidance.

References

174. 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.

Timescales

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

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

177. 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 Local Safeguarding Children Board (LSCB) on the subject. 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.

178. 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.

179. 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

180. 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) or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.

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

182. 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.

183. 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.

184. 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.

185. 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.

186. 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

187. 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.

188. 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.

189. 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

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

On conclusion of a case

191. If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the designated officer(s) should discuss with the case manager and their personnel adviser whether the school or college will decide to make a referral to the DBS for consideration of whether inclusion on the barred lists is required; and in the case of a member of teaching staff whether to refer the matter to the National College for Teaching and Leadership (NCTL) to consider prohibiting the individual from teaching.[69]

192. **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 120.**

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

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

In respect of malicious or unsubstantiated allegations

194. If an allegation is determined to be unsubstantiated or malicious, the designated officers(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 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 was not a pupil.

Learning lessons

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

Further information

196. See the Crown Prosecution Service published guidance for the police under the Protection from Harassment Act 1997.

Annex A: Further information

Further information on a child missing from education

(The government recently consulted on plans to amend regulations from September 2016, to improve information sharing between schools and LAs to help identify children missing education and help protect children from potential harm. This section will be updated to reflect any changes that are made before September 5 2016.)

All children, regardless of their circumstances, are entitled to a full time education which is suitable to their age, ability, aptitude and any special educational needs they may have. Local authorities have a duty to establish, as far as it is possible to do so, the identity of children of compulsory school age who are missing education in their area.

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

Schools and colleges should put in place appropriate safeguarding policies, procedures and responses for children who go missing from education, particularly on repeat occasions. It is essential that all staff are alert to signs to look out for and the individual triggers to be aware of when considering the risks of potential safeguarding concerns such as travelling to conflict zones, Female Genital Mutilation and forced marriage.

Schools

The law requires all schools to have an admission register and, with the exception of schools where all pupils are boarders, an attendance register. All pupils must be placed on both registers.[70]

All schools must inform their local authority[71] of any pupil who is going to be removed from the admission register where the pupil:

- has been taken out of school by their parents and the school has received written notification from the parent they are being educated outside the school system e.g. home education;
- has ceased to attend school and no longer lives within reasonable distance of the school at which they are registered;
- has been certified by the school medical officer as unlikely to be in a fit state of health to attend school before ceasing to be of compulsory school age, and neither he/she nor

[70] Regulation 4 of the Education (Pupil Registration) (England) Regulations 2006.
[71] Regulation 12(3) of the Education (Pupil Registration) (England) Regulations 2006.

his/her parent has indicated the intention to continue to attend the school after ceasing to be of compulsory school age;

- are in custody for a period of more than four months due to a final court order and the proprietor does not reasonably believe they will be returning to the school at the end of that period; or,
- have been permanently excluded.

The local authority must be notified when a school is to remove a pupil from its register for any of the five grounds above. This should be done as soon as these grounds for removal from the register are met, and in any event no later than removing the pupil's name from the register. It is essential that schools comply with this duty, so that local authorities can, as part of their duty to identify children of compulsory school age who are missing education and follow up with any child who might be in danger of not receiving an education and who might be at risk of abuse or neglect.

All schools must inform the local authority of any pupil who fails to attend school regularly, or has been absent without the school's permission for a continuous period of 10 school days or more, at such intervals as are agreed between the school and the local authority.[72]

Colleges

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

Further information on child sexual exploitation

(We expect to update this section in the summer when a updated definition of CSE has been agreed)

Child sexual exploitation is a form of sexual abuse where children are sexually exploited for money, power or status. It can involve violent, humiliating and degrading sexual assaults. In some cases, young people are persuaded or forced into exchanging sexual activity for money, drugs, gifts, affection or status. Consent cannot be given, even where a child may believe they are voluntarily engaging in sexual activity with the person who is exploiting them. Child sexual exploitation does not always involve physical contact and can happen online. A significant number of children who are victims of sexual exploitation go missing from home, care and education at some point. Some of the following signs may be indicators of sexual exploitation:

[72] In default of such agreement, at intervals determined by the Secretary of State.

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

Further information on so- called 'honour based' violence

So-called 'honour-based' violence (HBV) encompasses 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. All forms of so called HBV are abuse (regardless of the motivation) and should be handled and escalated as such. If in any doubts staff should speak to the designated safeguarding lead. 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.

Indicators

There are a range of potential indicators that a child may be at risk of HBV. Guidance on the warning signs that FGM or forced marriage may be about to take place, or may have already taken place, can be found on pages 38-41 of the Multi agency statutory guidance on FGM (pages 59-61 focus on the role of schools and colleges) and pages 13-14 of the Multi-agency guidelines: Handling case of forced marriage.

Actions

If staff have a concern regarding a child that might be at risk of HBV they should activate local safeguarding procedures, using existing national and local protocols for 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**[73] that requires a different approach (see following section).

FGM mandatory reporting duty

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

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

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

Teachers **must** personally report to the police cases where they discover that an act of FGM appears to have been carried out.[74] Unless the teacher has a good reason not to, they should also still consider and discuss any such case with the school or college's designated safeguarding lead and involve children's social care as appropriate. The duty does not apply in relation to at risk or suspected cases (i.e. where the teacher does not discover that an act of FGM appears to have been carried out, either through disclosure by the victim or visual evidence) or in cases where the woman is 18 or over. In these cases, teachers should follow local safeguarding procedures. The following is a useful summary of the FGM mandatory reporting duty: FGM Fact Sheet

Forced marriage

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

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

Further information on preventing radicalisation

Protecting children from the risk of radicalisation should be seen as part of schools' and colleges' wider safeguarding duties, and is similar in nature to protecting children from

[74] Section 5B(6) of the Female Genital Mutilation Act 2003 states teachers need not report a case to the police if they know that another teacher has already reported the case.

other forms of harm and abuse. During the process of radicalisation it is possible to intervene to prevent vulnerable people being radicalised.

Radicalisation refers to the process by which a person comes to support terrorism and forms of extremism.[75] There is no single way of identifying an individual who is likely to be susceptible to an extremist ideology. It can happen in many different ways and settings. Specific background factors may contribute to vulnerability which are often combined with specific influences such as family, friends or online, and with specific needs for which an extremist or terrorist group may appear to provide an answer. The internet and the use of social media in particular has become a major factor in the radicalisation of young people.

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

Prevent

From 1 July 2015 specified authorities, including all schools (and since 18 September 2015 all colleges) as defined in the summary of this guidance, are subject to a duty under section 26 of the Counter-Terrorism and Security Act 2015 ("the CTSA 2015"), in the exercise of their functions, to have "due regard[76] to the need to prevent people from being drawn into terrorism".[77] This duty is known as the Prevent duty. It applies to a wide range of public-facing bodies. Bodies to which the duty applies must have regard to statutory guidance issued under section 29 of the CTSA 2015. Paragraphs 57-76 of the Revised Prevent duty guidance: for England and Wales are specifically concerned with schools (but also cover childcare). There is separate guidance: Prevent duty guidance: for further education institutions in England and Wales that applies to colleges.

The statutory "Revised Prevent duty guidance: for England and Wales" (for schools) summarises the requirements on schools in terms of four general themes:

- Schools are expected to assess the risk of children being drawn into terrorism, including support for extremist ideas that are part of terrorist ideology. This means being able to demonstrate both a general understanding of the risks affecting children and young people in the area and a specific understanding of how to identify individual children who may be at risk of radicalisation and what to do to support them. Schools should have clear procedures in place for protecting children at risk of radicalisation. These procedures may be set out in existing safeguarding policies. It is not necessary for schools to have distinct policies on implementing the Prevent duty.

[75] Extremism is vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. We also include in our definition of extremism calls for the death of members of our armed forces, whether in this country or overseas.
[76] 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.
[77] "Terrorism" for these purposes has the same meaning as for the Terrorism Act 2000 (section 1(1) to (4) of that Act).

- The Prevent duty builds on existing local partnership arrangements. For example, governing bodies and proprietors of all schools should ensure that their safeguarding arrangements take into account the policies and procedures of the Local Safeguarding Children Board. Effective engagement with parents / the family should also be considered as they are in a key position to spot signs of radicalisation. It is important to assist and advise families who raise concerns and be able to point them to the right support mechanisms. Schools should also discuss any concerns in relation to possible radicalisation with a child's parents in line with the individual school's safeguarding policies and procedures unless they have specific reason to believe that to do so would put the child at risk.

- The Prevent guidance refers to the importance of Prevent awareness training to equip staff to identify children at risk of being drawn into terrorism and to challenge extremist ideas. Individual schools are best placed to assess the training needs of staff in the light of their assessment of the risk to pupils at the school of being drawn into terrorism. As a minimum, however, schools should ensure that the designated safeguarding lead undertakes Prevent awareness training and is able to provide advice and support to staff on protecting children from the risk of radicalisation.

- Schools must ensure that children are safe from terrorist and extremist material when accessing the internet in schools.

  The Department for Education has also published advice for schools on the Prevent duty. The advice is intended to complement the Prevent guidance and signposts other sources of advice and support. The Government has launched educate against hate, a website designed to equip school and college leaders, teachers and parents with the information, tools and resources they need to recognise and address extremism and radicalisation in young people. The website provides information on training resources for teachers, staff and school and college leaders, such as Prevent e-learning, via the Prevent Training catalogue.

Channel

School and college staff should understand when it is appropriate to make a referral to the Channel programme.[78] Channel guidance is available at: Channel guidance. E-learning channel awareness programme for staff is available at: Channel General Awareness. Channel is a programme which focuses on providing support at an early stage to people who are identified as being vulnerable to being drawn into terrorism. It provides a mechanism for schools to make referrals if they are concerned that an individual might be vulnerable to radicalisation. An individual's engagement with the programme is entirely voluntary at all stages. In addition to information sharing, if a staff member makes a referral to Channel, they may be asked to attend a Channel panel to discuss the individual referred to determine whether support is required.

[78] Guidance issued under section 36(7) and section 38(6) of the CTSA 2015.

Section 36 of the CTSA 2015 places a duty on local authorities to ensure Channel panels are in place. The panel must be chaired by the local authority and include the police for the relevant local authority area. Following a referral the panel will assess the extent to which identified individuals are vulnerable to being drawn into terrorism, and, where considered appropriate and necessary consent is obtained, arrange for support to be provided to those individuals. Section 38 of the CTSA 2015 requires partners of Channel panels to co-operate with the panel in the carrying out of its functions and with the police in providing information about a referred individual. Schools and colleges which are required to have regard to Keeping Children Safe in Education are listed in the CTSA 2015 as partners required to cooperate with local Channel panels.[79]

[79] Such partners are required to have regard to guidance issued under section 38(6) of the CTSA 2015 when co-operating with the panel and police under section 38 of the CTSA 2015.

Annex B: Role of the designated safeguarding lead

Governing bodies, proprietors and management committees should appoint an appropriate **senior member** of staff, from the school or college **leadership team**, 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. 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 lead(s). Any deputies should be trained to the same standard as the designated safeguarding lead.

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;
- 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

- 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 (all cases which concern a staff member); and
- Liaise with staff on matters of safety and safeguarding and when deciding whether to make a referral by liaising with relevant agencies. Act as a source of support, advice and expertise for staff.

Undertake 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, but 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 intervention, for example through locally agreed common and shared assessment processes such as early help assessments;
- 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;[80]
- Are able to keep detailed, accurate, secure written records of concerns and referrals;

[80] 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.

- 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;
- Obtain access to resources and attend any relevant or refresher training courses; and
- Encourage a culture of listening to children and taking account of their wishes and feelings, among all staff, in any measures the school or college may put in place to protect them.

Raise Awareness

- The designated safeguarding lead should ensure the school or college's child protection policies are known, understood and used appropriately;
- Ensure the school or college's child protection policy is reviewed annually (as a minimum) and the procedures and implementation are updated and reviewed regularly, and work with governing bodies or proprietors regarding this;
- 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 local LSCB to make sure staff are aware of training opportunities and the latest local policies on safeguarding.

Child protection file

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

Availability

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

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

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

Filters and monitoring

Governing bodies and proprietors should be doing all that they reasonably can to limit children's exposure to the above risks from the school or colleges IT system. As part of this process governing bodies and proprietors should ensure their school has appropriate filters and monitoring systems in place. Whilst considering their responsibility to safeguard and promote the welfare of children, and provide them 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 schools 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.[81]

The UK Safer Internet Centre has published guidance as to what "appropriate" might look like:

- UK Safer Internet Centre: appropriate filtering and monitoring

Guidance on e-security is available from the National Education Network-NEN. Buying advice for schools is available here-buying for schools.

Whilst filtering and monitoring are an important part of the online safety picture for schools and colleges to consider, it is only one part. Governors and proprietors should

[81] Prevent duty

consider a whole school approach to online safety. This will include a clear policy on the use of mobile technology in the school. Many children have unlimited and unrestricted access to the internet via 3G and 4G in particular and the school and college should carefully consider how this is managed on their premises.

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

Staff training

Governors and proprietors should ensure that as part of the requirement for staff to undergo regularly updated safeguarding training (paragraph 64) and the requirement to ensure children are taught about safeguarding, including online (paragraph 68), that online safety training for staff is integrated, aligned and considered as part of the overarching safeguarding approach.

Information and support

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

www.thinkuknow.co.uk

www.disrespectnobody.co.uk

www.saferinternet.org.uk

www.internetmatters.org

www.pshe-association.org.uk

educateagainsthate.com

www.gov.uk/government/publications/the-use-of-social-media-for-online-radicalisation

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

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

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

Annex E: Children staying with host families

Private fostering and educational institutions

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 which they are not related. This might happen, for example, but not only, as part of a foreign exchange visit or sports tour. Such arrangements could amount to "private fostering" under the Children Act 1989 or the Safeguarding Vulnerable Groups Act 2006, or both. The following paragraphs are not intended to be a comprehensive guide to all the circumstances in which private fostering may arise, but only to those situations which might arise for schools and colleges through the normal course of their activities in promoting learning activities for children.

DBS check request by a regulated activity provider

Where a private fostering arrangement is made by a school or college or a third party such as a language school and the school, college or third party has the power to terminate the arrangement, then it could be the regulated activity provider for the purposes of the Safeguarding Vulnerable Groups Act 2006.[82] A regulated activity provider will be committing an offence if they allow a person to carry out a regulated activity whilst barred and they know or have reason to believe that the person was barred.[83] Where the school or college is the regulated activity provider, it should request a DBS enhanced check (which will include barred list information) to help determine their suitability for the arrangement. However, where the parents make the arrangements themselves, this will be a private matter between the child's parents and the host parents and in these circumstances the school will not be the regulated activity provider.

LA notification when private fostering is discovered

Where schools and colleges have not been involved in making the arrangement but a member of staff or volunteer at a school or college becomes aware that a pupil may be in a private fostering arrangement, where a child under the age of 16 (or 18 if disabled) is provided with care and accommodation by someone to whom they are not related in that person's home, they should raise this in the first instance with the designated senior person for child protection. The school or college should notify the local authority of the circumstances, and the local authority will check that the arrangement is suitable and safe for the child.

A person who is barred from regulated activity will themselves be committing an offence under the Children Act 1989 and under the Safeguarding Vulnerable Groups Act 2006 if

[82] Section 53(3) and (4) of the Safeguarding Vulnerable Groups Act 2006. This also applies to schools and colleges if they broker student accommodation with host families for which the host family receives a payment from a third party, such as a language school. At a future date, the regulated activity provider will have a duty to carry out a barred list check on any new carer – section 34ZA Safeguarding Vulnerable Groups Act 2006.
[83] Section 9 Safeguarding Vulnerable Groups Act 2006.

they privately foster a child. If the school or college has any reason to believe that the third party is failing to undertake a statutory duty they should notify the police.[84] [85]

Schools and colleges arranging for their children to stay with families overseas should be aware that the DBS cannot access criminal records held overseas. Host families in other countries, therefore, cannot be checked in the same way by local authorities as schools and colleges in this country when children stay abroad. Schools and colleges should work with partner schools abroad to ensure that similar assurances are undertaken prior to a visit. If they wish, local authorities and schools can contact the relevant foreign embassy or High Commission of the country in question and find out if similar checks can be done in that country.

[84] Section 68(3A)(a) Children Act 1989
[85] Section 7 Safeguarding Vulnerable Groups Act 2006.

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. That gives local managers the flexibility to determine what is reasonable for their circumstances. While the precise nature and level of supervision will vary from case to case, guidance on the main legal points above is as follows.

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 the organisation will require in an individual case:

- 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. In law, an organisation will have no entitlement to do a barred list check on a worker who, because they are supervised, is not in regulated activity.

EXAMPLES

Volunteer, in a specified place

Mr Jones, a new volunteer, helps children with reading at a local school for two mornings a week. Mr Jones is generally based in the classroom, in sight of the teacher. Sometimes Mr Jones takes some of the children to a separate room to listen to them reading, where Mr Jones is supervised by a paid classroom assistant, who is in that room most of the time. The teacher and classroom assistant are in regulated activity. The head teacher decides whether their 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 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 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. If the worker is not, the remaining steps are unnecessary;
- consider whether the worker will be supervised by a person in regulated activity, and whether the supervision will be regular and day to day, bearing in mind paragraph 4 of this guidance;
- consider whether the supervision will be reasonable in all the circumstances to ensure the protection of children, bearing in mind the factors set out in paragraph 5 of this guidance above; and if it is a specified place such as a school:
- consider whether the supervised worker is a volunteer[v].

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

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

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

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

v A volunteer is: in England and Wales, a person who performs an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives; in Northern Ireland, a 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 just show unspent convictions and cautions. This service is currently provided through Disclosure Scotland.

Annex H: Table of changes

Where	What
Summary	Clarification of what “must have regard” means.
Summary	Removed- “Legislation this guidance refers to is listed as Annex A”
Summary	New- “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 1 of this guidance.”
paras 1-3	New paragraphs added. They set out the wider safeguarding system that schools, colleges and their staff are part of.
Part one	Some paragraphs re-ordered for a better flow and emphasise the role **all** staff have in safeguarding
paras 9,14, 25 & 26	More information included on “early help”.
para 13	In addition to regularly updated training an added requirement in the guidance for staff to receive regular safeguarding updates, as required, but at least annually, to provide them with relevant skills and knowledge to safeguard children effectively.
para 16	Moved information regarding confidentiality from Part 2 into Part 1 and provided additional guidance.
para 18	More information on the content of *What to do if you are worried a child is being abused- Advice for practitioners* and why it will be helpful for staff.
para 19	Added “best” interests of the child.
paras 21-28	Made clear the difference between a “concern” about a child and “immediate danger or at risk of harm” and the actions that should follow each.
para 27	Updated original para to reflect mandatory reporting requirement for teachers regarding Female Genital Mutilation.
para 29	Explicit requirement in the guidance in Part 1 so all staff can see it.
para 31	Information on what staff should do in they have concerns about a head who is sole proprietor of an independent school moved from Part 2 into Part 1.

paras 32-34	Made clear that staff should not only feel able to raise concerns but those concerns should be taken seriously. Also provided information on the NSPCC whistleblowing helpline.
Flow chart	Old flow chart replaced with this one- largely the same information but changed to improve the flow and be clearer on the steps in the process and what schools can expect from children's social care.
para 35	New para explaining that abuse, neglect and safeguarding issues are complex and can overlap with one another.
para 36	Definition of abuse updated to reflect other Departmental guidance and advice documents.
paras 41 & 42	New paragraph added to emphasises the harmful behaviours linked to safeguarding issues that can put children in danger. New paragraph added to emphasises the importance of staff being aware that children can abuse children and knowing what to do if it happens.
para 44	New paragraph explaining that Annex A contains important information about abuse and safeguarding issues. However as its detailed information it is targeted at leaders and staff working directly with children.
para 45	Clarification that management committees are covered by Part 2.
para 46	Cross reference to Working together to safeguard children.
Part two	Some paragraphs re-ordered for a better flow.
para 47	Links policies to appropriate and timely safeguarding.
para 48	Updated to reflect the proportional, risk based approach that governing bodies and proprietors should take when considering the level of safeguarding information provided to temporary staff and volunteers.
para 51	Links to guidance to support governing bodies and proprietors.
paras 52-58	Clarification as to the cover requirements for the role, options regarding deputy DSLs and requirement to keep knowledge and skills up to date.
paras 59-63	Updated to provide more information on LSCBs and highlight importance of data sharing and not allowing data sharing concerns to come before safeguarding a child.

paras 64-66	New sub heading with information pulled out of what was the designated safeguarding lead section in the 2015 guidance. New requirement in the guidance regarding regular safeguarding and child protection updates. Updated to reflect the importance of governing bodies and proprietors utilising the experience and expertise of their staff when shaping safeguarding policies.
para 67	New sub heading to reflect importance of appropriate online safety measures.
paras 68 & 69	Changed “should consider” to “should ensure”. Plus new paragraph introduced for governing bodies and proprietors to consider “over blocking”.
para 70	Paragraph updated to reflect new Ofsted frameworks and supporting documents.
para 73	Updated to reflect broad nature of staff this covers.
paras 76-78	Paragraph updated and new ones added to provide additional information for proprietors and governing bodies to consider when considering policy and procedures with regards to peer on peer abuse.
para 80	Removed Host Families as this is covered in Part three- para 145.
paras 81 & 82	Updated to reflect the fact that whilst the designated teacher is only a requirement for maintained schools and academies all schools might have looked after children and staff should be trained appropriately and have the appropriate knowledge to protect and promote the welfare of looked after children.
para 83	What was mainly covered via a footnote is now in the main guidance.
para 84	New paragraph providing information on virtual school head and what the relationship should be with them.
para 85	New paragraph highlighting importance of giving specific consideration to this group of children when developing policies.
para 91	Reflects section 128 requirement for independent schools- including academies and free schools.
paras 92 & 93	Updated to reflect latest DBS published information.
para 97	Section updated to reflect new Teacher Services system.

paras 99 & 100	New paragraphs reflecting the requirement to check if people being appointed to management positions in independent schools have been prohibited by the Secretary of State.
para 102	Updated to reflect latest DBS published information.
para 103	Updated to reflect Teachers Services' system.
para 106	Updated to reflect latest DBS published information.
para 112	Updated to reflect section 128 and EEA checks.
para 114	Updated to reflect EEA checks.
para 128	Updated to reflect latest DBS published information.
paras 129 & 130	Updated to reflect change in requirement for DBS check on maintained school governors.
para 141	Updated to provide clarity.
para 191	Updated by DBS to provide clarity.
Annex A Further information on a child missing from education	Updated to further clarify the requirements for schools and colleges. We expect a further update to be made before September 2016.
Annex A Further information on child sexual exploitation	We expect to make this update before September 2016.
Annex A Further information on so called honour based violence	Female Genital Mutilation (FGM) section broadened to include so called honour based violence. Updated to reflect the commencement of the mandatory reporting duty for FGM on 31 October 2015.

Annex A Further information on preventing radicalisation	Updated to reflect the commencement of the Prevent duty in colleges. Additional links to guidance added.
Annex B	Updated to reflect changes in main guidance.
Annex C	New Annex to support para 67.
Annex E	Updated to provide clarity.
Annex G	Updated to provide clarity.
Annex H	Table of changes included in this guidance for the first time.

Department for Education

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