



BRIEFING PAPER

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Safeguarding in English schools

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Summary

Schools are an important part of the wider system for safeguarding children in England and are in a position to identify concerns early and prevent them from escalating. Under the *Education Act 2002*, maintained schools have a duty to carry out their functions with a view to safeguarding and promoting the welfare of their pupils. A similar requirement is placed on independent schools (which includes academies and free schools) by the Independent School Standards Regulations.

Statutory guidance published by the Department for Education, [Keeping children safe in education](#), provides information on what schools are required to do to meet their safeguarding responsibilities. In large part, this briefing summarises the guidance. It should not, however, be considered a substitute for it, or for professional legal advice, when looking for detailed guidance on specific cases. Related information on the duties on schools to prevent children from extremism and to promote British values is available in Library Briefing: [Counter-extremism policy in English schools](#).

Responsibilities of governing bodies and school staff

As part of their safeguarding responsibilities, the governing bodies of maintained schools and the proprietors of independent schools are, among other things, responsible for ensuring that:

- There are appropriate safeguarding policies and procedures in place, including a child protection policy. Head teachers are responsible for ensuring that these policies are adopted and followed by all staff.
- A senior staff member is appointed as the designated safeguarding lead to take responsibility for safeguarding and child protection.
- All staff undergo safeguarding and child protection training at induction and that they receive regular updates.

School staff are expected to know about the systems in place in their school to support safeguarding, and to be aware of the types of abuse to look out for so that they can identify where action, including a referral to children's social care, may be needed. Section two of the briefing provides further information on the safeguarding responsibilities of governing bodies and school staff.

Safe recruitment

Schools are required to adopt recruitment practices that help deter, reject or identify people who might abuse children. They should act reasonably when deciding on the suitability of new employees based on a range of information, including criminal record checks, barred list checks and prohibition checks, together with references and interview information. Section three provides more detail on the checks that should be carried out.

Allegations against school staff

Section four provides information on how schools should manage allegations against a member of staff that might indicate that they pose a risk to children. The procedure followed will depend heavily on the circumstances of a particular case and can range from no action being taken, to a multi-agency strategy discussion, a criminal investigation and/or dismissal of the staff member concerned.

The briefing relates to the situation in England only.

1. Introduction

Local authorities in England have overarching responsibility for safeguarding and promoting the welfare of children in their area. As part of this, they have a number of statutory functions under the 1989 and 2004 Children Acts, including undertaking assessments of children who are in need or are suffering, or likely to suffer, significant harm in order to determine what services should be provided and what action should be taken.¹

While local authorities play the lead role, Government guidance stresses that effective safeguarding requires collaboration between local agencies, and that everyone who comes into contact with children has a role to play in “identifying concerns, sharing information and taking prompt action.”² In line with this, section 11 of the *Children Act 2004* places a duty on a range of agencies, including local authorities, the police and health services, to ensure that they consider the need to safeguard and promote the welfare of children when carrying out their functions.³

This briefing sets out the role of schools within this wider safeguarding system, which is described in more detail in the statutory guidance, [Working together to safeguard children](#). It provides information on the safeguarding responsibilities of governing bodies, head teachers and individual staff; the inspection of safeguarding arrangements in schools; requirements relating to the recruitment of staff; and procedures for dealing with allegations against members of staff.

1.1 Local multi-agency safeguarding arrangements

The *Children and Social Work Act 2017* amended the *Children Act 2004* to introduce new local arrangements for safeguarding and promoting the welfare of children.

A central feature of the new arrangements is that three safeguarding partners – the local authority, NHS Clinical Commissioning Groups (CCGs), and police forces – are responsible for determining how safeguarding arrangements should work in their area for them and relevant agencies. “Relevant agencies” is a term used for all bodies and groups within an area which play a crucial role in coordinating the safeguarding and welfare of children. Regulations specify the relevant agencies that safeguarding partners may choose to work with.⁴

¹ Further information on local authorities’ statutory safeguarding duties is provided in Library Briefing 6787, [An overview of child protection legislation in England](#), and in HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018.

² HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, p11.

³ As above, p58-60.

⁴ [The Child Practice Review and Relevant Agency \(England\) Regulations 2018](#), SI 2018/789

The Working Together to Safeguard Children guidance sets out the “pivotal role” that schools have to play in the safeguarding partner arrangements, and states that their “co-operation and buy-in...will be vital for success.” It additionally outlines an expectation that local safeguarding partners will name schools as relevant agencies and “make arrangements to allow all schools (including multi academy trusts), colleges and other educational providers, in the local area to be fully engaged, involved and included in the new safeguarding arrangements.” Once designated as a relevant agency, schools will be under a statutory duty to co-operate with the published arrangements.⁵

Box 1: Local Safeguarding Children Boards

As originally passed, the *Children Act 2004* required local authorities to establish an independent Local Safeguarding Children Board (LSCB) for their area. LSCBs had a range of functions, including developing safeguarding policy for the area.

LSCBs had an independent chair and comprised at least one representative from the local authority and a range of other partners, including, for example, the youth offending team, NHS trusts and Cafcass. Local authorities were additionally required to take reasonable steps to ensure that LSCBs included two lay members and representatives from all types of school in their area.⁶

LSCBs have now been replaced by the multiagency safeguarding arrangements explained above.

⁵ HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, p79.

⁶ HM Government, [Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children](#), March 2015, pp65-75.

2. Safeguarding in schools

In line with the duty placed on other agencies by the *Children Act 2004*, section 175 of the *Education Act 2002* requires governing bodies of maintained schools to ensure that they carry out their functions with a view to safeguarding and promoting the welfare of their pupils who are under 18 years of age. A similar duty is placed on the proprietors of independent schools (which includes academies and free schools) by the Independent School Standards Regulations.⁷

(Unless otherwise stated, any reference to schools in this briefing refers to all schools. Similarly, any references to governing bodies should be taken also to refer to the proprietors of independent schools (i.e. the persons responsible for the school's management) unless otherwise stated).⁸

Box 2: Definition of safeguarding

The Department for Education's safeguarding guidance defines safeguarding and protecting the welfare of children 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.⁹

2.1 Safeguarding guidance for schools

Statutory guidance published by the Department for Education, [Keeping children safe in education](#) (hereafter referred to as the guidance) provides information on what schools should do to meet their safeguarding responsibilities and sets out the legal duties that they must comply with. The most recent version of the guidance has been in force since September 2020, with a further update made in January 2021 to reflect the end of the transition period as the UK left the European Union.

2.2 Responsibilities of governing bodies

Governing bodies of schools are responsible for ensuring that there are appropriate safeguarding policies and procedures in place, including a child protection policy and a staff behaviour policy (sometimes called the code of conduct). The child protection policy should set out procedures in line with Government guidance and should refer to locally agreed multi-agency safeguarding arrangements put in place by the three safeguarding partners. It should be updated at least annually and

⁷ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p18; The [Education \(Independent School Standards\) Regulations 2014](#), SI 2014/3283.

⁸ *Education Act 1996*, section 579(1).

⁹ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p5.

be publicly available. Head teachers are responsible for ensuring that the policies and procedures adopted by the governing body are followed by all staff.¹⁰

Other safeguarding responsibilities of governing bodies include ensuring (this list is not exhaustive):

- That there is a senior board level lead who takes leadership responsibility for the school's safeguarding requirements.¹¹
- That a senior staff member is appointed as the designated safeguarding lead to take responsibility for safeguarding and child protection, discussing safeguarding concerns with staff, liaising with the three safeguarding partners, and working with other agencies.¹²
- That the school contributes to multi-agency working and understands its role in the new safeguarding partner arrangements. Governing bodies should understand the local criteria for action and the local protocol for assessment, and ensure that they are reflected in their own policies and procedures.¹³
- That they see the need for information sharing between practitioners and local agencies.¹⁴ Further detail on information sharing is available in [advice published by the Government](#).
- That all staff undergo safeguarding and child protection training at induction and that they receive regular safeguarding and child protection updates.¹⁵
- That there are clear whistleblowing procedures in place.¹⁶
- That appropriate filters and monitoring systems are in place for online content.¹⁷
- That children are taught about safeguarding, including online safety, which may include covering relevant issues in Personal, Social, Health and Economic Education (PSHE) and/or Relationships Education and Relationships and Sex Education.¹⁸
- That a designated teacher is appointed to promote the educational achievement of looked after children. Under the *Children and Social Work Act 2017* designated teachers also have responsibility for promoting the educational achievement of children who have left care through adoption, special guardianship or child arrangements order or who were adopted from state care outside England and Wales. As part of their work, designated teachers will work with the local authority's virtual

¹⁰ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, pp18-20.

¹¹ As above, p20.

¹² As above, p18.

¹³ As above, pp21-22.

¹⁴ As above, pp22-24.

¹⁵ As above, pp24.

¹⁶ As above, p16.

¹⁷ As above, p25 and Annex C.

¹⁸ As above, p24-25

school head¹⁹ to discuss how pupil premium funding for looked after children will be used.²⁰

2.3 Responsibilities of staff

School staff have an important safeguarding role as they can be in a position to identify concerns early and prevent them from escalating. The guidance, which staff are expected to read part one of, states that they should be aware of the systems in place in their school to support safeguarding, including the child protection policy and the role of the designated safeguarding lead. They are additionally expected to be aware of their local early help process and to understand their role in it. If early help is appropriate, the designated safeguarding lead will generally lead on liaising with other agencies, although staff may be required to support others in an early help assessment.²¹

Box 3: Early help

The Government's *Working together to safeguard children* guidance describes early help as "providing support as soon as a problem emerges, at any point in a child's life." It adds that effective early help relies on agencies working together to:

- **Identify children that would benefit from early help.** Professionals should be especially alert to the potential need for early help for children with particular characteristics, such as special educational needs or caring responsibilities.
- **Undertake assessments of the need for early help.** Where a child would benefit from coordinated support from more than one agency (e.g. education, health, housing etc) there should be an inter-agency assessment carried out, undertaken by a lead professional, such as a GP, teacher, or family support worker. The assessment should identify the help required to prevent needs escalating to the point where a statutory assessment by the local authority is required.
- **Providing targeted services.** Local areas should have a range of services in place to address assessed needs early. In addition to support in universal services, specific early help services will typically involve family and parenting programmes, assistance with health issues, responses to emerging thematic concerns, and help for problems relating to drugs, alcohol and domestic violence.²²

Raising concerns

School staff are advised to maintain a "it could happen here" attitude and to be aware of the types of abuse to look out for so that they can identify where help may be needed.²³ Information on types of abuse and neglect is provided in paras 35-44 of the guidance and in advice published by the Government: [What to do if you are worried a child is being abused – Advice for practitioners](#).

¹⁹ Section 22(3B) of the *Children Act 1989*, as added by the *Children and Families Act 2014*, requires local authorities to appoint a person (a virtual school head) for the purpose of discharging the authority's responsibility to promote the educational achievement of looked after children.

²⁰ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, pp30-31.

²¹ As above, p7

²² HM Government, [Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, pp13-16.

²³ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p12

If a staff member has concerns about a child then they should act on them immediately. They should follow their own organisation's child protection policy and speak to the designated safeguarding lead. Options will include managing any support internally, an early help assessment, or making a referral to children's social care. If a child is suffering, or is likely to suffer from harm, it is important that a referral to children social care (and the police if appropriate) is made immediately.²⁴

Within one working of a referral being made, a local authority social worker should make a decision about the type of response required. If social workers decide to carry out a statutory assessment then school staff should do everything they can to support it. If, after a referral, the child's situation does not improve, then the referrer should consider following local escalation procedures.²⁵

While school staff should speak to the designated safeguarding lead with regard to any concerns about female genital mutilation, they are also under a specific legal duty to report it to the police if they discover that an act of female genital mutilation appears to have been carried out on a girl under the age of 18.²⁶

2.4 Child on child sexual violence and harassment

In December 2017, the Department for Education published [advice](#) for schools on sexual violence and sexual harassment between children in schools. The advice was updated in May 2018. The advice provides information for schools on what sexual violence and harassment is; what schools' and colleges' legal responsibilities are; and how schools should respond to reports of sexual violence and harassment.

In addition, the [Keeping children safe in education guidance](#) includes a section on child on child sexual violence and sexual harassment. Reports of sexual violence and sexual harassment are likely to be complex and the guidance does not attempt to provide directions on what schools should do in any particular case. It instead sets out principles for schools to consider in their responses to such reports. Ultimately, it states, decisions are for "the school...to make on a case-by-case basis, with the designated safeguarding lead (or a deputy) taking a leading role and using their professional judgement, supported by other agencies, such as children's social care and the police as required."²⁷

The guidance states that there are four likely scenarios for schools to consider when managing any reports of sexual violence and/or sexual harassment: manage internally; early help; referrals to children's social care; and reporting to the police. Whatever the response, the guidance emphasises, it should be underpinned by the principle that sexual

²⁴ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, pp12-13.

²⁵ As above, p18.

²⁶ As above, p22. Further information is available in Home Office, DfE, DHSC, [Multi-agency statutory guidance on female genital mutilation](#), July 2020

²⁷ As above, p69.

violence and sexual harassment is never acceptable and will not be tolerated.²⁸

Further information on this area is available in Library Briefing 8117, [Sexual harassment in education](#).

2.5 Out of school education settings

Following earlier announcements, in November 2015 the Department for Education published a call for evidence on the registration and inspection of out-of-school education settings. The call for evidence set out the following proposals to allow action to be taken where settings are failing to safeguard and promote the welfare of children:

- A requirement on settings providing intensive education to register, so that there is transparency about where settings are operating;
- A power for a body to inspect settings to ensure that children are being properly safeguarded; and
- A power to impose sanctions where settings are failing to safeguard and promote the welfare of children, which could include barring individuals from working with children and the closure of premises.²⁹

The call for evidence stated that the proposed system would apply to settings providing “intensive tuition”, which would likely be defined as those which a child attends for more than 6-8 hours a week.³⁰

The 2016 Queen’s Speech announced that a *Counter-Extremism and Safeguarding Bill* would be introduced that would include provision to intervene in out-of-school settings. However, the Bill was not introduced by the time Parliament dissolved ahead of the 2017 general election.

Further information, including reaction to the proposals is provided in section 2.6 of Library Briefing 7345, [Counter-extremism policy in English schools](#).

Report on the call for evidence and further consultation

In April 2018, the Government published a report on the call for evidence. The report stated that the Government did not intend to proceed with the proposals outlined in the initial call for evidence, but instead would collect evidence with future legislation a potential option.

The following next steps were identified:

- Sharing new best practice for intervening in cases of concern.
- Developing the evidence base and identifying any gaps in existing powers.

²⁸ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, pp73-75.

²⁹ Department for Education, [Out-of-school education settings: call for evidence](#), November 2015, p7.

³⁰ As above, pp7 & 10.

- Consulting on a voluntary code of practice for providers later in 2018.
- Working with local authorities to provide more advice for parents about out-of-school settings.³¹

A [consultation on a voluntary code of practice](#) for out-of-school education settings ran from December 2018 to February 2019. A [Government response to the consultation](#) was published in October 2020.

Following the consultation, the Government published the voluntary guidance [Keeping children safe in out-of-school settings: code of practice](#), and announced it would be launching a promotion campaign to raise awareness of the code and a parents' guide.

In the response, the DfE stated that it had been “undertaking a package of activity aimed at boosting local capacity to identify and tackle settings of concern.” This had included up to £3million of targeted funding for local bodies to examine the means safeguarding activities could be conducted in out-of-school settings. This work had largely concluded in March 2020, and the Government was considering next steps, while seeking to learn further lessons from continuing work “where promising approaches for enhancing safeguarding activity have already been identified.”³²

Box 4: Children missing education

As part of their safeguarding policies, governing bodies should put in place safeguarding responses to children who go missing from education to help identify the risk of abuse and neglect and to prevent them going missing in the future.

Further information is provided in guidance published by the Department for Education: [Children missing education](#). The guidance sets out the roles of local authorities and schools in this regard:

- Local authorities have a duty to establish, as far as is possible to do so, the identities of children of compulsory school age who are missing education in their area.
- Schools should monitor attendance and address it when it is poor or irregular.
- All schools must inform the local authority, at intervals agreed with the 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 days or more.

Schools are also required to inform the local authority when a pupil's name is to be deleted from the admissions register under any one of a number of grounds prescribed in regulations. When doing so, they must provide the authority with certain information, including the name and address of the parent where the child is going to live and, if applicable, the name of the child's destination school.³³

The *Keeping Children Safe in Education* guidance recommends that schools should hold more than one emergency contact number for each pupil. While this goes beyond the legal minimum, the guidance states it is good practice to give a school additional options to make contact with a responsible adult when a child missing education is identified as a safeguarding concern.³⁴

³¹ Department for Education, [Out-of-school education settings Report on the call for evidence conducted November 2015 to January 2016](#), April 2018, p19.

³² Department for Education, [Out-of-school settings \(OQSS\) voluntary safeguarding code of practice: Government consultation response](#), October 2020

³³ Department for Education, [School attendance: Guidance for maintained schools, academies, independent schools and local authorities](#), September 2018, p7.

³⁴ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p19.

2.6 Boarding schools and residential special schools

There are additional safeguarding requirements for boarding schools and residential special schools, which are set out in National Minimum Standards:

- [The National Minimum Standards for Boarding Schools](#)
- [The National Minimum Standards for Residential Special Schools](#)

The *Keeping Children Safe in Education* guidance highlights these minimum standards and notes some factors that boarding schools have to be particularly aware of with regards to safeguarding, including being alert to inappropriate pupil relationships and the potential for peer on peer abuse.³⁵

2.7 Inspections

Ofsted's [education inspection framework](#) sets out that while inspectors will not provide a separate numerical grade for a school's safeguarding work, they will "always make a written judgement under leadership and management about whether or not the arrangements for safeguarding children and learners are effective."³⁶

Additional guidance published by Ofsted, [Inspecting safeguarding in early years, education and skills settings](#), provides information on the points that inspectors consider when inspecting safeguarding.³⁷

Independent schools

Ofsted normally only inspects those independent schools in England that are not members of associations (around half of the total).³⁸ However, it can also conduct emergency inspections of independent schools that are members of associations if requested to do so by the Department for Education. This could happen, for example, following a complaint or information which appears to raise a concern about the safeguarding of pupils.³⁹

There are two independent inspectorates which inspect independent schools that do belong to an association: the [School Inspection Service](#), and the [Independent Schools Inspectorate](#). Both inspectorates inspect safeguarding and have published handbooks which set out their approach:

- School Inspection Service, [The handbook for inspecting independent schools](#).

³⁵ As above, Annex D, p107

³⁶ Ofsted, [Education inspection framework](#), May 2019, p5.

³⁷ Ofsted, [Inspecting safeguarding in early years, education and skills settings](#), September 2019

³⁸ Ofsted also inspects independent schools that are members of the Christian Schools' Trust or the Association of Muslim Schools. These schools were previously inspected by the Bridge Schools Inspectorate.

³⁹ [How Ofsted inspects non-association independent schools](#), Ofsted, last updated September 2020

- Independent Schools Inspectorate, [*Handbook for the inspect of schools: inspection framework*](#).

3. Staff recruitment

The *Keeping children safe in education* guidance states that schools should “create a culture of safe recruitment” and “adopt recruitment procedures that help deter, reject or identify people who might abuse children.”⁴⁰

The guidance sets out that governing bodies are required to act reasonably when deciding on the suitability of new employees based on evidence including criminal record checks (DBS checks), barred list checks and prohibition checks, together with references and interview information.⁴¹ Governing bodies of maintained schools are additionally required, under the *School Staffing (England) Regulations 2009*, to ensure that at least one person on any appointment panel has undertaken safer recruitment training.⁴²

If concerns arise about an existing member of staff’s suitability to work with children, schools should carry out all the relevant checks as if they were a new staff member.⁴³

This section provides brief information on the checks that schools are required to undertake when recruiting staff. Much more detailed information is set out in part three of the *Keeping children safe in education guidance*.

3.1 DBS Checks

The Disclosure and Barring Service (DBS) carries out criminal record checks for specific positions, professions and employment. There are three levels of DBS check available:

- **Standard:** this provides information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC), regardless or not of whether they are spent under the *Rehabilitation of Offenders Act 1974*. The law allows for certain old and minor matters to be filtered out;
- **Enhanced:** This provides the same information as a standard check, plus any approved information held by the police which a chief officer reasonably believes to be relevant and considers ought to be disclosed; and
- **Enhanced with barred list check:** where people are working or seeking to work in regulated activity with children, this allows for an additional check to be made as to whether the person appears on the [children’s barred list](#).⁴⁴

⁴⁰ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p33.

⁴¹ As above.

⁴² As above, p26.

⁴³ As above, p48.

⁴⁴ As above, p36.

Once the checks are complete, the DBS sends a certificate to the applicant, who must show it to their potential employer before they take up employment or as soon as practicable afterwards.

What schools should do

The level of DBS certificate that a school should require depends on the role and duties of the potential staff member, in particular whether they will be undertaking regulated activity (see box 5). If an individual will be involved in regulated activity, which will be the case most of the time in schools, then an enhanced DBS certificate with barred list check will be required. If they will not be involved in regulated activity but will have regular contact with children (for example, contractors on occasional contracts) then an enhanced DBS certificate without barred list check may be appropriate.⁴⁵

If a school allows an individual to start work in regulated activity before a DBS certificate is available, they should ensure that the individual is supervised and that all other checks, including a separate barred list check, have been completed. It is an offence for a school to allow a person to carry out regulated activity if they know or have reason to believe that the person is barred.⁴⁶

Box 5: Regulated activity

Regulated activity is work that a person who is on a barred list cannot do. Its full legal definition is set out in Schedule 4 of the *Safeguarding Vulnerable Groups Act 2006*, as amended. In summary, a person is deemed to be engaged in regulated activity if, as part 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; or
- engage in intimate or personal care or overnight activity, even if this happens only once.⁴⁷

Further information is available on page 31 of the *Keeping children safe in education* guidance and in a factual note published by the Government: [Regulated activity in relation to children: scope](#).

3.2 Teacher prohibition orders

Teacher prohibition orders prevent a person from carrying out teaching work in schools and colleges. They are made by the Secretary of State following consideration by a professional misconduct panel convened by the Teaching Regulation Agency (TRA).

In addition to obtaining the necessary DBS certificate, anybody carrying out teaching work in England needs to undergo an additional check that they are not subject to a teacher prohibition order.⁴⁸ Checks on prohibition can be carried out using the [Teacher Services' system](#).

⁴⁵ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p33

⁴⁶ As above, p37.

⁴⁷ As above, p33

⁴⁸ As above, p37

Further information is available in the TRA publication: [Teacher misconduct: the prohibition of teachers](#).

Box 6: Disqualification under the *Childcare Act 2006*

Under the *Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018* an individual may be disqualified from being employed in early years provision if they have been (among other things):

- found to have committed a relevant offence against a child;
- made subject to an order removing a child from their care;
- found to have committed certain offences against an adult – for example, murder, kidnapping, rape, or indecent assault;
- included on the DBS’s list of those barred from working with children (the barred list).

School staff that may be affected by these rules include those who provide care for any child up to and including reception age, including education in reception classes, and those employed to work in childcare provided by the school outside of school hours for children above reception age but under the age of 8.

Schools must ensure that they are not knowingly employing a person who is disqualified under the regulations unless they have received a waiver from Ofsted which covers the role they wish to undertake. Further information on applications for waiving disqualifications is provided in guidance published by Ofsted: [Applying to waive disqualification: early years and childcare providers](#)

Under the previous version of the regulations⁴⁹ a member of school staff could also be disqualified if they lived in the same household as another disqualified person or if they lived in a household where a disqualified person was employed. This was referred to as disqualification by association. However, under the current regulations, introduced following a [consultation](#), the disqualification by association rules no longer apply to staff in school settings.

Further information is available in Department for Education guidance: [Disqualification under the Childcare Act 2006](#).

3.3 Pre-appointment checks

In addition to obtaining the correct DBS certificate (including barred list check if required) and ensuring that a candidate to be employed as a teacher is not subject to a prohibition order, schools should carry out a number of other pre-appointment checks. These include, but are not limited to:

- Verifying identity and right to work in the UK.
- Checking that previous employment history is not contradictory or incomplete.
- Verifying professional qualifications.
- Scrutinising any concerns with references.
- Verifying the candidate’s mental and physical fitness to carry out their work responsibilities.⁵⁰

In addition, section 128 of the *Education and Skills Act 2008* provides for the Secretary of State to direct that a person may be prohibited or restricted from participating in the management of an independent school (which includes academies and free schools). Where relevant, schools should check that a potential employee is not prohibited under

⁴⁹ [Childcare \(Disqualification\) Regulations 2009](#), SI 2009/1547

⁵⁰ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, 40-41

section 128 provisions, which can be done using the [Teacher Services' system](#).⁵¹

Box 7: Individuals not employed by the school

A number of staff who work at, or are otherwise present at, a school may not be recruited by the school directly. The procedures in place for such situations are set out in the [Keeping children safe in education guidance](#), including for:

- **Agency staff:** schools must obtain written notification from the agency that they have carried out the required checks on an individual who will be working at the school.
- **Teacher trainees:** where the trainee is paid a salary, the school must carry out the required checks. Where the trainee pays tuition fees, the initial teacher training provider must carry out the checks.
- **Volunteers:** the level of checks required depends on the role, in particular whether the individual will be undertaking regulated activity (see box 4).
- **Visitors:** schools do not have the power to request DBS checks for visitors. Head teachers should use their judgement about the need to escort them.⁵²

Further information, including for other categories of non-school staff, is provided on pages 43-50 of the guidance.

3.4 Record keeping

Schools are required to keep a single central record which covers all staff who work at the school and records whether the necessary pre-appointment checks (e.g. DBS, barred list, identity etc) have been carried out. For academies and independent schools the central record must also include this information for all members of the proprietor body. It is not necessary for schools to keep copies of DBS certificates for the purposes of maintaining the single central record.⁵³

⁵¹ As above, p39 and 41

⁵² As above, pp47-53

⁵³ As above, p44

4. Allegations against staff

Organisations that work with children, including schools, should have clear policies for dealing with allegations against staff members. A clear distinction should be made in such policies between an allegation, a concern about the quality of care or practice and a complaint.⁵⁴

Part four of the [Keeping children safe in education](#) guidance provides information for schools on how to manage allegations against a member of staff that might indicate that they “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.” The guidance should be used in all cases where it is alleged that a current member of staff (including volunteers) has:

- behaved in way that has harmed a child, or may harm 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.
- behaved or may have behaved in a way that indicates they may not be suitable to work with children⁵⁵

The guidance relates to current staff members. Allegations against a former member of staff, and historical allegations of abuse, should be referred to the police.⁵⁶

This section provides a brief outline for the process for handling allegations as set out in the guidance. Individuals who are the subject of allegations would be advised to contact their union representative and/or seek legal advice. Library Briefing 2830, [Legal advice and help in employment matters](#), gives possible sources of advice in employment matters.

4.1 Initial considerations and investigation

The guidance states that the procedure for investigating allegations needs to be applied with common sense. For example, cases that do not meet the criteria outlined above, or do not warrant enquiries by local authority children’s social care services, should be resolved without delay following local arrangements. On the other hand, some cases may be so serious that immediate intervention by children’s social care and/or the police is required.⁵⁷

⁵⁴ HM Government, [Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, p58.

⁵⁵ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p56.

⁵⁶ As above.

⁵⁷ As above, pp57-58.

In the first instance, the school's head teacher⁵⁸ (the case manager) should discuss the allegation with the designated officer from the local authority and agree a course of action.⁵⁹ The designated officer will provide advice and guidance to the case manager and will liaise with the police and other agencies if needed.⁶⁰

The course of action following the initial evaluation will depend on the circumstances of the case. For example:

- Where it is determined that the allegation does not involve a possible criminal offence then it is for employer to deal with. If there are concerns about child protection, however, then these should be discussed with the designated officer.
- Where police/social care investigation is not needed then the local authority's designated officer will discuss next steps with the case manager. In such cases, the options taken will depend on the particular circumstances and can range from taking no further action to dismissal.
- A strategy discussion, involving a social worker, health practitioners and a police representative, along with other relevant practitioners such as the school, will be convened if there is cause to suspect a child is suffering or likely to suffer significant harm. Further information about strategy discussions is available on page 39 of the [Working together to safeguard children](#) guidance.
- In some cases, further enquiries will be needed. In straightforward cases this investigation should normally be done by a senior member of school staff. In other cases, an independent investigator may be needed. Independent investigators can be included as part of the personnel services that maintained schools can buy from their local authority.⁶¹

Box 8: Use of reasonable force

The guidance notes that there are circumstances where it is appropriate for staff in schools to use reasonable force to safeguard children – for example, guiding a child to safety by the arm or breaking up a fight. It explains that “the term ‘reasonable force’ covers the broad range of actions used by staff that involve a degree of physical contact to control or restrain children... ‘Reasonable’ in these circumstances means ‘using no more force than is needed’.”⁶²

Further information is available in advice published by the Department for Education, [Use of Reasonable Force in Schools](#).

4.2 Suspension

In some cases, the possible risk of harm to children may require the accused person to be suspended until the case is resolved. The power to suspend is with the governing body of the school. While appropriate

⁵⁸ Where the head teacher is the subject of the allegation, the chair of governors or proprietor of an independent school should act as the case manager.

⁵⁹ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p58.

⁶⁰ As above, pp58-59.

⁶¹ As above, pp53

⁶² As above, p31-32.

weight should be given to their advice, children's social care or the police cannot require suspension.

The guidance stresses that suspension should not be a default response and should only be considered where there is reason to suspect that a child is at risk of harm, or the case is so serious that there may be grounds for dismissal. It adds that all other possible alternatives should be considered prior to suspension until the allegation is resolved, including:

- Redeployment within the school so the accused has no direct contact with the child concerned.
- Ensuring that there is an assistant present when the accused has contact with children.
- Moving the child concerned so that they have no lessons with the accused.

Where a decision to suspend is made, written confirmation giving as much detail about the reasons should be given within one working day to the accused. They should also be provided with a named contact within the organisation and not left without support.⁶³

Where it is decided following an investigation that the suspended person can return to work they should be supported – for example, through a phased return and/or the provision of a mentor.⁶⁴

4.3 Outcomes

The following definitions should be used when determining the outcome of abuse allegations:

- **Substantiated:** there is sufficient evidence to prove the allegation;
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence;
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.⁶⁵

The guidance stresses the importance of making every effort to reach a conclusion in all cases bearing on the safety of children, even if the accused does not cooperate. Similarly, the resignation of the accused should not prevent an allegation being followed up and a referral to DBS must still be made if the criteria are met. Settlement agreements, where a person agrees to resign if their employer agrees not to peruse disciplinary action, should not be used in cases where the accused

⁶³ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, pp65-66.

⁶⁴ As above, p67

⁶⁵ As above, p58.

refuses to cooperate or resigns before their notice period expires. Such an agreement will also not prevent a police investigation where appropriate.⁶⁶

Substantiated allegations

If the allegation is substantiated and the person is dismissed, then the designated officer should discuss with the case manager and their personnel manager whether the school will make a referral to DBS for consideration of whether inclusion on the barred list is required. In cases involving teaching staff, it should also be discussed whether to refer the case to the Teaching Regulation Agency (TRA) to consider prohibiting the individual from teaching.⁶⁷

Box 9: Teaching Regulation Agency investigations of teacher misconduct

The Teaching Regulation Agency (TRA) is responsible for investigating allegations of serious misconduct against teachers in schools in England. If deemed appropriate, the TRA can recommend that a teacher is prohibited from teaching in schools through the issuing of a teacher prohibition order.

A [series of TRA publications](#) provide information and advice on how cases of alleged serious misconduct are dealt with by the TRA, including:

- Information on when an employer should refer a case to the TEA: [Referrals by employers](#)
- A guide for teachers subject to disciplinary procedures: [Teacher misconduct: information for teachers](#).
- Advice on the factors the TRA considers when deciding whether to bar a teacher: [Teacher misconduct: The prohibition of teachers](#) (in particular, pages 6-11).
- More general information on how the TRA regulates teacher misconduct: [Teacher misconduct: regulating the teaching profession](#).

It is a legal requirement for employers to make a referral to DBS where they think the individual has engaged in conduct that harmed or is likely to harm a child, or where they think the person otherwise poses a risk to children. DBS will consider whether to bar the person.⁶⁸ Schools must also have procedures to make a referral to DBS if a person in regulated activity has been dismissed or removed due to safeguarding concerns or if they would have been had they not resigned. Failure to make a referral to DBS when the criteria is met is a criminal offence.⁶⁹

In substantiated cases, the designated officer should also review the circumstances with the case manager to determine if improvements to the school's procedures could be made in order to prevent a similar event occurring again and to see if any lessons can be learned.⁷⁰

Unsubstantiated or malicious allegations

If the allegation is found to be unsubstantiated or malicious then the designated officer should refer the matter to children's social care services to determine if the child concerned is in need of services, or may have been abused by somebody else. If the allegation is shown to

⁶⁶ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p62.

⁶⁷ As above, p67.

⁶⁸ As above, p49 & 67.

⁶⁹ As above, p26.

⁷⁰ As above, p68.

be deliberately malicious, then the head teacher should consider what disciplinary action may be needed against the child who made it.⁷¹

Criminal investigations

The police should inform the school and the designated officer immediately when a criminal investigation and any subsequent trial is complete or if it has been decided to close the investigation. The designated officer and the case manager should discuss whether any further action is needed. Options again depend on the circumstances and “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.”⁷²

4.4 Record keeping

Details of malicious accusations are removed from the personnel records of the accused. For all other allegations, a clear and comprehensive summary of the allegation, how it was followed up and how it was resolved should be kept on the personnel file of accused. The guidance explains why such a record is kept even in the case of allegations that are found to be false:

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.

Schools have an obligation to preserve records containing information about sexual abuse for the Independent Inquiry into Child Sexual Abuse for the term of the inquiry. All other records should be retained at least until the accused has reached normal pension age, or for 10 years if longer.

Cases where an allegation is proven to be false, unsubstantiated or malicious should not be included in references.⁷³

4.5 Supporting the accused

Noting the duty of care they have to their staff, the guidance stresses that employers should provide effective support to anyone facing an allegation and should act to “minimise the stress inherent in the allegations process.”⁷⁴ It further states that:

- Allegations should be dealt with quickly, in a way that provides effective protection for the child and supports the person who is the subject of the allegation.

⁷¹ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p68.

⁷² As above, p67.

⁷³ As above, p62-63

⁷⁴ As above, p60

- Whenever possible the accused should be given the opportunity to answer the allegation and make representations about it.
- Individuals should be informed of allegations as soon as possible and given an explanation of the likely course of action, unless this is objected to by the police or children’s social care. They should also be advised to contact their trade union representative.
- The case manager should appoint a named representative to keep the accused informed about progress and to consider what other support may be appropriate (for example, occupational health for staff in maintained schools).⁷⁵

4.6 Confidentiality

Reporting restrictions introduced by the *Education Act 2002* prevent the publication of material that may lead to the identification of a teacher who has been accused by a pupil from the same school. This restriction, which includes publishing material on social network sites, applies until the accused is charged with an offence or until the Teaching Regulation Agency publishes information about an investigation. The guidance notes this restriction and states that it is important that schools make “every effort” to maintain confidentiality when an allegation is made.⁷⁶

The parents of children involved in an allegation should be told as soon as possible, but where a strategy discussion is required or social care services or the police are involved, the case manager should not do so until those agencies have agreed what information can be disclosed to the parents. Parents should additionally be kept informed of progress and informed of the outcome. Deliberations of a disciplinary hearing cannot normally be disclosed, but the parents should be told the outcome in confidence. The guidance additionally states that parents should be made aware of the requirement to maintain confidentiality while investigations are ongoing.⁷⁷

4.7 Timescales

The guidance acknowledges that the time taken to resolve allegations will depend on the circumstances. However, it states that cases should be dealt with as quickly as possible and sets out the expectation that 80% of cases should be resolved within one month, 90% should be resolved within three months, and “all but the most exceptional” should be resolved within 12 months. The guidance adds that cases where it is immediately clear that the allegation is unsubstantiated or malicious should be resolved within one week.⁷⁸

4.8 Allegations against other children

As well as policies for how to deal with allegations against staff members, governing bodies should also ensure that the school’s child

⁷⁵ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, pp60-61

⁷⁶ As above, p61

⁷⁷ As above, p60.

⁷⁸ As above, pp63-64

protection policy includes procedures to minimise the risk of pupil-on-pupil abuse and sets out how allegations will be investigated and dealt with.

Governors should also ensure that sexting, and the school's approach to it, is reflected in the child protection policy. Further guidance is available in [advice on searching, screening and confiscation](#) published by the Department for Education and in [sexting advice for schools and colleges](#), published by the UK Council for Child Internet Safety Education Group.⁷⁹

⁷⁹ Department for Education, [Keeping children safe in education: Statutory guidance for schools and colleges](#), January 2021, p27

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