

Safeguarding children and safer recruitment in education

Contents

	page	paragraph
Executive summary	8	
Definitions	10	
Chapter 1: Introduction	12	
A shared objective	12	1.1
Status	12	1.4
The scope of this guidance	12	1.5
Audience	13	1.7
Relevant legislation	13	1.9
General	15	1.12
Action required	15	1.13
Further information	15	1.15
Chapter 2: Safeguarding Children in education	16	
Summary	16	
Introduction	16	2.1
Part 1: Safeguarding and promoting welfare	17	2.4
Part 2: The framework for protecting children from abuse and neglect	19	2.11
Strategic responsibilities	19	2.14
Support responsibilities	20	2.15
Operational responsibilities	21	2.16
The role of Local Safeguarding Children Boards (LSCBs)	22	2.17
The role of governing bodies of maintained schools, and non-maintained special schools and management committees of Short Stay Schools	23	2.21
Governing bodies of Further Education establishments	24	2.23
Proprietors of independent schools (including academies)	26	2.25
Boarding schools	27	2.26

Extended services (including before and after school activities)	28	2.29
Head teachers and principals	29	2.35
Referring cases to the Independent Safeguarding Authority (ISA)	29	2.36
Additional advice on safeguarding children	29	2.37
Chapter 3: Recruitment and selection	30	
Summary	32	
Introduction: Context	30	3.1
Audience	30	3.2
Scope	31	3.3
Contractors and other suppliers of staff	31	3.4
Volunteers	31	3.5
Other settings	31	3.6
Further advice and guidance	32	3.7
Elements of safer practice	33	3.9
Continuing awareness	33	3.12
Safer recruitment practice	34	3.15
Planning and advertising	35	3.18
Application form	35	3.22
Job description	37	3.29
Person specification	37	3.31
Candidate information pack	38	3.32
Scrutinising and short-listing	38	3.33
References	38	3.35
Checks before interview	38	3.36
Involving pupils and students	39	3.37
Interviews	39	3.38
Invitation to interview	39	3.39
Interview panel	40	3.43
Scope of the interview	40	3.46
Conditional offer of appointment: Pre-appointment checks	41	3.48
Checks of ISA registration and CRB disclosures on overseas staff and others who have lived or worked abroad	42	3.52

Post appointment induction	42	3.53
Maintaining a safer culture	43	3.55
Monitoring	43	3.56
Chapter 4: Recruitment and vetting checks	44	
Summary	44	
Background	42	4.1
The recruitment and vetting checks in detail	45	4.4
Checks on people who will be working with children in the education sector	46	4.8
The checks	48	4.13
Independent Safeguarding Authority Vetting and Barring Scheme	48	4.16
Regulated activity	49	4.20
Controlled activity	50	4.24
Registration	50	4.26
New staff – regulated activity	50	4.27
Existing staff – regulated activity	51	4.29
All staff – controlled activity (FE only)	51	4.32
Supply staff – regulated and controlled activity	51	4.33
ISA-registration check	51	4.34
ISA registration for visitors in a school or FE college	52	4.37
CRB Disclosures	53	4.39
CRB Disclosures and existing staff	54	4.45
CRB Checks when someone moves school, local authority, or FE college	55	4.47
CRB Disclosures and governing bodies of academies	55	4.50
CRB Disclosures for supply staff	55	4.53
CRB Enhanced Disclosure and/or registration with the Independent Safeguarding Authority for visitors in an educational establishment	56	4.54
Starting work pending a CRB Disclosure	57	4.57
Qualification requirements	58	4.63
Professional and character references	58	4.65
Previous employment history	60	4.72
Health	60	4.73

Additional checks on those applying for teaching posts in schools	60	4.74
Qualified Teacher Status (QTS)	60	4.75
Induction	61	4.79
Further education recognised teaching qualifications	61	4.80
Single central record of recruitment and vetting checks	62	4.84
Volunteers	67	4.93
Host families	68	4.97
Long-stay lodgings	68	4.100
Governors, associate members and clerks to the governing bodies	68	4.101
Supply staff	68	4.102
Overseas staff and other staff who have lived or worked outside the United Kingdom	70	4.109
Important additional checks to accompany the CRB Disclosure for overseas staff	70	4.114
Forces staff and their families	71	4.118
Building contractors	71	4.119
PFI and other contractors	72	4.121
Checks on other public sector staff	72	4.122
Applicants for teacher training courses	72	4.123
Fraudulent applications	73	4.126
Schools offering access to extended services	73	4.127
Chapter 5: Dealing with allegations of abuse against teachers and other staff	77	
Summary	77	
Introduction	77	5.1
Supporting those involved	78	5.4
Confidentiality	78	5.7
Resignations and “compromise agreements”	79	5.8
Record keeping	79	5.10
Timescales	80	5.11
Oversight and monitoring	80	5.12
Initial considerations	80	5.14

Suspension	82	5.22
Monitoring progress	83	5.25
Information sharing	83	5.27
Action following a criminal investigation or a prosecution	83	5.30
Action on conclusion of a case	84	5.31
Learning lessons	84	5.33
Action in respect of unfounded or malicious allegations	84	5.34
Summary of process	85	5.35
Allegation made to the police or children's social care	85	5.37
Initial consideration	85	5.38
Action following initial consideration	85	5.41
Case subject to police investigation	86	5.46
Referral to the Independent Safeguarding Authority	86	5.49
Annexes/Appendices: Annex A	87	
Safeguarding Children – Additional Guidance and Advice	87	
Voluntary Community Service by pupils	87	1
Abuse of trust	87	3
Physical contact with pupils including restraint and intimate care	87	4
Educating children about issues (PSHE)	88	7
Listening to children	88	10
If you have concerns about a child's welfare	89	17
Drug/alcohol abusing parents	90	20
Domestic violence	91	26
Children and young people who sexually abuse	91	31
Safeguarding children from sexual exploitation	92	33
Female Genital Mutilation	92	34
Forced marriages	92	38
Parental involvement	93	45
Safeguarding children and young people in contact with Higher Education institutions	94	48

Children not receiving a suitable education	95	52
Overseas pupils	95	53
Pupils placed in a school by a Local Authority	95	54
Post-16 provision in independent FE colleges.	95	55
Photographing children at school events	95	56
Regular visitors to schools	96	59
Safeguarding children from involvement in violent extremism	96	61
Private fostering	96	65
Appendix 1: Relevant guidance	98	
Appendix 2: Broad areas of responsibility proposed for Local Authority Lead Officers and specific issues within those areas	100	
Appendix 3: Broad areas of responsibility proposed for the Designated Senior Person for child protection	103	
Appendix 4: Recruitment and selection checklist	104	
Appendix 5: Permission to work and documents for staff from overseas	106	
Appendix 6: The Criminal Records Bureau	109	
Appendix 7: Guidance for employment agencies supplying staff to schools and FE colleges	113	
Appendix 8: Case studies	117	
Appendix 9: Young people involved in both education and the workplace	125	
Appendix 10: Documents recommended to be kept by all schools (FE colleges may also find such documents useful)	135	
Appendix 11: Example Child Protection Policy	137	
Endnotes	139	

Executive summary

This document sets out the responsibilities of all local authorities, schools and further education (FE) institutions in England to safeguard and promote the welfare of children. It sets out recruitment best practice, some underpinned by legislation, for the school, local authority, and FE sectors. This guidance is also relevant for supply agencies who supply staff to the education sector, contractors who work in education establishments responsible for under 18s, as well as other providers of education and training for those under 18 funded by the Young People's Learning Agency (YPLA). The document also details the process for dealing with allegations of abuse against staff. This document should be used to help establishments develop a culture of safeguarding awareness and risk assessment and management.

This revised guidance also covers the requirements of the new vetting and barring scheme introduced under the Safeguarding Vulnerable Groups Act 2006.

Chapter 1 provides brief information on responsibilities of local authorities, schools and FE colleges and details of relevant legislation. It confirms the scope and audience for the guidance and sets out details of superseded documents.

Chapter 2 sets out the responsibilities of local authorities, schools of all kinds and FE colleges to safeguard and promote the welfare of children. It provides guidance on the organisational and management arrangements which need to be put in place to safeguard children in the education service. It supports educational organisations in delivering their responsibilities under sections 175 and 157 of the Education Act 2002. Annex A at the end of the document provide a wide range of guidance and advice to those in the education service on safeguarding and promoting the welfare of children and details of where to access further advice and guidance on those issues.

Chapter 3 provides guidance on safer recruitment and selection in education settings. This includes recruitment and selection best practice, other human resources processes that help to recruit candidates who have the skills, knowledge and aptitudes to work, whether paid or unpaid, in the education services and to deter, reject or identify people who are unsuitable. It sets out all the steps in the process and briefly describes the recruitment and vetting checks required.

This supports the delivery of the on-line training course developed by the National College for Leadership of Schools and Children's Services and now provided by the Children's Workforce Development Council www.cwdcouncil.org.uk/safeguarding/safer-recruitment

Chapter 4 reflects the new arrangements following the introduction of the Independent Safeguarding Authority (ISA) and provides detailed guidance on the recruitment and vetting checks to be made in education settings. It sets out what checks **must** be undertaken and for which staff, whether paid or unpaid, and what checks **should** be undertaken and for which staff, whether paid or unpaid. It provides the detailed guidance to support the delivery of the recruitment and selection processes set out in Chapter 3.

Chapter 5 provides guidance on handling allegations of abuse against teachers and other staff or volunteers in the education service. This guidance was first issued to the education service in November 2005 and, covering the whole of the children's workforce, it forms Appendix 5 of *Working Together to Safeguard Children* issued in April 2006.

There then follows an annex and a number of appendices which support this guidance.

Definitions

Child: A child or young person under 18 years of age.

Educational establishment: A maintained or independent school, Short Stay School or FE Establishment.

FE Establishment: A Further Education or Sixth Form college.

Head teacher/Principal: The head teacher or their equivalent within an individual establishment's management structure.

Local Authority Designated Officer (LADO): All local authorities will have identified a senior officer, with responsibility for safeguarding children, who will undertake and manage the provision of advice and guidance on individual cases.

Malicious allegation: The term 'malicious' implies that an allegation, either wholly or in part, has been made with a deliberate intent to deceive or cause harm to the person subject to the allegation. For an allegation to be classified as malicious, it will be necessary to have evidence to prove the intention to cause harm to the staff member or volunteer involved.

Newly appointed staff: Anyone who within the three months before his or her appointment has not worked in:

- a school in England in a post which brought her or him into regular contact with children or any post that they have been appointed to since 12 May 2006; or
- an FE college in England in a position which involves the provision of education and regularly caring for, training, supervising, or being in sole charge of children or young people under the age of 18.

Overnight: Activities occurring between 2am and 6am.

Proprietor: the person or body of persons responsible for the management of an independent school and can include a sole proprietor, formally constituted governing bodies, Trustees or Directors.

Pupil: A pupil or student under the age of 18 studying at a school or Further Education (FE) establishment.

Regular: should be interpreted as covering the definitions of 'frequent' and 'intensive' in the meaning given in the Safeguarding Vulnerable Groups Act 2006 as amended by Sir Roger Singleton's recommendations in "Drawing the Line":

- Frequent' – once a week or more often on an ongoing basis; and
- 'intensive' – 4 days or more in a month; or overnight (between 2am and 6am).

Senior Designated Person (SDP): A senior member of the school, FE establishment or Short Stay School leadership team with designated lead responsibility for dealing with child protection issues, providing advice and support to other staff, liaising with the local authority, and working with other agencies. This need not be a teacher but must have the status and authority within the establishment's management structure to carry out the duties of the post (see Appendix 3) including committing resources to child protection matters, and where appropriate directing other staff.

Short Stay Schools Section 249 of the ASCL Act 2009, which comes into force in September 2010, changes the name of pupil referral units in England to short stay schools. Short Stay Schools are for children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.

Unfounded allegation: The term 'unfounded' means that there is no evidence or proper basis which supports the allegation being made, or there is evidence to prove that the allegation is untrue. It might also indicate that the person making the allegation had misinterpreted the incident or was mistaken about what he/she saw, or was not aware of all the circumstances. It is worth considering whether or not a child has made an allegation in order to draw attention to abuse from another source.

Chapter 1: Introduction

A shared objective

1.1. Everyone working with children and young people in education settings shares an objective to help keep children safe by contributing to:

- providing a safe environment for children to learn in education settings; and
- identifying children who are suffering or likely to suffer significant harm, and taking appropriate action to make sure they are kept safe both at home and in the education setting.

1.2. Achieving this objective requires systems designed to:

- prevent unsuitable people working with children;
- promote safe practice and challenge poor and unsafe practice;
- identify instances in which there are grounds for concern about a child's welfare, and initiate or take appropriate action to keep them safe; and
- contribute to effective partnership working between all those involved with providing services for children.

1.3. The purpose of this guidance is to ensure that local authorities, schools of all kinds, and FE establishments understand how to put effective safeguarding systems in place. It is also good practice and relevant for other YPLA funded providers.

Status

1.4 This guidance is statutory guidance to which local authorities maintained schools and institutions in the FE sector must have regard. It is also statutory for independent schools, who must draw up and implement a written policy safeguard and promote the welfare of children who are pupils at their schools, which has regard to this guidance.

The scope of this guidance

1.5 This guidance sets out the steps that local authorities, all maintained and independent schools (including Academies), Short Stay Schools and FE establishments should take to meet their general safeguarding responsibilities. It also provides best practice guidance on recruitment for use by these and other organisations such as supply agencies that supply staff to the education sector, contractors and other YPLA providers. It is not guidance about what action an individual should take to safeguard a particular child about whom there are concerns. That guidance is contained in the separate publication, *What To Do If You're Worried A Child Is Being Abused*¹.

1.6 Local authorities are responsible for Short Stay Schools and have a more direct role in running them than, for example, they do with community schools. Short Stay Schools also have statutory management committees and local authorities delegate to them the function of conducting the unit. This function does not include

the power to appoint, dismiss or suspend teachers and non-teaching staff of Short Stay Schools, which remains with local authorities. Some parts of the guidance will therefore be specifically for local authorities in their role of maintaining Short Stay Schools and employment of staff, but other parts will be relevant to management committees. But in most instances local authorities and management committees are likely to work closely together on all aspects of the running of units.

Audience

1.7 This guidance applies in relation to England only. It is guidance to which local authorities, governing bodies and head teachers of maintained schools, management committees of Short Stay Schools and institutions in the FE sector must have regard in the exercise of their duties under section 175 of the Education Act 2002. Proprietors and head teachers of independent schools (including academies, and city technology colleges and city colleges for the technology of the arts) should also have regard to this guidance in relation to compliance with the Education (Independent Schools Standards) (England) Regulations 2003 made under section 157 of the Education Act 2002. It should also be read by staff within those organisations that have a lead responsibility for safeguarding children and/or for the recruitment and selection of staff or the management of staff. It also provides best practice guidance for supply agencies supplying staff to the education sector, and for contractors working in the education sector and for other YPLA funded providers.

1.8 This guidance can also be used as the basis for best practice in other organisations such as private colleges, language schools and other establishments, who whilst not required by law to register their establishments with the DCSF will eventually have to ensure that their workforce is ISA registered (if staff are working in regulated activity with children or vulnerable adults). Such establishments may also want to consider the guidance on Safer Recruitment produced by the CWDC.

www.cwdcouncil.org.uk/safeguarding/safer-recruitment

Relevant legislation

1.9 There are a number of statutory provisions that have a bearing on this area, either directly or indirectly. The most important are:

- Section 17 of the Children Act 1989 – puts a duty on local authorities to safeguard and promote the welfare of children within their area who are in need and to provide a range and level of services appropriate to those children's needs;
- Section 27 of the Children Act 1989 – requires local authorities and other organisations to assist local authorities in the exercise of their functions under Part 3 of the Act, including those under section 17;
- Section 47 of the Children Act 1989 – requires local authorities to make enquiries if they have reasonable cause to suspect a child in their area is suffering or is likely to suffer significant harm, and for other local authorities and organisations to assist them with those enquiries if asked to do so;
- Section 175 of the Education Act 2002 – requires local education authorities and the governing bodies of maintained schools and institutions within the further education sector to make arrangements to ensure that their functions are exercised with a view to safeguarding and promoting the welfare of

14 Safeguarding children and safer recruitment in education

children. In addition, these bodies must have regard to any guidance issued by the Secretary of State in considering what arrangements they need to make for that purpose of the section;

- Section 157 of the Education Act 2002 and The Education (Independent Schools Standards) (England) Regulations 2003 as amended – require proprietors of independent schools (including academies and city technology colleges) to have arrangements to safeguard and promote the welfare of children who are pupils at the school;
- The Education (Non Maintained Special Schools) (England) Regulations 1999 (as amended) – require the governing bodies of non maintained special schools to make arrangements for safeguarding and promoting the health, safety and welfare of pupils at the school as approved by the Secretary of State;
- Section 10 of the Children Act 2004 places a duty on each local authority to make arrangements with relevant agencies (which includes from 12 January 2010, governing bodies of maintained schools, proprietors of non-maintained special schools; city technology colleges; city colleges of the technology of the arts and academies and governing bodies of further education institutions) to cooperate to improve the well-being of children;
- Section 11 of the Children Act 2004 places a duty on local authorities to make arrangements to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children; and
- Section 13 of the Children Act 2004 places a duty on children's services authorities to establish Local Safeguarding Children Boards (LSCBs). It is intended that schools will, from April 2010, become a category of 'relevant body or person' which the children's services authorities will be required to take reasonable steps to ensure is represented on the LSCB: see Chapter 3 of the statutory guidance contained in *Working Together to Safeguard Children* for LSCBs².

Copies of the relevant chapter can be downloaded from: www.teachernet.gov.uk/childprotection/guidance.htm

1.10 Other legislation relevant to this guidance is:

- The Rehabilitation of Offenders Act 1974.
- Section 142 of the Education Act 2002.
- Section 15 of the Teaching and Higher Education Act 1998.
- Part V of the Police Act 1997.
- Sections 35 and 36 of the Criminal Justice and Court Services Act 2000.
- Data Protection Act 1998.
- Safeguarding Vulnerable Groups Act 2006.
- Education and Skills Act 2008.

1.11 Other relevant regulations:

- Education (School Teachers Qualifications)(England) Regulations 2003.
- Education (Specified Work and Registration) (England) Regulations 2003, as amended.
- The Education (Prohibition from Teaching or Working with Children) Regulations 2003, as amended.

- The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, as amended.
- The School Staffing (England) Regulations 2009.
- The Further Education (Providers of Education) (England) Regulations 2006.
- The FE Teachers' Qualifications (England) Regulations 2007.
- The Further Education (Principals' Qualifications) (England) Regulations 2007.

General

1.12 All educational establishments and local authorities are subject to inspection by Ofsted, and/or other relevant inspectorates. The organisation's performance in regard to their responsibility to safeguard and promote the welfare of children in accordance with the relevant legislation and guidance will form part of the inspectorate's judgement of the organisation or educational establishments overall performance. Performance in this area will be judged by not only the existence of procedures but also their effectiveness in terms of safeguarding children from harm.

Action required

1.13 Educational establishments and other employers that are engaged with the provision of services to children should note the information contained in this guidance, and take the necessary action. There are legal obligations for employers and educational establishments in these areas and these are highlighted in the guidance.

1.14 Separate guidance is available for childcare providers to meet the requirements of the Childcare Act 2006. For those providing childcare for children aged 0 to 5 years the Early Years Foundation Stage Statutory Framework http://nationalstrategies.standards.dcsf.gov.uk/eyfs/site/requirements/welfare/index.htm?uc=force_uj and for those providing care for children aged 6 to 7 years old the Childcare Register <http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Care-and-local-services/Childcare/Registration>

Further information

1.15 This guidance updates the 2007 edition of 'Safeguarding Children and Safer Recruitment in Education'.

Status: **Statutory guidance to which local authorities maintained schools and institutions in the FE sector must have regard. Statutory for independent schools, who must draw up and implement a written policy safeguard and promote the welfare of children who are pupils at their schools, which complies with this guidance.**

Date of Issue: Consultation version March 2010.

Ref: DCSF2010.

Chapter 2: Safeguarding Children in education

Summary

This chapter is about the arrangements that local authorities in their education functions and educational establishments should make to safeguard and promote the welfare of children. It is supported by a website that includes examples of good practice and model policies for education establishments to use, at: www.teachernet.gov.uk/childprotection

Part 1 discusses the scope and purpose of arrangements to safeguard and promote the welfare of children.

Part 2 sets out the roles and responsibilities of local authorities, governing bodies, proprietors of independent schools, head teachers, principals, Short Stay School management committees and people with designated responsibility for child protection in making arrangements to enable people in the education service to play their full part in safeguarding children from abuse and neglect.

Annex A to the guidance contains relevant information about safeguarding children including specific child protection issues, and links to further and more detailed advice and guidance about those issues.

Introduction

- 2.1. Part 1 of this chapter gives guidance about the scope and purpose of arrangements to safeguard and promote the welfare of children.
- 2.2. Part 2 of the chapter supplements the guidance in *Working Together* by setting out the infrastructure and arrangements that need to be in place to ensure that people in the education service have the skills, means and training necessary to ensure children are protected from harm. It does not prescribe detailed procedures, but aims to specify the outcomes that organisations need to secure to enable staff to meet the objective of keeping children safe from harm, and what needs to be done or put in place to achieve this.
- 2.3. It is not guidance about what action an individual should take to safeguard a child about whom there are concerns. That guidance is contained in the separate publication, *What To Do If You're Worried A Child Is Being Abused*³.

Part 1: Safeguarding and promoting welfare

2.4. 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 are growing up in circumstances consistent with the provision of safe and effective care; and undertaking that role so as to enable those children to have optimum life chances and to enter adulthood successfully.

2.5 For local authorities and educational establishments, safeguarding therefore covers more than the contribution made to child protection in relation to individual children. It also encompasses issues such as pupil health and safety and bullying, about which there are specific statutory requirements and a range of other issues, e.g. arrangements for meeting the medical needs of children with medical conditions, providing first aid, school security, drug and alcohol misuse, about which the Secretary of State has issued guidance. There may also be other safeguarding issues that are specific to the local area or population.

2.6 Where there are statutory requirements, local authorities and establishments should have in place policies and procedures that satisfy those and comply with any guidance issued by the Secretary of State. Similarly, arrangements about matters on which the Secretary of State has issued guidance should be evidenced by policies and procedures that are in accordance with that guidance or achieve the same effect, and that they comply with local arrangements agreed by the Local Safeguarding Children Board. Authorities, governing bodies, proprietors and management committees also need to be able to show that they have considered whether children, including individual children, in their area or establishment have any specific safeguarding needs in addition to those covered by guidance, and if so, that they have policies and procedures in place to meet those needs.

2.7 The duties imposed by s175 of the Education Act 2002 (and s157 in relation to safeguarding pupils in Independent Schools) had not been included in statute previously. The provisions of s175 (and the safeguarding requirements made under s157), make explicit the responsibility of local authorities, governing bodies and proprietors for safeguarding and promoting the welfare of children as part of fulfilling their common law duty of care towards the children for whom their organisation or establishment is responsible. Management committees of short stay schools are indirectly covered by section 175 as running a Short Stay School is one of the functions of a local authority.

2.8 Those provisions underpin and reinforce that common law duty of care and sit alongside other statutory responsibilities in this area, for example for health and safety and dealing with bullying. They enable the Secretary of State to enforce compliance, and mean that local authorities, governing bodies, and proprietors must have arrangements that comply with the guidance given by the Secretary of State.

18 Safeguarding children and safer recruitment in education

2.9 The responsibility for making sure these arrangements are in place is put on the local authority (and indirectly therefore on the management committee of a short stay school), on the governing bodies of maintained schools (and non-maintained special schools) and FE establishments, and on the proprietors of independent schools (including Academies and City Technology Colleges). There is no statutory responsibility placed on individuals except where the proprietor of an independent school happens to be an individual.

2.10 Head teachers and other members of staff should be made aware of the importance of carrying out their duties in compliance with the safeguarding arrangements made by the local authority, governing body, proprietor or management committee. Enforcing individuals' compliance with those arrangements is a matter for the employer under existing disciplinary procedures.

Part 2: The framework for protecting children from abuse and neglect

The role of the local authority in education services

2.11 Local authorities have responsibilities at three levels:

- **Strategic** – planning, coordinating delivery of services, and allocating resources: working in partnership with other agencies (e.g. children’s services, health care professionals, youth offending teams) and Local Safeguarding Children Boards (LSCBs).
- **Support** – ensuring that maintained schools are aware of their responsibilities for safeguarding children; monitoring their performance; making available appropriate training, model policies and procedures; providing advice and support; and facilitating links and cooperation with other agencies. Local authorities will normally extend these functions to any non-maintained special schools in their area. Many authorities also provide these services to independent schools and FE establishments. Authorities are free to do that, and to charge appropriate fees for services and training provided to independent and FE establishments.
- **Operational** – taking responsibility for safeguarding children who are not attending mainstream or special schools and who are educated in Short Stay Schools or alternative provision commissioned by the local authority, or who are being educated by the authority’s home tutor service; involvement in dealing with allegations against staff and volunteers; and ensuring arrangements are in place to prevent unsuitable staff and volunteers from working with children.

Responsibility for safeguarding children who are educated at home by their parents, or who are employed, is not solely an education issue. These matters are best dealt with by a multi agency approach and should be addressed in locally agreed procedures in accordance with the principles set out in *Working Together to Safeguard Children* (DfES 2006) and the Framework for the “*Assessment of Children in Need and their Families*” (DH 2000).

2.12 All local authorities will have identified a senior officer with responsibility for safeguarding children, who will undertake and manage the provision of the above functions and services. An outline of the responsibilities that might fall within the remit of the lead officer is at Appendix 2. An increasing number of authorities are putting in place a full time post for this work. Authorities can also draw on support and advice from the Government Office Children and Learners teams.

2.13 Specific measures that local authorities should have in place in each of the above areas are set out below.

Strategic responsibilities

2.14 At this level the local authority should:

- allocate resources to support the work of the LSCB;
- ensure that a senior officer represents the education service of the local authority on the LSCB and that the education services makes an effective contribution to planning co-ordinated services to meet the needs of children;

20 Safeguarding children and safer recruitment in education

- ensure that independent and non-maintained schools have the opportunity to participate in LSCB arrangements;
- work with other agencies to put in place and support effective partnership working;
- work with other agencies in implementing new policies to identify and secure provision for children not receiving a suitable education, for example to meet the duty to identify them provided by the Education and Inspections Act 2006, and ensure that they include appropriate arrangements for safeguarding and promoting the welfare of children;
- allocate resources to enable the authority and maintained schools to discharge their responsibilities for safeguarding children satisfactorily;
- liaise with the appropriate diocesan authorities and other organisations providing schools in their area;
- monitor the compliance of maintained schools and Short Stay Schools with this guidance, in particular in regard to the existence and operation of appropriate policies and procedures, and the training of staff, including the senior person with designated responsibility for child protection;
- bring any deficiencies to the attention of the governing body of the school or management committee of the Short Stay School and advise the action needed to remedy them;
- take action to resolve any inter-agency problems as soon as they are identified; and
- play a full part in case reviews in accordance with Chapter 8 of *Working Together* (serious case reviews); review and revise procedures and training to safeguard children in light of the findings of those reviews; and disseminate information about relevant findings to the people with designated responsibility for child protection in the authority and maintained schools.

Support responsibilities

2.15 At this level the local authority should:

- make sure that induction training for all new staff in the authority, staff who will work with children in maintained schools and Short Stay Schools, governors of maintained schools and members of Short Stay Schools management committees, includes training on safeguarding children that will enable them to fulfil their responsibilities in respect of child protection effectively, and that suitable refresher training to keep staff knowledge and skills up to date is also available. Staff who do not have designated lead responsibility for child protection should have refresher training every three years;
- make sure that further training in inter-agency working to safeguard children that is provided by the LSCB, or meets the standards set out by the LSCB, is available for all staff appointed to the role of senior designated person with lead responsibility for child protection, and that suitable refresher training that will keep the skills and knowledge of senior designated staff up to date is also available and meets the standard set by the LSCB. Staff with designated lead responsibility for child protection should have refresher training every two years;

- provide model policies and procedures for maintained schools and Short Stay Schools on all aspects of safeguarding children, including the vetting of new staff and volunteers, attendance monitoring and action in the case of non-attendance or withdrawal from school, complaints and procedures for dealing with allegations against staff and volunteers that conforms to the guidance set out in Chapters 4 & 5 of this guidance. The authority should ensure that such policies and procedures comply with local LSCB agreed procedures for inter-agency working in all appropriate respects. An outline model child protection policy, and guidance relating to these issues, including guidance drawn up jointly by the National Employers Organisation for School Teachers (NEOST) and 6 teacher unions can be found at: www.lge.gov.uk/conditions/education/content/allegations_index.html, and guidance compiled by the network of Investigation and Referral Support Coordinators (IRSC) can be found at: www.teachernet.gov.uk/wholeschool/familyandcommunity/childprotection/otheragencyroles/irsc/IRSC_Guidance_Documents/;
- provide advice and support for maintained schools, Short Stay Schools and senior designated staff in those establishments about dealing with individual cases: where necessary acting on their behalf to resolve any difficulties with, or obtain appropriate support from, LSCB partner agencies; and
- have in place arrangements to support staff in the authority and maintained schools who have designated lead responsibility for child protection, and to encourage and foster a good understanding and working relationship between them, children's social workers, and staff in other agencies involved in safeguarding children, to develop effective partnership working.

Operational responsibilities

2.16 At this level the local authority should:

- operate safe recruitment procedures as set out in Chapters 3 and 4 of this guidance;
- have arrangements in place to safeguard and promote the welfare of children who have not been allocated a school place, or are excluded from school, including those who are being educated in Short Stay Schools, via the home tutor service, or in provision the authority has commissioned from the private or voluntary sectors, and children who have been identified as not receiving a suitable education under section 436A of the Education Act 1996. (As noted in 2.12, safeguarding the welfare of children who are educated at home by parents, or who are employed, is a multi-agency responsibility that should be addressed in locally agreed inter-agency procedures in accordance with the principles set out in *Working Together to Safeguard Children*. Local authorities may take a lead on these issues because of other responsibilities, e.g. for ensuring the quality of education for children educated at home is satisfactory, but safeguarding in these circumstances requires an inter-agency approach);

22 Safeguarding children and safer recruitment in education

- agree with management committees of their Short Stay Schools a child protection policy (see Appendix 11) and procedures that are in accordance with locally agreed inter-agency procedures and ensure that the policy is made available to parents on request;
- have procedures in place for addressing complaints about safeguarding arrangements in schools which should be accessible to staff, pupils and parents; and
- have procedures in place for dealing with allegations of abuse against members of staff and volunteers as set out in Chapter 5 of this guidance; and
- ensure that the authority's staff and any staff carrying out functions on behalf of the authority who work with children receive training that equips them to carry out their responsibilities for child protection effectively.

The role of Local Safeguarding Children Boards (LSCBs)

2.17 The role of LSCBs is to co-ordinate local work to safeguard and promote the welfare of children, including the protection of children from harm and to ensure the effectiveness of that work.

2.18 The scope of LSCBs' role, set out in Chapter 3 of *Working Together* includes safeguarding and promoting the welfare of children in three broad areas of activity:

- activity that affects all children and aims to identify and prevent maltreatment, or impairment of health or development, and ensure children are growing up in circumstances consistent with safe and effective care, e.g. mechanisms to identify abuse and neglect wherever they may occur;
- proactive work that aims to target particular groups, e.g. work to safeguard and promote the welfare of groups of children who are potentially more vulnerable than the general population, such as children living away from home, children in custody, or disabled children; and
- responsive work to protect children who are suffering, or at risk of suffering harm, including: children abused and neglected within families and children abused outside families by adults known to them.

2.19 Whilst the LSCB has a role in co-ordinating and ensuring the effectiveness of local individuals' and organisations' work to safeguard and promote the welfare of children, it is not accountable for their operational work. Each Board partner retains their own existing lines of accountability for safeguarding and promoting the welfare of children by their services. The LSCB does not have a power to direct other organisations.

2.20 LSCBs are responsible for ensuring that training on safeguarding and promoting welfare is provided in order to meet local needs. This covers both the training provided by single agencies to their own staff, and multi-agency training where staff from more than one agency train together. For further information about training contact your Local Safeguarding Children Board.

The role of governing bodies of maintained schools, and non-maintained special schools and management committees of Short Stay Schools

2.21 Governing bodies and management committees are accountable for ensuring their establishment has effective policies and procedures in place in accordance with this guidance, and monitoring the school's compliance with them. Neither the governing body, management committee, individual governors or committee members, have a role in dealing with individual cases or a right to know details of cases (except when exercising their disciplinary functions in respect of allegations against a member of staff). Some governing bodies have found it helpful for an individual member of the governing body to champion child protection issues within the school, liaise with the head teacher about them, and provide information and reports to the governing body. However, it is not usually appropriate for that person to take the lead in dealing with allegations of abuse made against the head teacher. That is more properly the role of the chair of governors or, in the absence of a chair, the vice or deputy chair. Whether the governing body acts collectively or an individual member takes the lead, it is helpful if all members of governing bodies undertake training about child protection to ensure they have the knowledge and information needed to perform their functions and understand their responsibilities.

2.22 Governing bodies and management committees should ensure that:

- the school or Short Stay School has a child protection policy (see Appendix 11) and procedures in place that are in accordance with local authority guidance and locally agreed inter-agency procedures, and the policy is made available to parents on request;
- the school or Short Stay School operates safe recruitment procedures and makes sure that all appropriate checks are carried out on staff and volunteers who work with children, and that all governors register with the ISA;
- that any panel involved in the recruitment of staff has at least one member who has undertaken the CWDC or equivalent safer recruitment training;
- the school or Short Stay School has procedures in place for dealing with complaints about safeguarding arrangements which should be accessible to staff, pupils and parents;
- the school or Short Stay School has procedures for dealing with allegations of abuse against members of staff and volunteers that comply with guidance from the local authority and locally agreed inter-agency procedures;
- a senior member of the school or Short Stay School's leadership team is designated to take lead responsibility for dealing with child protection issues, providing advice and support to other staff, liaising with the local authority, and working with other agencies. This Senior Designated Person (SDP) need not be a teacher but must have the status and authority within the school or Short Stay School management structure to carry out the duties of the post (see Appendix 3) including committing resources to child protection matters, and where appropriate directing other staff. In many schools a single SDP will be sufficient, but a deputy should be available to act in the designated person's absence. In large establishments, or those with a large number of child protection concerns, it may be necessary to have a number of deputies to deal with the workload;

24 Safeguarding children and safer recruitment in education

- in addition to basic child protection training the SDP undertakes training in inter-agency working that is provided by, or to standards agreed by, the LSCB, and refresher training at 2 yearly intervals to keep his/her knowledge and skills up to date;
- the head teacher or senior teacher in the case of a Short Stay School, and all other staff who work with children, undertake appropriate training to equip them to carry out their responsibilities for child protection effectively, that is kept up to date by refresher training at 3 yearly intervals, and temporary staff and volunteers who work with children are made aware of the school's arrangements for child protection and their responsibilities;
- they remedy without delay any deficiencies or weaknesses in regard to child protection arrangements that are brought to their attention;
- a member of the governing body (usually the chair) or management committee is nominated to be responsible for liaising with the local authority and /or partner agencies, as appropriate in the event of allegations of abuse being made against the head teacher; and
- they review their policies and procedures annually and provide information to the local authority about them and about how the above duties have been discharged.

Governing bodies of Further Education establishments

2.23 The responsibilities of governing bodies (Corporations) of FE establishments are similar in principle to those of governing bodies of maintained schools, and the guidance in paragraph 2.21 applies with appropriate modifications. However, FE establishments are also different from schools in some respects. The statutory responsibilities for safeguarding and child protection only apply in relation to students who are children, that is, people under 18 years old. As autonomous bodies, FE establishments cannot rely automatically on local authorities to provide advice, support, access to training, policies and procedures, etc. Local authorities are free to provide those services to FE establishments, but have no obligation to do so. Services can be provided free or for a charge. Institutions that do not purchase services from a local authority can approach the LSCB for advice.

2.24 The arrangements FE governing bodies need to put in place in respect of students under 18 years of age are therefore similar in principle to those that are listed in paragraph 2.22 (with appropriate modifications). In particular the governing body should ensure that:

- the establishment has a child protection policy (see Appendix 11) and procedures in place that are in keeping with locally agreed inter-agency procedures, and the policy is made available to students or parents on request;
- the establishment operates safe recruitment procedures and makes sure that all appropriate checks are carried out on staff and volunteers who work with children, as set out in Chapters 3 and 4;
- that any panel involved in the recruitment of staff has at least one member who has undertaken the CWDC or equivalent safer recruitment training;

- the establishment has procedures in place for dealing with complaints about safeguarding arrangements in the institution which should be accessible to staff, pupils and parents;
- the establishment has procedures for dealing with allegations of abuse against members of staff and volunteers that comply with locally agreed inter-agency procedures and the guidance in Chapter 5 of this document;
- a senior member of the establishment's staff is designated to take lead responsibility for dealing with child protection issues, providing advice and support to other staff, liaising with the local authority, and working with other agencies. The designated person needs to have the status and authority within the institution's management structure to carry out the duties of the post (see Appendix 3 on broad areas of responsibility) including committing resources to child protection matters, and where appropriate directing other staff. Dealing with individual cases may be a responsibility of the student welfare or student support arrangements in institutions, but it is important that a senior member of staff takes responsibility for this area of work;
- where an establishment provides education and/or training for pupils under 16 years of age who are on the roll of secondary schools, the designated person liaises with the schools concerned and ensures that appropriate arrangements are in place to safeguard the children;
- in addition to basic child protection training, the designated person undertakes training in inter-agency working that is provided by, or to standards agreed by, the LSCB, and refresher training at 2 yearly intervals to keep his/her knowledge and skills up to date;
- the principal, and all other staff who work with children undertake training to equip them to carry out their responsibilities for child protection effectively, that is kept up to date by refresher training at 3 yearly intervals, and temporary staff and volunteers who work with children are made aware of the institution's arrangements for child protection and their responsibilities;
- it remedies without delay any deficiencies or weaknesses in regard to child protection arrangements that are brought to its attention; and
- it undertakes an annual review of its policies and procedures relating to safeguarding and how the above duties have been discharged.

Proprietors of independent schools (including academies)

2.25 Proprietors of independent schools are also accountable for ensuring their establishment has effective policies and procedures in place in accordance with this guidance, and monitoring the school's compliance with them but cannot rely on local authorities to provide advice, support, etc. automatically in the same way as they do for maintained schools. Authorities are free to provide those services to independent schools, and many do, charging appropriate fees for the work, but they have no obligation to do so. As with FE establishments, independent schools that do not purchase services from a local authority can approach the LSCB for advice. In any event, proprietors should ensure that:

- the school has a child protection policy (see Appendix 11) and procedures in place that are in accordance with locally agreed inter-agency procedures, and the policy is published on the school's website or where no website exists send a hard copy to current and prospective parents on request;
- the school operates safe recruitment procedures and makes sure that all appropriate checks are carried out on staff and volunteers who work with children, as set out in Chapters 3 and 4;
- any panel involved in the recruitment of staff has at least one member who has undertaken the CWDC or equivalent safer recruitment training; (NB amending regulations planned to come into force on 1 September 2010 will include this requirement);
- the school has procedures for dealing with allegations of abuse against members of staff or volunteers that comply with locally agreed inter-agency procedures and the guidance in Chapter 5 of this document. These include procedures for the proprietor to liaise with other agencies in the event that allegations are made involving the head teacher (where the proprietor is not the head teacher);
- a senior member of the school's management structure is designated to take lead responsibility for dealing with child protection issues and liaising with other agencies where necessary. As in maintained schools, the designated person need not be a teacher but needs to have the status and authority within the school management structure to carry out the duties of the post (see Appendix 3 about broad areas of responsibility) including committing resources to child protection matters and where appropriate directing other staff. In many independent schools a single designated person will be sufficient, but a deputy should be available to act in the designated person's absence, and in schools which are organised into separate junior and senior parts on different sites or with a separate management line, there should be a designated person for each part or site;
- in addition to basic child protection training, the designated person undertakes training in inter-agency working that is provided by, or to standards set by, the LSCB, and refresher training at 2 yearly intervals to keep his/her knowledge and skills up to date;

- the head teacher, and all other staff who work with children undertake training that equips them with the knowledge and skills necessary to carry out their responsibilities for child protection that is kept up to date by refresher training at 3 yearly intervals, and temporary staff and volunteers who work with children are made aware of the school's arrangements for child protection and their responsibilities;
- any deficiencies or weaknesses in regard to child protection arrangements are remedied without delay; and
- the proprietor undertakes an annual review of the school's policies and procedures relating to safeguarding, and how the above duties have been discharged. The proprietor makes arrangements for independent scrutiny and challenge of the school's safeguarding policies and practices. That role might be carried out by a nominated governor or trustee on behalf of the governing body/board where they exist in the school. Where there is no governing body, the role may, for example, be delivered by an independent safeguarding 'visitor' approved by the Local Safeguarding Children Board. Whatever arrangement the proprietor chooses to put in place, it should be his responsibility to demonstrate its effectiveness and independence. The person exercising independent scrutiny will also need to sign off the proprietor's annual review of the safeguarding policies and procedures. The report of the review should be forwarded to DCSF as part of the school annual census return. DCSF will make the review available to the relevant inspectorates.

Boarding schools

2.26 All schools, academies, CTCs and FE establishments that provide residential (boarding) accommodation for children are required to meet the additional welfare and safeguarding standards set out in:

- The National Minimum Standards for Boarding and Residential Special Schools; or
- The National Minimum Standards for Accommodation of Students under 18 by Further Education Colleges.

The Department is currently consulting on the Amendment Regulations for Independent Schools; consolidated regulations for Non-Maintained Special Schools; and the revision of National Minimum Standards for Boarding Schools and Residential Special Schools. (www.dcsf.gov.uk/consultations)

2.27 Schools that are registered as Children's Homes must instead comply with:

- The National Minimum Standards for Children's Homes.

2.28 Ofsted undertakes welfare inspections of all schools and colleges which provide residential accommodation against the relevant National Minimum Standards

Extended services (including before and after school activities)

2.29 Schools offer a wide range of extended services which may be provided directly by schools or by external providers. School governing bodies provide some extended services using their powers under section 27 of the Education Act 2002. They may provide these services or activities directly or enter into arrangements with others to do so. School governing bodies are legally accountable for the extended services they provide directly and may be accountable for services they commission, depending on the arrangements in place. Models for delivering extended services which involve third parties providing or managing services on the school site should require the school and third party to agree responsibilities, liability and accountability.

2.30 The governing body of a maintained school controls the use of the school premises both during and outside school hours, except where a trust deed allows a person other than the governing body to control the use of the premises, or a transfer of control agreement has been made. Governing bodies can enter into transfer of control agreements in order to share control of the school premises with another body, or transfer control to it. The other body, known as the 'controlling body', will control the occupation and use of the premises during the times specified in the agreement. Transferring control of the premises to local community groups, sports associations and service providers can enable school facilities to be used without needing ongoing management or administrative time from school staff.

2.31 Where adults come on to school premises to access or deliver services, schools should apply their normal procedures to ensure that children are kept safe from harm, e.g. visitors sign-in, are accompanied at all times and any adults in positions of trust/responsibility e.g. volunteers, adult education staff are vetted appropriately.

2.32 Where the governing body provides services or activities directly under the supervision or management of school staff, the school's arrangements for child protection will apply.

2.33 Where a third party is offering services or activities, that provider would be responsible for ensuring they meet the safeguarding requirements that apply to them. Where third parties manage or deliver services on school sites, written agreements should clarify accountability for undertaking safer recruitment checks and storing records. Normally this will require the third party provider to be responsible for checking their own staff and keeping records, and confirming with the school governing body that this has been done.

2.34 Further information can be found in the Governance guidance for Sure Start Children's Centres and Extended Schools at: <http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DFES-00356-2007&>

For further advice on extended services provision, see Chapter 4, paragraphs 4.129 to 4.144.

Head teachers and principals

2.35 Head teachers of all schools, (and the senior teacher in a Short Stay School) and principals of FE establishments should ensure that:

- the policies and procedures adopted by the governing body, proprietor or management committee are fully implemented, and followed by all staff;
- sufficient resources and time are allocated to enable the designated person and other staff to discharge their responsibilities, including taking part in strategy discussions and other inter-agency meetings, and contributing to the assessment of children; and
- all staff and volunteers feel able to raise concerns about poor or unsafe practice in regard to children, and such concerns are addressed sensitively and effectively in a timely manner in accordance with agreed whistle blowing policies, where appropriate.

Referring cases to the Independent Safeguarding Authority (ISA)

2.36 There is a legal duty on employers to refer details to the ISA where they think there are grounds for believing s/he may be unsuitable to work with children and they have removed them from relevant work with children or the person has chosen to cease work. Professional misconduct cases should be referred to the relevant regulatory body. The ISA will consider whether to bar the person from working in the children's sector, including schools and other educational establishments. Local authorities, schools, FE colleges and other bodies all have a statutory duty to make referrals, and to provide relevant information to the ISA. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved. Further information on how to make a referral can be found in on the ISA website www.isa.gov.uk/default.aspx?page=379

Advice on referrals can be obtained from the ISA

Telephone 01325 953 795

Email isadispatchteam@homeoffice.gsi.gov.uk

Independent Safeguarding Authority

Post Office Box 181

Darlington DL1 9FA

Additional advice on safeguarding children

2.37 Appendix 1 provides additional advice on a range of topics which may be of assistance to local authorities, governors, members of Short Stay School management committees, proprietors, principals and head teachers in discharging their responsibility to safeguard children.

Chapter 3: Recruitment and selection

Summary

It is vital that local authorities in their education function and educational establishments adopt recruitment and selection procedures and other human resources management processes that help to deter, reject, or identify people who might abuse children, or are otherwise unsuited to work with them. This chapter provides advice about practice that should be followed to achieve that. It aims to assist all educational establishments and local authorities exercising education functions to review and, where appropriate, modify their practice and procedure in ways that will strengthen safeguards for children by helping to deter and prevent abuse.

This chapter accompanies and supports the on-line training introduced in response to Sir Michael Bichard's recommendation that head teachers and school governors should receive training to ensure that the process of appointing staff reflects the importance of safeguarding children. However, it can be used without reference to that training. It should be read in particular in conjunction with Chapter 4 and is relevant for the purposes of s175 for governing bodies of maintained schools and FE colleges and any regulations made under s157 of the Education Act 2002 which relates to standards to be met by independent schools.

Ofsted (or their agents) will ask educational establishments to demonstrate evidence of their commitment to safer recruitment and to include details of this in the self-evaluation tools provided prior to each inspection.

Introduction: Context

3.1 Experience shows the importance of organisations that provide services to children operating recruitment and selection procedures and other human resources (HR) management processes that help deter, reject, or identify people who might abuse children, or are otherwise unsuited to work with them. Making safeguarding and promoting the welfare of children an integral factor in HR management is an essential part of creating safe environments for children.

Audience

3.2 The chapter details a range of recruitment best practice, and will be particularly helpful for:

- all staff, governors and others who take part in recruiting and selecting people to work in educational establishments and local authority education services;
- people and organisations that provide personnel or HR advice or services to those bodies;

- employment agencies and businesses that provide supply teachers and other staff to work in educational establishments; and
- organisations that contract with local authorities and educational establishments to provide services that involve their employees in working in such education settings.

It aims to assist those people and organisations to review and, where appropriate, change their practice and procedure in ways that will strengthen safeguards for children by helping to deter and prevent abuse.

Scope

3.3 The measures described in this chapter should be applied in relation to everyone who works in an education setting where there are children under 18 and who are likely to be perceived by the children as a safe and trustworthy adult. Those are not only people who regularly come into contact with children, or who will be responsible for children, as a result of their work. They are also people who regularly work in a setting such as a school or FE college when the pupils are present, who may not have direct contact with children as a result of their job, but nevertheless will be seen as safe and trustworthy because of their regular presence in the setting. This includes workers not on the payroll, e.g. staff employed by contractors and unpaid volunteers. **This also covers adults who work in residential accommodation in such settings.**

Contractors and other suppliers of staff

3.4 Local authorities and educational establishments **should** ensure that the terms of any contract they let that requires the contractor to employ staff to work with, or provide services for, children for whom the local authority or educational establishment is responsible also requires the contractor to adopt and implement the measures described in this guidance. They should also monitor the contractor's compliance. Further advice on the vetting of contractors is provided in Chapter 4, paragraphs 4.119 and 4.120.

Volunteers

3.5 Volunteers are also seen by children as safe and trustworthy adults, and if a **local authority** or **educational establishment** is actively seeking regular volunteers, and is considering candidates, it should adopt the same recruitment measures as it would for paid staff. In other circumstances, e.g. where a volunteer's role will be one-off, such as accompanying teachers and pupils on a day outing or helping at a concert or school fete, such measures would be unnecessary provided that the person is not to be left alone and unsupervised in charge of children. Where volunteers recruited by another organisation work in a educational establishment, e.g. sports coaches from a local club, the establishment should obtain assurance from that organisation that the person has been properly vetted. See Chapter 4 for further information.

Other settings

3.6 The principles set out in this chapter can be applied in other settings in which adults work with children, and guidance with a similar theme has been issued by the Children's Workforce Development Council **www.cwdcouncil.org.uk/safeguarding/safer-recruitment**

Further advice and guidance

3.7 This chapter is not a comprehensive guide to recruitment and selection or employment issues. It does not cover all the issues relevant to that subject. It is not a substitute for training in those areas, or in interviewing and assessment techniques. Local authority staff, head teachers, principals, governors and others who recruit and select staff and volunteers and manage services and establishments will need appropriate training as well as support and advice from their personnel or HR adviser to ensure their practice satisfies the requirements of employment law.

3.8 More information about the issues covered in this chapter and the on-line training package can be found on the National College for Leadership of Schools and Children's Services website at: www.ncsl.org.uk/ under the heading Safer Recruitment and the Children's Workforce Development Council www.cwdcouncil.org.uk/safeguarding/safer-recruitment In addition, the following websites provide information and advice about recruitment and selection or issues related to safeguarding and promoting the welfare of children and links to other useful sites and documents:

- Chartered Institute of Personnel and Development
Good practice for recruitment practices and other personnel issues:
www.cipd.co.uk
- Department for Children Schools and Families (DCSF) Child Protection
Website: www.teachernet.gov.uk/childprotection
- School Governors Website: www.governornet.co.uk
- Fitness to Teach DCSF 2007
www.teachernet.gov.uk/docbank/index.cfm?id=11387
- Staffing Guidance Under Section 35 (8) and 36 (8) of the Education Act 2002:
www.governornet.co.uk/linkAttachments/New%20Staffing%20Guidance.pdf
- Every Child Matters Change for Children:
www.everychildmatters.gov.uk/
- Guidance on Safe Working Practice for the Protection of Children and Staff in Education Settings:
www.teachernet.gov.uk/irsc
- Local Government Employers (LGE)
www.lge.gov.uk
- General Teaching Council for England (GTC)
www.gtce.org.uk
- The Office for Standards in Education (OFSTED)
www.ofsted.gov.uk/
- The Association of Colleges (AoC)
www.aoc.co.uk/en/Policy_and_Advisory_Work/employment/
- National Association for the Care and Resettlement of Offenders (NACRO)
Crime reduction charity and advice on resettlement of offenders.
www.nacro.org.uk
- Recruiting ex-offenders: The employers' perspective:
www.nacro.org.uk/publications/prisreset.htm#exoffenders

3.9 Detailed guidance on recruitment and vetting checks for those working in education settings is provided in Chapter 4 of this guidance.

Elements of safer practice

3.10 Safer practice in recruitment means thinking about and including issues to do with child protection and safeguarding and promoting the welfare of children at every stage of the process. It starts with the process of planning the recruitment exercise and, where the post is advertised, ensuring that the advertisement makes clear the organisation's commitment to safeguarding and promoting the welfare of children. It also requires a consistent and thorough process of obtaining, collating, analysing, and evaluating information from and about applicants. Main elements of the process include:

- ensuring the job description makes reference to the responsibility for safeguarding and promoting the welfare of children;
- that the person specification includes specific reference to suitability to work with children;
- obtaining and scrutinising comprehensive information from applicants, and taking up and satisfactorily resolving any discrepancies or anomalies;
- obtaining independent professional and character references that answer specific questions to help assess an applicant's suitability to work with children and following up any concerns;
- a face-to-face interview that explores the candidate's suitability to work with children as well as his/her suitability for the post;
- verifying the successful applicant's identity;
- verifying that the successful applicant has any academic or vocational qualifications claimed;
- checking his/her previous employment history and experience;
- verifying that s/he has the health and physical capacity for the job;
- verify that s/he has the right to work in the United Kingdom; and
- the mandatory check of [ISA registration](#), and, where appropriate, an [Enhanced CRB Disclosure](#). Chapter 4 provides detailed guidance on which checks are required for staff and volunteers working in education settings.

3.11 The checklist at Appendix 4 provides a convenient way of signing off each stage of the process and can be filed as a permanent record at the end of the process. Completion of this checklist will fulfil the statutory requirement to maintain a record of the recruitment and vetting checks which have been undertaken as specified in Chapter 4 of this guidance.

Continuing awareness

3.12 It is vital that the measures described in this chapter and in Chapter 4 are applied thoroughly whenever someone is recruited to work with children, but that should not be the end of the matter. Educational establishments are safe environments for the great majority of children and the vast majority of people who work with children have their safety and welfare at heart. But we must not be complacent. We know that some people seek access to children in order to abuse and that abused children very often do not disclose the abuse at the time. We also

34 Safeguarding children and safer recruitment in education

know that some of the allegations of abuse made against staff are substantiated and we continue to see a number of cases year on year in which teachers and other staff are convicted of criminal offences involving the abuse of children.

3.13 It is crucial therefore that everyone working in a school or any other **educational** setting providing for children is aware of these issues, and the need to adopt ways of working and appropriate practice to help reduce allegations. It is equally important that everyone is able to raise concerns about what seems to be poor or unsafe practice by colleagues and that those concerns, and concerns expressed by children, parents or others are listened to and taken seriously.

3.14 It will often be hard to give credence to concerns particularly if they are about a long-serving and trusted colleague. Unfortunately those concerns will sometimes be true and it is important that they are taken seriously and not simply dismissed. Where concerns have not been taken seriously in the past a person has been able to continue abusing children, sometimes for many years. It is vital therefore that all concerns are taken seriously and that, where appropriate, action is taken in accordance with the procedures for dealing with allegations against education staff, as detailed in Chapter 5.

Safer recruitment practice

Recruitment and selection policy statement

3.15 The employer should have an explicit written recruitment and selection policy statement and procedures that comply with national and local guidance. The statement should detail all aspects of the process and should link to their child protection policy and procedures.

3.16 The policy statement should incorporate an explicit statement about the organisation's commitment to safeguarding and promoting the welfare of children. An appropriate statement should be included in any model recruitment and selection policy that a local authority or HR adviser provides to establishments. For example:

- "This authority/educational establishment is committed to safeguarding and promoting the welfare of children and expects all staff and volunteers to share this commitment."

3.17 The statement should be included in:

- Publicity materials
- Advertisements
- Recruitment websites
- Candidate information packs
- Person specifications
- Job descriptions
- Competency frameworks
- Induction training

Planning and advertising

3.18 Planning is vital to successful recruitment. It is important to be clear about what mix of qualities, qualifications and experience a successful candidate will need to demonstrate, and whether there are any particular matters that need to be mentioned in the advertisement for the post in order to prevent unwanted applications. It is essential to plan the recruitment exercise itself, identifying who should be involved, assigning responsibilities and setting aside sufficient time for the work needed at each stage to be completed so that safeguards are not skimmed or overlooked. For example, it is important to organise the selection process to allow references to be obtained on shortlisted candidates before interview.

3.19 The person specification will need careful thought and drafting. It is also good practice to make sure at the outset that all the other material, e.g. the application form, job description and information or guidance for applicants that will form part of the pack to be sent to prospective applicants is up to date and clearly sets out the extent of the relationships and contact with children and the degree of responsibility for children that the person will have in the position to be filled. All work in an educational establishment or similar setting involves some degree of responsibility for safeguarding children, although the extent of that responsibility will vary according to the nature of the post.

3.20 The time and effort spent in this stage of the process should help minimise the risk of making an unsuitable appointment.

3.21. When a vacancy is advertised, the advertisement should include a statement about the employer's commitment to safeguarding and promoting the welfare of children and advise that the Governing Body will ask the successful applicant to [obtain an Enhanced Disclosure from the CRB](#) and be registered with the ISA, where appropriate, as well as the usual details of the post and salary, qualifications required, etc.

Application form

3.22 Employers should use an application form to obtain a common set of core data from all applicants. It is not good practice to accept curriculum vitae drawn up by applicants in place of an application form because these will only contain the information the applicant wishes to present and may omit relevant details.

3.23 For applicants for all types of post the form should obtain:

- full identifying details of the applicant including current and former names, date of birth⁴, current address and National Insurance number;
- a statement of any academic and/or vocational qualifications the applicant has obtained that are relevant to the position for which s/he is applying with details of the awarding body and date of award;
- a full history in chronological order since leaving secondary education, including periods of any post-secondary education/training and part-time and voluntary work as well as full time employment, with start and end dates, explanations for periods not in employment, education or training and reasons for leaving employment;

36 Safeguarding children and safer recruitment in education

- a declaration of any family or close relationship to existing employees or employers (including councillors and governors);
- details of referees. One referee should be the applicant's current or most recent employer and normally two referees should be sufficient. N.B. Where an applicant who is not currently working with children has done so in the past it is important that a reference is also obtained from the employer by whom the person was most recently employed in work with children. The form should make it clear that references will not be accepted from relatives or from people writing solely in the capacity of friends; and
- a statement of the personal qualities and experience that the applicant believes are relevant to his/her suitability for the post advertised and how s/he meets the person specification.

3.24 The application form should include an explanation that the post is exempt from the Rehabilitation of Offenders Act 1974 and therefore that all convictions, cautions and bind-overs, including those regarded as 'spent', should be declared. It should also require a signed statement that the person is not disqualified from work with children, or subject to sanctions imposed by a regulatory body, e.g. the General Teaching Council (GTC) and either has no convictions, cautions, or bind-overs, or has attached details of their record in a sealed envelope marked confidential.

3.25 It should record that:

- the successful candidate must be ISA registered, or prepared to apply for ISA registration;
- where appropriate the successful applicant will be required to undertake an Enhanced Disclosure;
- the prospective employer will seek references on short-listed candidates, and may approach any previous employers for information to verify particular experience or qualifications, before interview;
- if the applicant is currently working with children, on either a paid or voluntary basis, his/her current employer with children will be asked about disciplinary offences relating to children, including any in which the penalty is time-expired (that is where a warning could no longer be taken into account in any new disciplinary hearing for example) and whether the applicant has been the subject of any child protection concerns and, if so, the outcome of any enquiry or disciplinary procedure. If the applicant is not currently working with children but has done so in the past, that previous employer will be asked about those issues. Advice on this issue is also available in section 2.13 of the Information Commissioner's Employment Practice Codes: Supplementary Guidelines http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/coi_html/english/supplementary_guidance/index.html

Providing false information may be an offence and could result in the application being rejected or summary dismissal if the applicant has been selected and possible referral to the police.

3.26 Applicants for teaching posts in schools should also be asked:

- to provide their DCSF reference number;
- whether s/he has qualified teacher status (QTS); and
- whether s/he is registered with the GTC for England.

3.27 Applicants for teaching posts in FE establishments should be asked whether they have a teaching qualification and for the details of this. They should also be asked whether they are registered with the Institute for Learning (IfL), as this is a legal requirement and also asked whether they have QTLS or ATLS status or are already working towards this.

3.28 Explanatory notes and/or instructions for completing the form should be included in the candidate's information pack.

Job description

3.29 This should clearly state:

- the main duties and responsibilities of the post; and
- the individual's responsibility for promoting and safeguarding the welfare of children s/he is responsible for, or comes into contact with.

3.30 As noted in paragraph 3.3, all work in a school or similar setting involves some degree of responsibility for safeguarding children, although the extent of that responsibility will vary according to the nature of the post. All work in schools is classified as regulated activity as is work in FE colleges involving teaching, training, instruction, care, supervision, advice, treatment, therapy, or transport of children. There will be other posts in FE colleges that will be considered to be controlled activity where the post does not meet the definitions of regulated activity but there will still be regular contact with children.

Person specification

3.31 This should:

- include the qualifications and experience and any other requirements needed to perform the role in relation to working with children;
- describe the competences and qualities that the successful candidate should be able to demonstrate;
- explain how these requirements will be tested and assessed during the selection process. For example:

“In addition to candidates' ability to perform the duties of the post, the interview will also explore issues relating to safeguarding and promoting the welfare of children including:

- motivation to work with children;
- ability to form and maintain appropriate relationships and personal boundaries with children;
- emotional resilience in working with challenging behaviours”; and
- explain that if the applicant is short-listed any relevant issues arising from his/her references will be taken up at interview.

Candidate information pack

3.32 The pack should include a copy of:

- the application form and explanatory notes about completing the form;
- the job description and person specification;
- any relevant information about the local authority or establishment and the recruitment process and statements of relevant policies such as the authority or establishment's policy about equal opportunities, the recruitment of ex-offenders, etc;
- the establishment's child protection policy statement; and
- a statement of the terms and conditions relating to the post.

Scrutinising and short-listing

3.33 All applications should be scrutinised to ensure that they are fully and properly completed; that the information provided is consistent and does not contain any discrepancies and to identify any gaps in employment. Incomplete applications should not be accepted and should be returned for completion. Any anomalies or discrepancies or gaps in employment identified by the scrutiny should be noted so that they can be taken up as part of the consideration of whether to short-list the applicant. As well as reasons for obvious gaps in employment, the reasons for a history of repeated changes of employment without any clear career or salary progression, or a mid-career move from a permanent post to supply teaching or temporary work, also need to be explored and verified.

3.34 All candidates should be assessed equally against the criteria contained in the person specification without exception or variation and without unlawful discrimination.

References

3.35 The purpose of seeking references is to obtain objective and factual information to support appointment decisions. They should always be sought and obtained directly from the referee. Employers should not rely on references or testimonials provided by the candidate, or on open references and testimonials, i.e. "To Whom It May Concern". There have been instances of candidates forging references. Open references and testimonials might be the result of a compromise agreement and are unlikely to include any adverse comments. Detailed guidance on references is provided in Chapter 4, paragraphs 4.65-4.71.

Checks before interview

3.36 If a short-listed applicant claims to have some specific qualification or previous experience that is particularly relevant to the post for which s/he is applying that will not be verified by a reference, it is good practice to verify the facts before interview so that any discrepancy can be explored at interview. The qualification or experience can usually be verified quickly by telephoning the relevant previous employer and asking for written confirmation of the facts.

Involving pupils and students

3.37 Involving pupils and students in the recruitment and selection process in some way, or observing short-listed candidates' interaction with pupils is common and recognised as good practice. There are different ways of doing that. For example, candidates for teaching posts might be asked to teach a lesson; short-listed candidates might be shown round the school or college by pupils or students and a member of staff, and/or meet with pupils or students and staff.

Interviews

3.38. The interview should assess the merits of each candidate against the job requirements and explore their suitability to work with children. The selection process for people who will work with children should always include a face-to-face interview even if there is only one candidate.

Invitation to interview

3.39 In addition to the arrangements for interviews – time and place, directions to the venue, membership of the interview panel – the invitation should remind candidates about how the interview will be conducted and the areas it will explore including suitability to work with children. Enclosing a copy of the person specification can usefully draw attention to the relevant information.

3.40 The invitation should also stress that the identity of the successful candidate will need to be checked thoroughly to ensure the person is who he or she claims to be, and that where ISA registration and/or a CRB Disclosure is appropriate the person will be required to complete an application for a registration and/or a CRB Disclosure straight away. Consequently all candidates should be instructed to bring with them documentary evidence of their identity that will satisfy ISA/CRB requirements, i.e. either a current driving licence or passport including a photograph, or a full birth certificate, plus a document such as a utility bill or financial statement that shows the candidate's current name and address and where appropriate change of name documentation.

3.41 Candidates should also be asked to bring documents confirming any educational and professional qualifications that are necessary or relevant for the post, e.g. the original or a certified copy of a certificate, or diploma, or a letter of confirmation from the awarding body. If the successful candidate cannot produce original documents or certified copies, written confirmation of his or her relevant qualifications should be obtained from the awarding body.

3.42 A copy of the documents used to verify the successful candidate's identity, right to work and required qualifications should be kept for the personnel file. Separate copies of documents are not required to be kept in order to meet the requirements of maintaining the single central record.

Interview panel

3.43 Although it is possible for interviews to be conducted by a single person, it is not recommended. It is better to have a minimum of two interviewers and, in some cases, e.g. for senior or specialist posts, a larger panel might be appropriate. A panel of at least two people allows one member to observe and assess the candidate and make notes while the candidate is talking to the other. It also reduces the possibility of any dispute about what was said or asked during the interview.

3.44 The members of the panel should:

- have the necessary authority to make decisions about appointment;
- be appropriately trained. From 1 January 2010 one member of interview panels in maintained schools must⁵ have undertaken the training developed by the National College for Leadership of Schools and Children's Services and now provided by the Children's Workforce Development Council www.cwdcouncil.org.uk/safeguarding/safer-recruitment. A similar requirement is planned for independent schools. The online training takes about 5 hours to complete but can be done in more than one session. The training is also available face to face and can be accessed via local authorities and other appropriately trained organisations;
- meet before the interviews to:
 - reach a consensus about the required standard for the job to which they are appointing;
 - consider the issues to be explored with each candidate and who on the panel will ask about each of those;
 - agree their assessment criteria in accordance with the person specification.

3.45 The panel should agree a set of questions they will ask all candidates relating to the requirements of the posts, and the issues they will explore with each candidate based on the information provided in the candidate's application and references (if available). A candidate's response to a question about an issue will determine whether and how that is followed up. Where possible it is best to avoid hypothetical questions because they allow theoretical answers. It is better to ask competence based questions that ask a candidate to relate how s/he has responded to, or dealt with, an actual situation, or questions that test a candidate's attitudes and understanding of issues.

Scope of the interview

3.46 In addition to assessing and evaluating the applicant's suitability for the particular post, the interview panel should also explore:

- the candidate's attitude toward children;
- his or her ability to support the authority or establishment's agenda for safeguarding and promoting the welfare of children;
- gaps in the candidate's employment history;
- concerns or discrepancies arising from the information provided by the candidate and/or a reference; and
- the panel should also ask the candidate if they wish to declare anything in light of the requirement for [ISA registration](#) and/or [a CRB Disclosure](#).

3.47 If, for whatever reason, references are not obtained before the interview, the candidate should also be asked at interview if there is anything s/he wishes to declare or discuss in light of the questions that have been (or will be) put to his/her referees. It is vital that the references are obtained and scrutinised before a person's appointment is confirmed and before s/he starts work.

Conditional offer of appointment: Pre-appointment checks

3.48 An offer of appointment to the successful candidate should be conditional upon:

- the receipt of at least two satisfactory references (if those have not already been received – see paragraph 3.35);
- verification of the candidate's identity (if that could not be verified straight after the interview) and right to work in the UK;
- a check of the candidate's ISA registration and, where appropriate, a satisfactory Enhanced CRB Disclosure;
- verification of the candidate's medical fitness⁶;
- verification of qualifications (if not verified after the interview);
- verification of professional status where required e.g. GTC registration, QTS status (unless properly exempted), National Professional Qualification for Headship (NPQH) IfL registration for FE teachers;
- (for teaching posts) verification of successful completion of statutory induction period (applies to those who obtained QTS after 7 May 1999); and
- (for other posts) satisfactory completion of any probationary period.

Chapter 4 sets out detailed guidance on pre-appointment checks and what records need to be made and retained of these checks.

3.49 The authority/establishment should seek advice from its HR or personnel services provider, and follow relevant CRB guidance if a Disclosure reveals information that a candidate has not disclosed in the course of the selection process.

3.50 All checks should be:

- confirmed in writing;
- documented and retained on the personnel file (subject to relevant advice contained in the CRB Code of Practice⁷ and the establishment's own data protection arrangements); and
- followed up where they are unsatisfactory or there are discrepancies in the information provided.

3.51 Where:

- the candidate is found not to be ISA registered, or the CRB disclosure shows s/he has been disqualified from working with children by a court; or
- an applicant has provided false information in, or in support of, his or her application; or
- there are serious concerns about an applicant's suitability to work with children, the facts must⁸ be reported to the police and/or the Independent Safeguarding Authority).

Checks of ISA registration and CRB disclosures on overseas staff and others who have lived or worked abroad

3.52 Checks of ISA registration and CRB checks must⁹ be completed on overseas staff. In addition, criminal records information should be sought from countries where individuals have worked or lived. Chapter 4 provides detailed guidance on these checks.

Post appointment induction

3.53 There should be an induction programme for all staff and volunteers newly appointed in an establishment, including teaching staff, regardless of previous experience. The purpose of induction is to:

- provide training and information about the establishment's policies and procedures;
- support individuals in a way that is appropriate for the role for which they have been engaged;
- confirm the conduct expected of staff within the school or FE establishments;
- provide opportunities for a new member of staff or volunteer to discuss any issues or concerns about their role or responsibilities; and
- enable the person's line manager or mentor to recognise any concerns or issues about the person's ability or suitability at the outset and address them immediately.

3.54 The content and nature of the induction process will vary according to the role and previous experience of the new member of staff or volunteer, but as far as safeguarding and promoting the welfare of children is concerned, the induction programme should include information about, and written statements of:

- policies and procedures in relation to safeguarding and promoting welfare e.g. child protection, anti-bullying and harassment, anti-discrimination on all grounds including race, gender, disability, sexual orientation, religion or belief, age and transgender, physical intervention/restraint, intimate care, internet safety and any local health and safety, child protection and safeguarding procedures;
- safe practice and the standards of conduct and behaviour expected of staff and pupils in the establishment;
- how and with whom any concerns about those issues should be raised; and
- other relevant personnel procedures e.g. disciplinary, capability and whistle-blowing.

The programme should also include attendance at child protection training appropriate to the person's role.

Maintaining a safer culture

3.55 Paragraphs 3.12 to 3.14 describe the need for continued awareness of safeguarding issues. It is important that all staff in an establishment have appropriate training and induction so that they understand their roles and responsibilities and are confident about carrying them out. Staff, pupils, students and parents also need to feel confident that they can raise issues or concerns about the safety or welfare of children and that they will be listened to and taken seriously. That can be achieved by maintaining an ethos of safeguarding and promoting the welfare of children and protecting staff which is supported by:

- a clear written statement of the standards of behaviour and the boundaries of appropriate behaviour expected of staff, **students** and pupils that is understood and endorsed by all;
- appropriate induction and training;
- regular briefing and discussion of relevant issues;
- including relevant material from the framework for Personal Social Health and Economic education in the curriculum;
- ensuring all those working with children in education settings are familiar with the good practice guidance which is in Annex A of this guidance; and
- a clear reporting system if a pupil, learner, member of staff or other person has concerns about the safety of children.

Monitoring

3.56 Monitoring of both the recruitment process and induction arrangements will allow for future recruitment practices to be better informed. It should cover:

- staff turnover and reasons for leaving;
- exit interviews; and
- attendance of new recruits at child protection training.

Chapter 4: Recruitment and vetting checks

Summary

This chapter details the recruitment and vetting checks that need to be made on all people who wish to work with children and young persons through a role in the education service, including overseas and agency staff working in educational establishments. It also explains the roles of the Criminal Records Bureau and the Independent Safeguarding Authority and how both fit into the Vetting and Barring Scheme. Although aimed specifically at the education sector, this guidance is based on best practice and legal requirements, meaning that various aspects of this can be utilised by other organisations which work with children.

Background

4.1 This chapter provides guidance on the range of checks that must or should be carried out to ensure risk of harm to children is minimised. It aims to assist all schools, including non-maintained and independent schools, FE establishments, local authorities exercising education functions and supply agencies, to ensure the full range of checks are carried out to minimise the possibility of children suffering harm.

4.2 The main body of this chapter provides guidance for employers and institutions in the education service on the recruitment and vetting checks to be carried out on teachers, other workers, paid and unpaid, including school and FE college governors, and Short Stay School management committee members and the records that must be kept of those checks. It builds on the guidance and good practice on recruitment and selection in Chapter 3 and provides specific and detailed guidance on recruitment and vetting checks which must or should be carried out to ensure effective safeguarding in recruitment.

4.3 Some of this chapter is underpinned by statutory requirement, whilst some is strongly recommended. Where the check is a statutory requirement, this guidance makes clear that it **must** be carried out and in other circumstances where the check is strongly recommended that it **should** be carried out unless there are compelling reasons not to do so. Where **must** is indicated within this document, it will be supported by endnotes to provide links to the relevant legislation.

Statutory changes, underpinned by regulations are:

- the requirement that all who carry out work in regulated activity (whether paid or voluntary) in an educational establishment on a regular basis must¹⁰ register with the Independent Safeguarding Authority (in accordance with the phasing-in arrangements during the early years of the Scheme www.isa-gov.org/default.aspx?page=333) before being allowed to carry out any duties;

- the requirement for a CRB Enhanced Disclosure for all new appointments, in schools under the School Staffing (England) Regulations 2009; or the Education (Independent School Standards) (England) Regulations 2003, SI 2003/1038[, as amended by SI 2004/3168, 2004/3374, 2007/1087, 2008/3253 and 2009/1924], or the National Minimum Standards for Boarding Schools;
- the requirement for a CRB Enhanced Disclosure for new appointments to FE colleges who are regularly caring for, training, supervising or being solely in charge of persons aged under 18, under the Further Education (Providers of Education) (England) Regulations 2006;
- the requirement, under the School Staffing (England) Regulations 2009, Further Education (Providers of Education) (England) Regulations 2006 and the Education (Independent School Standards) (England) Regulations 2003 as amended by the the Education (Independent School Standards) (England) (Amendment) Regulations 2007 and the Education (NMSS) (England) Regulations 1999 that:
 - educational establishments must¹¹ keep a single central record detailing a range of checks carried out on their staff (for FE colleges this relates to staff providing education);
 - all new appointments to the school workforce and new staff providing education at FE colleges who have lived outside the United Kingdom are subject to such additional checks as are deemed appropriate [where the required CRB Enhanced Disclosure is not considered sufficient to establish suitability to work with children](#);
 - schools and FE colleges (for staff providing education) must satisfy themselves that supply staff have undergone the necessary checks to assess their suitability for the post; and
 - identity checks be carried out on all appointments to the school workforce and to the FE college workforce (for staff providing education) before the appointment is made. See paragraph 4.13-4.15 for identity checks

The recruitment and vetting checks in detail

4.4 Safeguarding children is everybody's responsibility. Good safeguarding practice therefore has to be built into routine procedures and practice. Nowhere is this more important than in the recruitment and vetting of people who have contact with children.

4.5 It is vital that [organisations which appoint people \(including volunteers\) to work with children adopt robust recruitment and vetting procedures that minimise the risk of employing people who might abuse children, or are otherwise unsuited to work with them. This includes all local authorities, and educational establishments, as well as agencies that supply staff to the education sector and those that contract with the education sector to provide services.](#)

4.6 Recruitment and vetting checks are a key element in the work to ensure that children are safeguarded and the risk of harm from those who are in contact with them in whatever capacity is minimised. It is important to have good systems in place to identify abuse; well-trained staff who know what to do if a child is abused, and guidance to staff on how to ensure that their behaviour and actions do not place pupils, students or themselves at risk of harm or in a position where allegations of harm to a child could be made. Chapter 2 sets out the duty of local authorities, schools of all kinds, and FE colleges, to have arrangements for carrying out their functions with a view to safeguarding and promoting the welfare of children. Chapter 3 provides guidance on good practice in safer recruitment.

4.7 Schools and local authorities should ensure they are satisfied that appropriate checks and child protection procedures are in place for staff from other establishments who work with young people outside of the school, for example 14-16 year olds studying at FE colleges as part of their Key Stage 4 studies. The requirements for safeguarding pupils and students in workplace placements are detailed in Appendix 9.

Checks on people who will be working with children in the education sector

4.8 Those who employ people to work in educational establishments **must**¹² carry out the following recruitment and vetting checks on intended new employees:

- identity checks (paragraphs 4.13-4.15);
- checks of ISA-registration (paragraphs 4.16–4.38) of all new staff in regulated activity from November 2010;
- checks of ISA-registration (paragraphs 4.16–4.38) of all existing staff in regulated activity from January 2011 subject to the phasing strategy;
- CRB Disclosures, including a check for confirmation that a person is not unsuitable to work with children. CRB Disclosures are not required where the person has worked in a relevant post within the 3 months prior to appointment (paragraphs 4.41-4.62);
- Checks to confirm that (i) staff qualification requirements are met (including qualified teacher status (QTS) and registration with the GTC where appropriate and (ii) medical fitness requirements are met where appropriate (paragraphs 4.74-4.78)
- Checks to confirm the right to work in the United Kingdom (paragraphs 4.109-4.113 and Appendix 7); and
- Where the appointee has lived outside the United Kingdom, further checks as are considered appropriate such as a certificate of good conduct from the country or countries they have been living in where obtaining a CRB Disclosure is not sufficient to establish suitability to work with children (paragraph 4.114-4.117).

4.9 With the exception of CRB Disclosures, the above checks must¹³ be completed **before** a person takes up the position. In the case of CRB Disclosures, the certificate must be obtained before, or as soon as practicable after, appointment. A record must be kept to show that the above checks have been carried out for all relevant employees (paragraph 4.84-4.92).

4.10 The requirement to carry out the above checks applies to educational establishment and local authority staff or managers who make appointments to work as part of the school workforce or the FE college workforce providing education to children. The requirement also applies to supply agencies providing individuals to work in educational establishments. In the case of schools with residential accommodation, a CRB Disclosure must be obtained for all adults who after April 2002¹⁴ begin to live on the same premises as children but are not employed by the school, for example where staff live on the premises other adults living with them in their households.

4.11 In the case of agency staff provided to educational establishments, they must¹⁵ ensure that the contract or arrangement with the supply agency imposes an obligation on the agency to provide written notification that they have carried out the same checks that the educational establishments do for their own staff and, where the CRB Disclosure contains relevant information, a copy of the Disclosure. Educational establishments should also ensure that they receive this written notification and, where appropriate, a copy of the CRB Disclosure before allowing the person to start work. The identity of the person should also be checked when they arrive to start work. Paragraphs 4.102 -4.108 and Appendix 7 provide additional guidance on agency staff.

4.12 In addition to the above mandatory checks, those who employ people to work in schools, Short Stay Schools or employ FE establishment staff to provide education, should carry out the following checks on intended new appointees:

- Professional and character reference checks (paragraphs 4.65-4.71).
- Checks on previous employment history (paragraph 4.72).

As well as checking employees and supply staff, local authorities, educational establishments should carry out checks on all who seek positions which involve contact with children, for example volunteers and governors (paragraphs 4.93-4.101). Local authorities and educational establishments should also ensure that those contracting with them to provide services that give rise to contact with children are carrying out appropriate checks (paragraphs 4.119-4.121).

The checks

Identity

4.13 It is important to be sure that the person is who he or she claims to be. The employer **must**¹⁶ ask to see proof of identity such as a birth certificate, driving licence, or passport combined with evidence of address, before an appointment is made. Some form of **current** photographic ID should be seen except where for exceptional reasons none is available. **Please note that proof of identity is required in connection with an application for a CRB Disclosure.** In summary, the proof should include name, date of birth, address and photographic identity and be within a valid time period if there are any expiry dates on the document.

4.14 If a teacher or worker is provided by a third party, such as an employment business or agency, the local authority, or educational establishment **must**¹⁷ check that the person who comes to them is the person referred by the employment business or agency by carrying out the identity checks as at paragraph 4.13 above.

4.15 Educational establishments and local authorities might like to note, however, that there is no requirement to retain copies of such identity confirmation documents after the check has been carried out.

Independent Safeguarding Authority Vetting and Barring Scheme

4.16 Since October 2009 the Vetting and Barring Scheme has begun to be implemented with associated duties coming into effect over subsequent years. Once fully brought into force, all of the requirements of the Vetting and Barring Scheme will be applicable to educational establishments albeit in slightly different ways.

4.17 The Vetting and Barring Scheme operates in two key areas:

- a simplification of the lists of those barred from working with children. The ISA now operates the Children's Barred List for the entire children's sector. This list replaces List 99 and the list operated under the Protection of Children Act. In due course it will also replace Court issued Disqualification Orders; and
- from July 2010 a proactive register of all those who wish to work with children will be created. From November 2010 membership will become mandatory for all new staff in regulated activity. To be included in the register applicants **must**¹⁸ begin an advanced and continuous vetting process and have their registration confirmed before being allowed to carry out any relevant duties in regulated activity, irrespective of whether they are supervised or not. The register will be continuously updated and employers who register an interest will be notified should an individual's registration status change (for example if they become barred or ask for registration to be terminated).

It will not notify employers of new offences which do not lead to barring.

4.18 The Vetting and Barring Scheme is administered through two organisations which are:

- the Criminal Records Bureau (CRB) which is responsible for the application process and the updating of the register with relevant information; and
- the Independent Safeguarding Authority (ISA) which is the decision making

wing of the Scheme which will own and maintain the two lists of those barred from working with children and/or vulnerable adults; determining who should be included in either list.

4.19 Under the Vetting and Barring Scheme, work with children falls into one of two categories, regulated or controlled activity, with the former applying to schools, sixth-form colleges and elements of FE with the remainder of the FE sector falling in the latter category, where they also have frequent or intensive contact with children.

Regulated activity

4.20 All those working in regulated activity in education must¹⁹ register with the ISA and the respective school or college must²⁰ check their registration status. Trustees of schools with or without a religious character, as well as all governors, will be required to register with the ISA (see 4.17) as this is defined as a regulated activity. It is a criminal offence for an individual to attempt to work in regulated activity without registering or for an organisation to recruit without having carried out the respective checks. Under no circumstances may an individual who is barred be allowed to carry out any form of regulated activity and there are penalties of up to five years in prison for an individual attempting to do so and up to six months for an employer who knowingly allows them to carry out any relevant duties. Separate sector guidance has been sent to Higher Education Institutions.

4.21 Regulated activity applies to all those who carry out any of the following activities with under 18 year olds on a frequent or intensive basis:

- any form of teaching, training or instruction of children (unless the teaching, training or instruction is merely incidental to teaching, training or instruction of adults);
- any form of care for or supervision of children (unless the care or supervision is merely incidental to care for or supervision of adults);
- any form of advice or guidance provided wholly or mainly for children, if the advice or guidance relates to their physical, emotional or educational well-being;
- any form of treatment or therapy provided for a child;
- moderating a public electronic interactive communication service (chat-room) which is likely to be used wholly or mainly by children; or
- driving a vehicle which is being used only for the purpose of conveying children and any person supervising or caring for the children.

This list is not exhaustive but does illustrate situations where regulated activity occurs.

This means in practice that all those who engage in any of the above activities on a frequent or intensive basis must²¹ register with the ISA to join the Vetting and Barring Scheme.

4.22 Regulated Activity also covers all forms of work (whether paid or voluntary) carried out on a frequent or intensive basis that occur in an educational institution which is exclusively or mainly for the provision of full-time education to children. This means that all who work on a regular basis either within a school's premises or a sixth-form college must²² register with the ISA.

4.23 All governors of school and sixth-form colleges are also in regulated activity along with clerks to the governing body and associate members by virtue of holding that position, irrespective of the actual contact they may have with children. The requirements for governors are dealt with more fully in paragraph 4.103.

Controlled activity

4.24 Controlled activity is work that either still involves the opportunity for frequent or intensive contact with children but does not fall within the definition of regulated activity; or allows frequent access to sensitive records. The Government is committed to reviewing the arrangements for controlled activity. The interim arrangements outlined below are likely to be necessary until 2014 whilst new arrangements related to regulated activity are introduced. The interim arrangements are needed because there is a risk that individuals barred from regulated activity may seek to gain access to children or vulnerable adults by taking up a position in what is currently defined as controlled activity. With regard to the education sector, controlled activity covers all those positions in FE establishments which do not fulfil the definition of regulated activity, meaning that everyone in FE colleges with an opportunity for frequent or intensive contact with children will be carrying out either regulated or controlled activity. The following staff in FE colleges might be engaged in controlled activity:

- all administrative staff;
- all on-site catering staff;
- cleaning staff; and
- maintenance and grounds-keeping staff.

4.25 The principal difference between regulated and controlled activity is that in certain circumstances a barred person may be allowed to carry out duties defined as controlled activity. The initial process of registration with the Scheme is indistinguishable from that for regulated activity but in incidences where an individual is found to be barred and employment is still being considered, an Enhanced CRB Disclosure must²³ be obtained to establish the reasons for the bar and whether it is possible to put sufficient safeguards in place to allow the individual to undertake the role.

Registration

4.26 The responsibility to become registered will fall on the potential employee, with the employer's duty being to have checked all who are engaging in regulated or controlled activity are registered. Many organisations may wish to assist with this process or carry it out on behalf of the potential employee. Exact arrangements will be for each school and/or local authority to determine. [Registration with the Independent Safeguarding Authority includes application for an Enhanced CRB Disclosure, and both can be applied for on the same form.](#)

New staff – regulated activity

4.27 As detailed above, all staff in schools and sixth-form colleges will be within the scope of regulated activity meaning that they must²⁴ register with the Independent Safeguarding Authority. For all new staff and those moving within the sector to a new regulated activity provider, registration will be available from 26 July 2010 and will become mandatory from November 2010. It is not expected that staff joining

in September 2010 be required to register, whereas for the January 2011 intake onwards it will become mandatory.

4.28 For schools providing placements during the September/October 2010 intake for teacher training students, there will be no expectation that they be ISA-registered. Higher educational institutions will provide assurances of the students suitability based on the current CRB requirements.

Existing staff – regulated activity

4.29 *In due course* all staff must²⁵ register with the ISA. However, due to the number of staff currently in post, it has been decided to ‘phase’ the entry of staff into the Scheme based on potential risk; schools and other educational establishments with staff engaging in regulated activity should require existing staff to join the Scheme based upon the date on which their most recent CRB disclosure was requested.

4.30 In practice this means that the first staff to register will be those who have never undergone a CRB check, and then moving chronologically from the oldest disclosure date to the most recent.

4.31 All existing staff must²⁶ be registered by July 2015 and it will be the responsibility of educational establishments to have carried out a registration check on all those staff and volunteers carrying out regulated activity on behalf of the educational establishment. Any existing staff who have never applied for a CRB Disclosure should be invited to apply for ISA-registration as soon as possible after 1 November 2010.

All staff – controlled activity (FE only)

4.32 In order to ensure that sufficient safeguards are in place, from April 2010 employers of those in controlled activity must seek an Enhanced CRB disclosure on new applicants for positions in controlled activity unless they are satisfied that the individual is not barred. If the individual is not barred, the employer will receive a notification to that effect. If the individual is barred the employer will receive an Enhanced Disclosure which will include information on the reasons for the bar. For the longer term, the Government’s policy is that staff who are engaged in controlled activity will not be phased into the Scheme until 2014 and there will be no requirement to register until this date. However the Government has undertaken to review the longer term requirements for controlled activity and is currently consulting on propositions.

Supply staff – regulated and controlled activity

4.33 Agencies who supply staff in either regulated or controlled activity (in accordance with the phasing strategy outlined in paragraphs 4.29 – 4.31) must²⁷ have checked the ISA-registration status of any staff member placed in an educational establishment. The relevant educational establishment should also carry out the registration check if the member of staff is working there for more than 3 months.

ISA-registration check

4.34 As referred to paragraph 4.23 Educational establishments must²⁸ have carried out a check of all individuals carrying out regular work whether it be regulated

or controlled activity. For those who have already registered with the ISA, the registration check can be carried out in one of two ways:

- Online – The primary means of checking registration is via an online check. This requires the consent of the individual (and they must²⁹ provide their full name, date of birth and the unique sixteen-digit registration number. Using these details the designated person in the educational institution can access the ISA website at no cost via any online computer without the need for any additional software or hardware. The online check will either confirm that the individual is registered with the ISA or state that they are not registered. A returning message of 'not registered' is not an indication that the individual is barred, simply that they are not registered to work with children; it is conceivable that they have either left the Scheme voluntarily or registered to work solely with vulnerable adults.

4.35 After completing the online check, educational establishments will be invited to, and should, register an interest in the individual to ensure that they are informed immediately of any changes to that individual's ISA-registration status.

4.36 **Enhanced CRB Disclosure** – It is possible to determine an individual's ISA status via an Enhanced CRB Disclosure. The Disclosure will state whether an individual is barred and, in cases where the individual is on the list of those who are barred from working with children, it will also detail the reasons for the bar. While it is permissible to use this means to determine an individual's ISA registration status, it will be an offence to allow anyone to engage in regulated activity without the check having been made, meaning that successful applicants will be unable to begin work in any capacity, even if fully supervised, until the Disclosure is received. For this reason it is recommended that education establishments make use of the online facility as it will eliminate this delay.

ISA registration for visitors in a school or FE college

4.37 There is no requirement to register with the ISA for visitors who will only have contact with children on an ad hoc or irregular basis for short periods of time, or secondary pupils undertaking voluntary work or work experience in other schools. However, it is good practice to check to confirm the identity of visitors and to ensure they sign in and out, and are escorted whilst on the premises by a member of staff; or an appropriately vetted volunteer.

4.38 Examples of people who do not need to apply for ISA registration include:

- visitors who have business with the head teacher, principal or other staff or who only have brief contact with children with a member of staff present;
- people who visit a school only once but their work takes them into numerous schools, each as a one off visit so they do not have regular access to the same child,. This would be likely to apply to visiting authors, drama companies, poets and other people who visit an individual school to deliver a one off session for pupils, but will repeat such sessions in other schools on a regular basis;
- visitors or contractors who come on site only to carry out emergency repairs or service equipment; and who would not be expected to be left unsupervised on school or FE college premises;

- volunteers or parents who only accompany staff and children on one-off outings or trips that do not involve overnight stays, or who only help at specific one-off events e.g. a sports day, school fete, college open day;
- secondary pupils on Key Stage 4 work experience in other schools, FE establishments or nursery classes; secondary pupils undertaking work in another school as part of voluntary service, citizenship or vocational studies; or Key Stage 5 or sixth form pupils in connection with a short careers or subject placement. In these cases the school placing the pupil should ensure that he/she is suitable for the placement in question;
- people who are on site before or after school or college hours and where there is no opportunity for contact with children: e.g. local groups who hire premises for community or leisure activities; cleaners who only come in after children have gone home, or before they arrive; and
- Initial teacher training tutors and staff visiting schools and colleges to observe trainee teachers, provided that they are supervised at all times by someone who is ISA registered (this might include the student teacher themselves).

CRB Disclosures

Option A Alternative text to be included if CRB requirements are discontinued

4.39 Ofsted will be asked to assess whether or not CRB Disclosures are being requested unnecessarily by schools, local authorities, FE colleges and other providers once staff have been ISA registered.

4.40 However schools, local authorities and FE colleges will still be able to request that a member of staff, or volunteer who is already registered with the ISA, apply for an Enhanced CRB Disclosure, if there are any concerns about the person's suitability to work with children.

Option B alternate text if CRB Disclosure requirement remains

4.41 The positions which are exempted from the provisions of the Rehabilitation of Offenders Act 1974, will be aligned with the definitions of regulated and controlled activity, meaning that employers organising either type of work will be eligible to receive an Enhanced CRB Disclosure for anyone applying to carry out relevant duties. Individuals who apply for work in regulated or controlled activity **should** be asked by employers to declare any convictions, cautions or reprimands, warnings or bind-overs which they have incurred, including any that would be regarded as 'spent' under the Act in other circumstances. If a person is subsequently selected or appointment for such a position, the employer **should** ask them to apply to the CRB for a CRB Enhanced Disclosure to verify their declaration (see Appendix 9 for further information about the Disclosure service).

4.42 The School Staffing (England) Regulations 2009, the Education (Independent School Standards) (England) Regulations expected for 2010 and the Education (Non-Maintained Special School) (Consolidation) (England) Regulations [2010] make it mandatory for CRB Enhanced Disclosures to be obtained on all newly appointed school staff. The Further Education (Providers of Education) (England) Regulations

54 Safeguarding children and safer recruitment in education

2006; make CRB Enhanced Disclosures mandatory for those newly appointed to the FE workforce who provide education and regularly care for, train, supervise, or have sole charge of persons aged under 18. In the case of schools, this includes those who do not work directly with children, for example administrative staff, caretakers and other ancillary staff. In the case of schools with residential accommodation, this includes staff who work in any aspect of the residential provision.

By newly appointed staff we mean anyone who within the three months before his or her appointment has not worked in:

- a school in England in a post which brought her or him into regular contact with children or any post that they have been appointed to since 12 May 2006; or
- an FE establishment in England in a position which involves the provision of education and regularly caring for, training, supervising, or being in sole charge of children or young people under the age of 18.

4.43 All references to List 99 in current legislation have been amended refer to the ISA children's barred list.

4.44 Guidance on obtaining and dealing with CRB Disclosures is at Appendix 9. It is worth noting that for all initial applications for ISA registration, an up-to-date copy of an Enhanced CRB Disclosure will be provided as part of the registration cost.

CRB Disclosures and existing staff

4.45 Educational establishments or local authorities are not required to ask existing staff, in post, who were not previously eligible (including those recruited before the establishment of the CRB) for criminal background checks to apply for a CRB Disclosure, unless:

- they have concerns about the person's suitability to work with children; or
- an individual moves to work that involves greater contact with children and their previous work did not require a CRB Enhanced Disclosure.

A key exception to this is set out in paragraph 4.109-4.117 – checks on overseas staff.

4.46 It is to be noted that while there is no requirement to ask staff who have been in post prior to 2001 for a copy of a CRB Disclosure, initial registration with the Independent Safeguarding Authority is mandatory and registration details will be accompanied by a copy of an Enhanced CRB Disclosure.

CRB Checks when someone moves school, Local Authority, or FE college

4.47 A new CRB check is not required when someone moves school, local authority or college. A new CRB Disclosure is only required for newly appointed staff. By newly appointed staff we mean anyone who within the three months before his or her appointment has not worked in:

- A school in England in a post which brought him or her into regular contact with children or any post they were appointed to since 12 May 2006; or
- an FE college in England in a position which involves the provision of education and regularly caring for, training, supervising, or being in sole charge of children or young people under the age of 18.

4.48 However, employers are reminded that they must³⁰ ensure that all the other pre-recruitment checks are carried out, including checking the ISA barred lists. It should be noted that when someone moves school, local authority or FE college a check of an individual's ISA-registration must³¹ be carried out before they commence their new duties and the new organisation should register an interest in them so that they are notified should their registration status change.

4.49 If the individual is not ISA-registered prior to this move, they will need to gain ISA-registration at this point. As ISA-registration is accompanied by a copy of an Enhanced CRB Disclosure, the receiving school, Local Authority, or college will receive an up-to-date copy of the CRB Disclosure. It should be noted, however, that the duty is to have confirmed ISA-registration and this is not a change to current requirements for CRB Disclosures.

CRB Disclosures and governing bodies of academies

4.50 The chair of the board of governors/directors of an Academy Trust (the legal entity that runs and manages an Academy or groups of Academies) must³² obtain, prior to being appointed as a chair, an enhanced CRB check which is countersigned by the Secretary of State and an enhanced CRB certificate.

4.51 Enhanced CRB checks must be made for all other governors/directors of the Academy Trust. These checks must have been completed before a governor/director takes up his/her position. The chair is responsible for ensuring that CRB checks on the remaining governors/directors are undertaken by the Academy.

4.52 As independent schools, Academy Trusts have the same responsibilities as all independent schools in relation to carrying out CRB checks in relation to both staff (including volunteers) and supply staff.

CRB Disclosures for supply staff

4.53 Educational establishments and local authorities must³³ check with the relevant supply agency, and obtain written confirmation from the supply agencies that all appropriate checks have been undertaken. They must³⁴ also obtain a copy of the CRB Disclosure from the supply agency in cases where the Disclosure contains relevant information. Agencies may retain CRB Disclosures for this purpose for up to 3 years.

CRB Enhanced Disclosure and/or registration with the Independent Safeguarding Authority for visitors in an educational establishment

4.54 There is no requirement to obtain a CRB Disclosure or to register with the Independent Safeguarding Authority for visitors who will only have contact with children on an ad hoc or irregular basis for short periods of time, or secondary pupils aged under 16 undertaking voluntary work or work experience in other schools. If pupils working with younger children are 16 or over, they will need to register with the Independent Safeguarding Authority.

4.55 However, it is good practice to check the identity of visitors and to ensure they sign in and out, and are escorted whilst on the premises by a member of staff; or appropriately vetted volunteer.

4.56 Examples of people who do not need to apply for a CRB Disclosure or register with the Independent Safeguarding Authority include:

- visitors who have business with the head teacher, principal or other staff or who only have brief contact with children with a member of staff present;
- people who visit a school only once but their work takes them into numerous schools as a one off visit. This would be likely to apply to visiting authors, drama companies, poets and other people who visit an individual school to deliver a one off session for children, but will repeat such sessions in other schools on a regular basis and will not therefore have contact with the same children;
- visitors or contractors who come on site only to carry out emergency repairs or service equipment; and who would not be expected to be left unsupervised on school or FE college premises;
- volunteers or parents who only accompany staff and children on one-off outings or trips that do not involve overnight stays, or who only help at specific one-off events e.g. a sports day, school fete, college open day;
- secondary pupils aged under 16 on Key Stage 4 work experience in other schools, FE colleges or nursery classes; secondary pupils undertaking work in another school as part of voluntary service, citizenship or vocational studies; or Key Stage 5 or sixth form pupils in connection with a short careers or subject placement. In these cases the school placing the pupil should ensure that he/she is suitable for the placement in question;
- people who are on site before or after school or college hours and where there is no opportunity for contact with children: e.g. local groups who hire premises for community or leisure activities; cleaners who only come in after children have gone home, or before they arrive.

Guidance on obtaining CRB Disclosures is at Appendix 9.

Starting work pending a CRB Disclosure

4.57 Ideally, where a CRB Disclosure is required, it should be obtained before an individual begins work. It must³⁵ in any case be obtained as soon as practicable after the individual's appointment and the request for a CRB Disclosure should be submitted in advance of the individual starting work. Head teachers, principals and local authorities have discretion to allow an individual to begin work within their schools or colleges pending receipt of the CRB Disclosure but should ensure that the individual is appropriately supervised; and that all other checks, including the check of the ISA-barred list have been completed. Information on checking the ISA-barred list pending a CRB check is available from either the Teachers Pensions online website (www.teacherspensions.co.uk) or via email at Scheme.Info@homeoffice.gsi.gov.uk (telephone 0300 123 1111).

4.58 For schools or colleges with residential provision, where a CRB Disclosure is required, it must³⁶ be obtained before an individual begins work. This requirement may change following the outcome of a consultation on National Minimum standards for Boarding and Residential Special schools which will run until 11 March 2010.

4.59 Appropriate supervision for individuals who start work prior to the result of a CRB Disclosure being known should reflect what is known about the person concerned, their experience, the nature of their duties and the level of responsibility they will carry. For those with limited experience and where references have provided limited information the level of supervision required may be high. For those with more experience and where the references are detailed and provide strong evidence of good conduct in previous work a lower level of supervision should be applied. For all staff without completed Disclosures it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision spelt out. The arrangements should be reviewed regularly, at least every two weeks until the CRB Disclosure is received.

4.60 Before taking on a member of supply staff from an agency, an educational establishments must³⁷ obtain a written notification from the agency that indicates that relevant CRB Disclosures have been requested for that individual, outlines whether or not the CRB Disclosure has been received, and if received, whether or not the Disclosure included any conviction or other information. Where there is disclosed information, the educational establishment should obtain a copy of the CRB Disclosure from the agency. If the CRB Disclosure has not been received yet by the agency, the school should require the agency to notify it of the content as soon as it is received.

4.61 **Educational** establishments should also carry out their own online ISA-registration check principally in order to register an interest in that individual so as to be notified should their membership status change, i.e. should they become barred, enabling the establishment to remove the individual from relevant work. This will become **mandatory** after 3 months where the school employs the individual.

4.62 Where a CRB Disclosure indicates cause for concern for agency or directly employed staff, the member of staff should immediately be withdrawn from the educational establishment pending further enquiries. If the Disclosure refers to additional information please see paragraph 4.106.

Qualification requirements

4.63 Employers must³⁸ always verify that the candidate has actually obtained any qualifications legally required for the job that they claim to have been awarded in their application e.g. by asking to see the relevant certificate or diploma, or a letter of confirmation from the awarding institution. If original documents are not available, employers should see a certified copy.

4.64 For those applying for posts in schools, the qualifications legally required for the job may include qualified teacher status, National Professional Qualification for Headship, registration with the GTC and medical fitness requirements. For FE colleges, the qualifications requirements are set out under paragraphs 4.80-4.83.

Professional and character references

4.65 **At least two references should be sought.** The purpose of seeking references is to obtain objective and factual information to support appointment decisions. They should always be sought and obtained directly from the referee. Employers should not rely on references or testimonials provided by the candidate, or on open references and testimonials, i.e. "To Whom It May Concern". There have been instances of candidates forging references, also open references or testimonials might be the result of a compromise agreement and are unlikely to include any adverse comments.

4.66 References should be sought on all short-listed candidates, including internal ones, and should be obtained 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. In exceptional circumstances it might not be possible to obtain references prior to interview, either because of delay on the part of the referee, or because a candidate strongly objects to their current employer being approached at that stage, but that should be the aim in all cases. It is up to the person conducting the recruitment to decide whether to accede to any request by the candidate to only approach his/her current employer only if s/he is the preferred candidate after the interview, but it is not recommended as good practice.

4.67 In any case where a reference has not been obtained on the preferred candidate before interview, the prospective employer should ensure that it is received and scrutinised, and any concerns are resolved satisfactorily, before the person's appointment is confirmed.

4.68 All requests for references should seek objective verifiable information and not subjective opinion. The use of reference pro formas can help achieve that. A copy of the job description and person specification for the post for which the person is applying should be included with all requests, and every request should ask:

- about the referee's relationship with the candidate, e.g. did they have a working relationship: if so what; how long has the referee known the candidate, and in what capacity;
- whether the referee is satisfied that the person has the ability and is suitable to undertake the job in question, and for specific comments about the applicant's suitability for the post, and how s/he has demonstrated that s/he meets the person specification;

- whether the referee is completely satisfied that the candidate is suitable to work with children, and, if not, for specific details of the referee's concerns and the reasons why the referee believes the person might be unsuitable;

and should remind the referee that:

- they have a responsibility to ensure that the reference is accurate and does not contain any material misstatement or omission; and
- relevant factual content of the reference may be discussed with the applicant.

4.69 In addition to the above, requests addressed to a candidate's current employer, or a previous employer (in work with children), should also seek:

- confirmation of details of the applicant's current or previous post, salary, and sick record;
- specific verifiable comments about the applicant's performance history and conduct;
- details of any disciplinary procedures the applicant has been subject to in which the disciplinary sanction is current;
- details of any disciplinary procedures the applicant has been subject to involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, and the outcome of those; and
- details of any allegations or concerns that have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, and the outcome of those concerns e.g. whether the allegations or concerns were investigated, the conclusion reached, and how the matter was resolved. Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case. Cases in which an allegation was satisfactorily resolved some time ago or proven to be unfounded³⁹ or malicious do not need to be included in a reference.

4.70 However a history of repeated concerns or allegations over time would give cause for concern and should be included. More serious or recent concerns, or issues that were not resolved satisfactorily are more likely to cause concern and should also be included.

4.71 On receipt references should be checked to ensure that all specific questions have been answered satisfactorily. If all questions have not been answered or the reference is vague or unspecific, the referee should be contacted and asked to provide written answers or further information as appropriate. The information given should also be compared with the application form to ensure that the information provided about the candidate and his/her previous employment by the referee is consistent with the information provided by the applicant on their application form.

Any discrepancy in the information should be taken up with the applicant.

Previous employment history

4.72 Employers should always ask for information about previous employment and obtain satisfactory explanations for any gaps in employment. If a candidate for a teaching post is not currently employed as a teacher, it is also advisable to check with the educational establishment or local authority at which they were most recently employed, to confirm details of their employment and their reasons for leaving.

Health

4.73 Anyone appointed to an education post in the maintained sector involving regular contact with children or young people must⁴⁰ be medically fit. It is the statutory responsibility of employers to satisfy themselves that individuals have the appropriate level of physical and mental fitness before an appointment offer is confirmed. A copy of the 'Fitness to Teach' Guidance which was revised in 2007 is available to download at www.teachernet.gov.uk/docbank/index.cfm?id=11387.

Additional checks on those applying for teaching posts in schools

Registration with the General Teaching Council (England)

4.74 All teachers working in teaching posts in maintained schools, non-maintained special schools and Short Stay Schools in England must⁴¹ be registered with the General Teaching Council for England (GTC) unless they are exempt from the requirements to hold qualified teacher status. (see 4.61-4.64). Before appointing teachers to positions in such schools, employers must⁴² check with the GTC whether teachers are registered with the Council, whether any GTC restrictions are in force against the teacher, and, where appropriate, whether they have qualified teacher status and have completed their induction period. Local authorities can do this on-line: schools which are employers can call the employee access line on 0870 0014823.

Qualified Teacher Status (QTS)

4.75 No person may teach in a maintained school or a non-maintained special school unless he/she:

- has qualified teacher status (QTS)⁴³; or
- falls within one of the special categories specified in the Education (Specified Work and Registration) (England) Regulations 2003 (S.I. No.1663) as amended.

4.76 The special categories specified in the Education (Specified Work and Registration) (England) Regulations 2003 as amended are:

- student teachers
- Instructors with special qualifications or experience
- overseas trained teachers
- graduate teachers
- registered teachers
- staff on an employment-based teacher training scheme.

4.77 Support staff (such as Higher Level Teaching Assistants and Teaching Assistants) may also teach, provided:

- they do so in order to assist or support the work of qualified teachers and are subject to their direction and supervision, in accordance with arrangements made by the head teacher; and
- the head teacher is satisfied that they have the skills, expertise and experience required to teach.

Note: If a candidate has a teacher reference number issued either by the DCSF or the relevant General Teaching Council, this does not necessarily mean that he/she has QTS. There are two categories of registration with the GTC and those with provisional registration such as trainee teachers, Instructors and Overseas Trained Teachers do not have QTS but like full registrants they are required to be registered with the GTC.

4.78 Employers need to be aware that the checks obtained through the GTC are complementary checks and must not be regarded as a substitute for other recruitment checks.

Induction

4.79 Teachers who obtained QTS after 7 May 1999, including those who have followed an employment-based training programme, must⁴⁴ have successfully completed a statutory induction period within the set time period if they are to work in maintained schools, non-maintained special schools or Short Stay Schools in England. Induction success letters are issued by the GTC. Teachers can undertake supply work for up to 16 months (LAs have discretion to extend this period by a maximum of 12 months) without completing an induction period and can work in schools while gaining their induction.

Further education recognised teaching qualifications

4.80 The FE establishment should carry out checks of ISA-registration for teachers and staff providing education, as outlined throughout this guidance, and must⁴⁵ carry out CRB Enhanced Disclosures on those providing education and who regularly care for, train, supervise or have sole charge of people aged under 18. This applies to teachers who are already qualified, working towards being qualified, or those who are not yet qualified.

4.81 Government is committed to having a fully qualified teaching workforce in FE by 2010. The FE Teachers' Qualifications (England) Regulations 2007 required all new FE teachers entering the profession to hold, or be working towards, a recognised teaching qualification based on new professional standards. These are a Diploma leading to Qualified Teacher Learning and Skills (QTLS), for those in full teaching roles, and a Certificate leading to Associate Teacher Learning and Skills (ATLS) for those whose job is primarily delivery and not full curriculum management. QTLS and ATLS are awarded by the Institute for Learning, the professional body for teachers, trainers and assessors across the further education sector. Both full-time and part-time staff should reach either QTLS or ATLS in a period not exceeding 5 years. In addition, the Further Education (Principals' Qualifications) (England) Regulations 2007 require all newly-appointed principals to hold or be working towards the Principals' Qualification. Further regulations came into force in April 2009 introducing a 3-year limit for completion of the Principals' Qualification (SI 2009/472).

4.82 For those teachers who entered the profession prior to the 2007 regulations coming into force, accepted qualifications are Post Graduate Certificate of Education (PGCE) or Certificate of Education (Cert. Ed) awarded by a Higher Education Institute (HEI), or the FE Teaching Certificate conferred by an Awarding Body.

4.83 From its inception in January 2005, Lifelong Learning UK (LLUK) has operated a helpline funded by the DCSF to advise enquirers about appropriate training to become qualified as a teacher in the learning and skills (including FE) sector. Please telephone: 020 7936 5798; visit the website: www.lluk.org.uk or email: helpline@lifelonglearninguk.org

Single central record of recruitment and vetting checks

4.84 In addition to the various staff records which are kept as part of normal business, educational establishments must⁴⁶ also keep and maintain a single central record or 'register' of recruitment and vetting checks. Details of what needs to be included in the 'register' can be found for maintained schools in Schedule 2 of The School Staffing (England) Regulations 2009 and for independent schools in paragraph 4C of the Schedule to SI 2003/1910 as amended by The Education (Independent School Standards) (England) (Amendment) Regulations 2007. This record is intended to be a live document and should only contain the record of those staff currently employed at the establishment. Information on past employees will be kept within their individual personnel files and should be retained in line with the establishment's normal HR practices. Establishments are not required to keep copies of identity documents either for inspections by Ofsted (or their agents) or to reinforce the information on the central record. They should simply record on the central record the date upon which checks were carried out, who carried out the checks and a description of any documents seen as part of the checking process.

4.85 The educational establishment must⁴⁷ have a record of the following people:

- all staff who are employed to work at the school; and those in FE colleges providing education; and
- all staff who are employed as supply staff to the school or as supply staff providing education to the FE college whether employed directly by the school, FE college or local authority or through an agency;

4.86 The record should include all others who have been recruited by the educational establishment to work in regular contact with children. This will cover volunteers, governors who also work as volunteers within the establishment, and people brought into the school to provide additional teaching or instruction for pupils but who are not staff members e.g. a specialist sports coach or artist. The record had to be in place from 1 January 2007 for all staff and other relevant individuals (as set out above) appointed or chosen on or after that date. Since 1 April 2007 the record should include all current staff and relevant individuals appointed or chosen before 1 January 2007.

Independent schools must⁴⁸ also record checks undertaken on a person (or each member of a body of persons) named as the proprietor of an independent school.

4.87 For the purposes of creating the record of checks for supply staff provided through a supply agency (whether local authority or commercial), the educational establishment will need confirmation from the supply agency that it has satisfactorily completed the checks described in sections 12(7) and 24 (7) of The School Staffing England Regulations 2009 (SI 2009/2680). The educational establishment does not need to carry out or see the checks itself [except where there is conviction or additional information contained in the CRB Disclosure](#); however they should perform a check of ISA-registration once these provisions come into force to register an interest in the individual if they are using the individual for more than 3 months. The establishment should carry out an online ISA-registration check to register an interest in all individuals working there. However, identity checks⁴⁹ must be carried out by the educational establishment to confirm that the individual arriving is the individual that the agency intends to refer to them. See paragraphs 4.34 and, 4.53 and Appendix 7 for further information on what educational establishments need to do when taking on supply staff through a supply agency.

4.88 Information disclosed as part of a CRB Disclosure must⁵⁰ be treated as confidential. It is an offence for CRB Disclosure information to be passed to anyone who does not need it in the course of their duties. A Disclosure may be passed from agency to agency, between local authorities and agencies, and between educational establishments and agencies if the subject gives written consent. Regulations under the Police Act⁵¹ also authorise passing Disclosure information from agencies to educational establishments where the subject's suitability for work is under consideration. The disclosure must⁵² be kept in secure conditions and must⁵³ be destroyed, by secure means, as soon as it is no longer needed. If the CRB Disclosure refers to the existence of information additional to what is on the face of the Disclosure, a supply agency cannot pass this information on to educational establishment and the establishment will have to request a fresh enhanced CRB Disclosure.

4.89 However, before the Disclosure is destroyed, records must⁵⁴ be kept detailing the date the Disclosure was obtained, who obtained it (i.e. educational establishment, local authority, supply agency), the level of the Disclosure, and the unique reference number. The head teacher or principal or local authority should also consider keeping a note of what other information was used to assess suitability.

4.90 The central record must⁵⁵ indicate whether or not the following have been completed:

- Identity checks;
- Qualification checks for any qualifications legally required for the job e.g. those posts where a person must have QTS, NPQH or in FE establishments, another accepted qualification such as PGCE, Cert Ed. Additionally, for those applying for teaching posts, a registration check with the GTC where appropriate;
- Checks of the right to work in the United Kingdom;
- Checks of ISA registration,(or of ISA barred list for existing staff not yet registered);
- CRB Enhanced Disclosures (in FE colleges only for those staff providing education and who regularly care for, train, supervise or have sole charge of persons under 18); and
- Further overseas criminal records checks where appropriate (see paragraph 4.109-4.117 for advice on staff who have lived outside the United Kingdom).

4.91 The record must⁵⁶ also show the date on which each check was completed or the relevant certificate obtained, and should show who carried out the check.

4.92 The following page shows a suggested format for the central record: FE colleges should note that the record will also need to show whether or not the person's position will involve the provision of education and for enhanced CRB Disclosures that they are also regularly caring for, training, supervising, or being in sole charge of persons under 18.

Volunteers

4.93 We recognise that many parents and other volunteers help regularly in the classroom and with activities associated with the educational establishment and each establishment can use volunteers if the establishment determines their use to be appropriate. Those in contact with children on a regular basis should apply for an enhanced CRB disclosure and must⁵⁷ be ISA-registered. For existing volunteers who are continuing with their old duties, unless the educational establishment has cause for concern, there is no duty to request a CRB disclosure, however ISA-registration must⁵⁸ be applied for and the relevant check of registration made. For new volunteers, or those changing duties to ones that will bring them into increased contact with children, head teachers or principals should consider obtaining enhanced CRB Disclosures where the volunteering is regular and involves contact with children and in all cases the regular volunteers must⁵⁹ be ISA-registered.

4.94 Within this guidance we have used 'regular' as covering the definitions of 'frequent' and 'intensive' in the meaning given in the Safeguarding Vulnerable Groups Act 2006:

- 'frequent' – once a week or more often on an ongoing basis; and
- 'intensive' – three or more occasions in a thirty day period; or overnight (between 2am – 6am).

4.95 In coming to a decision whether to seek a CRB Disclosure, head teachers/principals will want to consider::

- the duration, frequency and nature of contact with children;
- what the establishment knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers;
- whether the volunteer is well known to others in the establishment community who are likely to be aware of behaviour that could give cause for concern;
- whether the volunteer has other employment, or undertakes voluntary activities where referees would advise on suitability; and
- any other relevant information about the volunteer or the work they are likely to do.

4.96 This information will allow head teachers and principals to make a risk assessment, and use their professional judgement and experience in deciding whether a CRB Disclosure is necessary. Under no circumstances should a volunteer who has not obtained a CRB Disclosure as they only have infrequent contact with children, be left unsupervised with children. Appendix 8 provides case studies which may help in making decisions on whether volunteers should be asked to undertake a CRB Disclosure.

Host families

4.97 Where a school arranges a 'host family' for a child, the adults who volunteer will be acting as private foster carers. If the placement were for longer than 28 days, the school and the carers would have a statutory duty to notify the local authority, which would inspect the fostering arrangements.

4.98 Regardless of the length of the placement, the SVG Act classifies this as regulated activity and registration with the scheme would normally be required.

4.99 However there are special circumstances where the school organises reciprocal exchanges with a school abroad and puts the families in direct contact with each other. The families get to know each other in advance of the exchange programme taking place, and therefore the requirement for registration should not apply where schools are organising reciprocal exchange programmes with schools abroad. However the parents' activity in hosting these children will remain regulated activity so that a barred person would commit an offence if they carried it out. Arrangements that are not private, such as those put in place by an agency, will require the host adults to be registered with the ISA.

Long-stay lodgings

4.100 Where schools provide or arrange long-stay residential accommodation by means of lodgings, Enhanced CRB Disclosures and ISA registration checks must⁶⁰ be obtained for all adult members of the household of the host family.

Governors, associate members and clerks to the governing bodies

4.101 All Governors, associate/sponsor members and clerks to the governing body/management committee will need to register with the ISA and the head teacher/principal will be responsible for carrying out checks of their registration. From November 2010, all new governors, associate members and clerks in maintained schools on accepting the position but before commencing any duties must⁶¹ register. For existing governors, registration must⁶² be made on accepting a further term of office or on taking office in a separate governing body. All clerks must be registered before July 2015. This does not apply in the independent sector (or to Academies, as they are independent schools) unless the members/governors are part of the proprietorial body or are otherwise involved in the management of the school. There will be no requirement on governors of maintained schools to have CRB disclosures unless they also volunteer in the school in the circumstances described in paragraph 4.93-4.96.

Supply staff

4.102 It is important that thorough checks are made on anybody who will be working in an educational establishment, both to prevent unsuitable people from gaining access to children and to maintain the integrity of the teaching profession and confidence that such establishments are a safe place for children. The same range of checks which are required for school staff and staff in FE colleges providing education are also required for supply staff, including those employed via employment agencies.

4.103 Where supply staff are employed directly by the educational establishment, the establishment must⁶⁴ complete all relevant checks, including confirmation of ISA-registration, as for other employed staff. Local authorities and educational establishments must⁶⁵ record whether those checks have been carried out on the single central record as at paragraphs 4.84 to 4.92. The local authority and educational establishments should check ISA registration to register an interest in the individual, so as to be notified of any changes to their registration status.

4.104 Before taking on a member of supply staff provided by a supply agency, the educational establishment must⁶⁶ obtain written confirmation from the agency that the checks the establishment is required to carry out for its own employees have been undertaken by the agency. In relation to CRB Disclosures the written notification from the agency must⁶⁷ confirm that relevant CRB Disclosures have been requested for that individual, whether or not the Disclosure has been received, and if received, whether it included any disclosed information. Where there is disclosed information, the educational establishment must⁶⁸ obtain a copy of the CRB Disclosure from the agency before the individual starts work. If the CRB Disclosure has not yet been received by the agency, the establishment must require the agency to notify it of the content as soon as the Disclosure is received. The establishment must require the supply agency to provide the written notifications and copies of CRB Disclosures where appropriate through the contract or other arrangements that it makes with the supply agency. Educational establishments must⁶⁹ record whether they received confirmation of relevant checks from the supply agency (and copies of CRB Disclosures where appropriate) on the single central record as at paragraphs 4.84 to 4.92.

4.105 In relation to ISA-registration, the supply agency must⁷⁰ check ISA-registration before supplying the member of staff and provide written confirmation to the educational establishment that they have done so. The establishment is entitled to rely on that confirmation and does not need to make its own check of ISA-registration if it is using the staff member for less than 3 months. If the educational establishment is using the individual for more than 3 months they must⁷¹ have checked ISA-registration by then.

4.106 If the CRB Disclosure refers to the existence of information additional to what is on the face of the Disclosure, the supply agency cannot provide the educational establishment with a copy of that information. If they want to engage the person, they should carry out a repeat CRB Disclosure and not employ the person until they receive the new Disclosure. Where an individual is provided by an agency, the educational establishment must⁷² check that the person who comes to them is the person referred by the agency by carrying out the identity checks.

4.107 Guidance for agencies supplying staff to such establishments is given at Appendix 11.

4.108 Schools may wish to be aware of the DCSF's Quality Mark for supply agencies and local authorities with supply pools. Those awarded the Quality Mark have been inspected by the Recruitment and Employment Confederation and found to comply with good recruitment practices. They are specifically signed up not only to performing all the required checks (which of course all agencies have to do), but also to good practice in recruitment and development of the staff they supply. Further details of the standards they sign up to are at: www.rec.uk.com/rec/about-the-rec-quality-mark.aspx.

Overseas staff and other staff who have lived or worked outside the United Kingdom

4.109 Employers must⁷³ confirm the right of all those they employ to work in the UK. Permission is also required to undertake voluntary activity. Further information and details on permission to work and immigration documents are at Appendix 5.

4.110 Newly appointed overseas staff, including 'gap' student staff in schools with residential accommodation, who have lived outside the United Kingdom must⁷⁴ undergo the same checks as for all other staff in educational establishments. This includes a [CRB Disclosure and ISA-registration](#). In addition, employers must⁷⁵ make such further checks as they consider appropriate due to the person having lived outside the United Kingdom, taking account of this guidance. These further checks must⁷⁶ be completed prior to an individual starting work.

4.111 In addition all overseas staff who have lived outside the United Kingdom and were recruited since March 2002 must⁷⁷ have CRB Disclosures undertaken where this has not been done, unless the individual had within the three months before his or her appointment worked in:

- a school in England in a post which brought him or her into regular contact with children or any post they were appointed to since 12 May 2006; or
- an FE college in England in a position which involved the provision of education and regularly caring for, training, supervising or being in sole charge of children or young people under the age of 18.

4.112 This will bring the checks, including CRB Disclosures, for this group of staff in line with those completed on teachers who have never lived abroad, and recruited into the workforce since March 2002.

4.113 In all cases, ISA-registration must⁷⁸ be obtained for new staff from November 2010 and in line with the phasing strategy for existing staff (see paragraph 4.29-4.31).

Important additional checks to accompany the CRB Disclosure for overseas staff

4.114 CRB Disclosures will not generally show offences committed by individuals whilst living or working abroad (except in the case of service personnel and their families, as detailed in paragraph 4.120). Therefore, in addition to an Enhanced CRB Disclosure, additional checks such as obtaining certificates of good conduct from relevant embassies or police forces are necessary. The level of information contained in these certificates varies from country to country: some are complete extracts from the criminal record; others are partial.

4.115 However, head teachers, principals and local authorities will have discretion to allow an individual to begin work pending receipt of the CRB Disclosure, Where it is necessary to engage a member of staff where the CRB Disclosure remains outstanding, head teachers, local authorities and principals must⁷⁹ ensure that the employee is appropriately supervised, and the request for a CRB Disclosure has been submitted, in advance of the individual starting work.

4.116 Further information about the criminal record information which may be obtained from overseas police forces and countries, is available from the CRB at **www.crb.gov.uk**.

4.117 Where an applicant is from or has lived in a country where criminal record checks cannot be made for child protection purposes, or is a refugee with leave to remain in the UK, and has no means of obtaining relevant information, employers must⁸⁰ take extra care in taking up references and carrying out other background checks. For example, additional references should be sought, and references followed up by phone as well as letter. Following up references with telephone calls is good practice for all recruits.

Forces staff and their families

4.118 All Service personnel are subject at all times to the Service Discipline Acts (SDA), as are their families and UK based civilians(UKBC) when based or employed overseas. All convictions under the Military Criminal Justice System for recordable offences committed by service personnel (in the UK and overseas) or civilians subject to the Service Discipline Acts (overseas only) are recorded on the UK Civilian Police National Computer (PNC) and are available to the CRB as part of their routine checks. In addition the CRB has access to information held at the Service Police Crime Bureau (SPCB) in relation to serving or former members of the armed forces.

Building contractors

4.119 Children should not be allowed in areas where builders are working, for health and safety reasons, so these workers should have no contact with children. However local authorities and educational establishments should ensure that arrangements are in place with contractors, via the contract where possible, to make sure that any of the contractors staff that come into contact with children undergo appropriate checks. For contractors staff who have the opportunity for contact with children and the work is on a frequent or intensive basis, i.e. those on educational establishment premises for 4 or more occasions within a month or once a week or more often, they must⁸¹ be ISA-registered and corresponding checks of their registration must⁸² be made by both the contractor and educational establishment in order to register an interest in the individual and be notified should their registration status change.

4.120 Identity checks should be carried out by the educational establishment to confirm that the individual arriving is the individual that the contractor informed them would be arriving.

PFI and other contractors

4.121 PFI contract staff, for example caretakers and catering staff who come on-site, must⁸³ be checked by the contractor in the same way as school employees (i.e. including a CRB Disclosure and ISA-registration), and such requirements form part of the contract. The outcome of such checks must⁸⁴ be notified to the local authority and the local authority must agree in writing to the employment of any member of staff with convictions. The contractor is also responsible for ensuring that the same procedures are followed by any sub-contractors. The contractor must⁸⁵ provide the local authority with a list of its direct employees and those of any subcontractors at least 20 days before they start work on site. The contractor must also notify the authority of any member of staff who, after employment, receives a criminal conviction or is subject to disciplinary action.

Checks on other public sector staff

4.122 Individuals such as psychologists, Ofsted inspectors, nurses, dentists, centrally employed teachers and other public sector staff should have been checked by their employing organisation, whether local authority, Primary Care Trust or Strategic Health Authority. It is not necessary for schools to see their CRB disclosure but they should receive written confirmation from the employers that such checks have been carried out. For those who are on school premises on a regular basis, a check of their ISA-registration should be made by the educational institution to register an interest in them so as to be informed should their registration status change. Schools should check the individual's identity when they arrive at the premises to ensure that impostors do not gain access to children.

Applicants for teacher training courses

4.123 We do not expect prospective trainees attending a school to observe teaching staff prior to taking up an ITT course to have to undergo a CRB check. The school should treat these as visitors and ensure appropriate supervision. Initial teacher training providers are responsible for ensuring that trainees are ISA registered and an enhanced CRB check has been obtained, prior to the trainee commencing school- and FE establishment-based elements of their training. However, head teachers and principals have discretion to allow an individual to begin school- and FE establishment-based training pending receipt of the check provided the provider has confirmed that the trainee is ISA registered. Where this is necessary, training providers, head teachers and principals should ensure that the trainee is appropriately supervised and a check of ISA-registration made to register an interest in the individual and be informed of any changes to their ISA-registration status.

4.124 Schools should not have access to a trainee teacher's check, or any information contained within it, when the registered body is the initial teacher training provider. However, schools should confirm that the check has been carried out, and record this on the single central record.

4.125 ISA-registration is only required for trainees commencing programmes on or after 1st November 2010. Trainees commencing programmes in September or October 2010 will not be required to register with ISA. Training providers will provide assurances of the trainees' suitability based on the pre-Vetting and Barring Scheme requirements.

Fraudulent applications

4.126 Serious, deliberate fraud or deception in connection with an application for employment may amount to a criminal offence (Obtaining Pecuniary Advantage by Deception). In such cases the employer should in addition to any planned disciplinary action, consider reporting the matter to the police. The case must⁸⁶ also be reported to the Independent Safeguarding Authority and/or the relevant General Teaching Council

Schools offering access to extended services

4.127 Many primary and secondary schools offer breakfast and after school clubs and other services. The services include a varied range of activities, including study support in a safe place to be for primary and secondary schools; childcare 8am-6pm, 48 weeks a year for primary schools; parenting and family support; swift and easy access to specialist health and social care services such as speech and language therapy; community use of facilities including adult and family learning and ICT. These services will often be provided beyond the school day but not necessarily by teachers or on the school site but may be at other schools or run by private and voluntary sector providers.

4.128 Requirements placed upon schools relating to existing staff and volunteers at the school will extend to incorporate those involved in the provision of extended services. So where the governing body or management committee for Short Stay Schools provides services or activities directly under the management of the school, the school's arrangements for appointments, recruitment and vetting checks and record keeping will apply. Where schools deliver childcare directly for children aged three and over on the school site and pupils from the school attend, the childcare will be inspected as part of the whole school inspection system and does not have to be registered separately with Ofsted although they still have to comply with the Early years Foundation stage requirements. Schools that are directly responsible for childcare provision for children from birth to age three must register with Ofsted and meet the welfare and safeguarding requirements of the Early Years Foundation Stage. (Schools that admit children who are three during the term in which they start school, known as 'rising threes', may treat those children as three-year-olds for the purposes deciding whether or not registration with Ofsted is required.)

4.129 Where a third party is offering services, that provider would be responsible for ensuring they meet the safeguarding requirements that apply to them. Where a third party is responsible for running the services there should be clear lines of accountability and written agreements setting out responsibility for carrying out the recruitment and vetting checks on staff and volunteers. This also applies in the case of Sure Start Children's Centres which will increasingly be situated on school sites. Local authorities can advise schools on registered providers with whom they might link to provide services. The case studies at the end of this chapter give some

examples of the issues that need to be taken into consideration when assessing what safer recruitment checks may be necessary.

4.130 Schools that choose to provide their childcare through private or voluntary sector providers must use Ofsted-registered providers for provision for children aged under eight years unless the provider is exempt from registration.

4.131 Providers of childcare for children aged five and under must⁸⁸ be registered on the Early Years Register. (The EYR applies for children up to the end of the academic year in which they turn five). Providers for children aged five to eight must⁸⁹ be registered on the compulsory part of the General Childcare Register.

4.132 Where the provider is not required to register with Ofsted (i.e. where the provision is for children over eight only or the provider only offers activity-based provision like sports coaching), we recommend that schools work with providers that are on the voluntary part of the General Childcare Register. Registration on the voluntary part of the Childcare Register ensures that the provider is required to meet Ofsted's safeguarding and other welfare requirements.

4.133 In the case of registered childcare providers Ofsted will apply to the CRB for Enhanced Disclosures and over time for ISA-registration in the case of the registered childcare provider (including the people who make up the provider in the case of corporate bodies or unincorporated associations) and the manager.

4.134 It is the responsibility of the childcare provider to make sure that any members of staff, or people who live or work on the premises are suitable to care for or have regular contact with children.

4.135 The registered childcare provider, must⁹⁰, ensure that their staff and volunteers are not listed on the ISA-barred lists by applying to the CRB for an Enhanced Disclosure or by carrying out an online check of ISA-registration (From November 2010 the ISA will be phasing in this requirement for different groups of staff).

4.136 Under the Early Years Foundation Stage welfare requirements (for children up to the age of 5) and the General Childcare Register requirements (for children aged 6 and 7, or other children where the provider is on the voluntary part of the Register), the registered person must⁹¹ ensure that a person who has not been CRB checked is never left alone with children and from July 2015 it will be a criminal offence for those staff and volunteers engaged in regulated activity not to be ISA-registered. The requirements for registration on the Early Years Register and the General Childcare Register (Compulsory and Voluntary) can be found on the Ofsted website at the following address: **www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Care-and-local-services/Childcare/Registration**.

4.137 Where the provider is not registered with Ofsted (e.g. where the provision is for children over eight only or otherwise exempt from registration), the school should check that the provider has made the relevant safer recruitment checks on existing staff and has arrangements in place to carry them out on new members of staff. For information about provision that doesn't need to register with Ofsted further information can be found via: **www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Factsheet-childcare-Registration-not-required**

4.138 Written agreements should be in place with any third party providers or groups using the site. These should set out the respective responsibilities of the governing body and those of the provider or group. Local authorities are well placed to advise on the practical implementation of extended services, and to share written agreements that have worked well elsewhere. These should set out responsibility for areas such as health and safety, recruitment and vetting checks. Where services are being developed, the schools' insurance provider should be consulted to ensure that the provision is covered adequately. All staff and providers working on or managing the site out of hours should have training on issues such as emergency evacuation procedures. Staff and their professional associations should know who they are accountable to and for what, and should be consulted when services are developing.

4.139 Where the governing body or **management committee** provides services or activities directly under the supervision or management of school staff, the school's arrangements for staff appointments will apply. Governors need to be aware that it is their responsibility to ensure that proper records relating to safer recruitment checks are kept. Short Stay Schools' management committees should liaise with their local authorities to ensure that such arrangements are made.

4.140 Child and user safety is paramount. Schools should only work with providers that can demonstrate that they have effective procedures, training and vetting arrangements for their staff, appropriate child/adult ratios and contingency arrangements in place for emergencies or the unexpected e.g. arrangements for managing in the event that a child is not picked up after a session run by a provider and procedures for dealing with complaints. If an Ofsted-registered childcare provider is used, then the provider will be subject to such requirements through the EYFS welfare requirements or General Childcare Register requirements which can be found at:

www.teachernet.gov.uk/teachingandlearning/EYFS/Welfare_requirements/

www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Guide-to-registration-on-the-Childcare-Register

4.141 Any complaints should be referred to the relevant provider in the first instance. An Ofsted registered childcare provider must⁹² have written procedures for dealing with complaints and ensure that each complaint is fully investigated; and Ofsted will always investigate if they receive a complaint about a childcare provider which relates to registration requirements.

The following examples do not make up definitive guidance, but show how risk can be considered in deciding whether a CRB Disclosure and ISA-registration is appropriate.

Case study: A primary school in Reading provides an after school club for 1.5 hours every week day. The school governors ensure that checks (including CRB and ISA-registration) are undertaken on all the staff other than those who already work in the school and where checks have already been done. The governor with special responsibility for child protection issues makes sure that appropriate records are kept, that they are secure but accessible to anyone authorised to see them.

Where services or activities are provided separately by another body, the governing body should be satisfied that the provider concerned has appropriate policies and procedures, including those for staff appointments in place in regard to safeguarding children and child protection and there are arrangements to liaise with the school on these matters where appropriate.

Case study: Mr Higgins has a contract with the governing body of a primary school in Redditch to provide a breakfast club, called Great Nosh for Hungry Kids. Before the contract with Mr Higgins was signed, the school governors asked to see a copy of his recruitment and checking procedures and child protection policy including confirmation of ISA-registration, and made arrangements to review these annually. Mr Higgins was also asked to include in his procedures that he would pass on to the school any child protection concerns that he might have. The governors agreed that they would reciprocate in providing such information to Mr Higgins if there were similar concerns that might impact on the club.

Chapter 5: Dealing with allegations of abuse against teachers and other staff

Summary

It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in an education setting is dealt with fairly, quickly, and consistently, in a way that provides effective protection for the child and at the same time supports the person who is the subject of the allegation.

The framework for managing cases of allegations of abuse against people who work with children is set out in *'Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children'* (2010) which provides an overview; and in Appendix 5 of this guidance which provides detailed procedures on how allegations should be handled.

This chapter explains how those procedures should be applied specifically in the education sector. Like chapters 2, 3, and 4 of this guidance it is relevant for the purposes of S157 and S175 of the Education Act 2002.

All educational establishments and local authorities exercising education functions, should use this guidance to review and, where appropriate, modify their practice and procedure for dealing with allegations of abuse made against teachers and education staff.

Introduction

5.1 This chapter is about managing cases of allegations that might indicate that a person is unsuitable to continue to work 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 a volunteer) in a education establishment 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 s/he is unsuitable to work with children.

5.2 All establishments should have procedures for dealing with allegations, and all staff and volunteers (and senior pupils who may have positions of responsibility) should understand what to do if they receive an allegation against a member of staff or if they themselves have concerns about the behaviour of a member of staff. The procedure should make it clear that all allegations should be reported straight away, normally to the head teacher or principal, and identify the person, often the chair of

governors⁹³, to whom reports should be made in the absence of the head teacher or principal, or in cases where the head teacher is the subject of the allegation or concern. Procedures should also include contact details for the local authority designated officer responsible for providing advice and monitoring cases.

5.3 There may be up to 3 strands in the consideration of an allegation:

- a police investigation of a possible criminal offence;
- enquiries and assessment by children's social care about whether a child is in need of protection or in need of services; and
- consideration by the school or FE college of disciplinary action in respect of the individual⁹⁴.

Some cases will also need to be referred to the ISA for consideration of including the person on the ISA barred lists, or consideration by the General Teaching Council (GTC) for schools and the Institute for Learning for FE colleges.

Supporting those involved

5.4 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 (subject to paragraph 5.15). They should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution. That includes the outcome of any disciplinary process. Please note that 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.⁹⁵

5.5 In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care, or the police as appropriate, should consider what support the child or children involved may need.

5.6 The establishment should also keep the person who is the subject of the allegations informed of the progress of the case and consider what other support is appropriate for the individual. For staff in maintained schools that may include support via the local authority occupational health or employee welfare arrangements. If the person is suspended, the establishment should also keep the individual informed about developments at work. If the person is a member of a union or professional association s/he should be advised to contact that body at the outset.

Confidentiality

5.7 Every effort should be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. 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 might depart from that rule, e.g. an appeal to trace a suspect, the reasons should be documented and partner agencies consulted beforehand.) The system of self-regulation, overseen by the Press Complaints Commission, also provides safeguards against the publication of inaccurate or misleading information.

Resignations and “compromise agreements”

5.8 The fact that a person tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. 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 person 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 regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the person 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.

5.9 By the same token so called “compromise agreements” by which a person agrees to resign, the school or FE college agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, **must not be used in these cases**. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to [the Independent Safeguarding Authority](#) where circumstances require that.

Record keeping

5.10 It is important that a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on a person’s confidential personnel file, and a copy provided to the person concerned. The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the person has moved on. It will provide clarification in cases where a future CRB Disclosure reveals 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 person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer. [The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on employment records retention:](#)

www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/employment_practices_code.pdf

www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/employment_practice_code_-_supplementary_guidance.pdf

Timescales

5.11 It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. Every effort should be made to manage cases to avoid any unnecessary delay. Indicative target timescales are shown for different actions in the summary description of the process at paragraphs 5.35 to 5.49. Those are not performance indicators: 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 they provide useful targets to aim for that are achievable in many cases. *'Working Together to Safeguard Children'* states that it is reasonable to expect 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.

Oversight and monitoring

5.12 Local authorities with responsibility for schools should have a named senior officer (the Local Authority Designated Officer (LADO) who 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. In addition, the LADOs should also be involved in the management and oversight of individual cases. The LADOs will provide advice and guidance to the educational establishment, 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.

5.13 Police forces should also identify officers to fill similar roles: a senior officer to have strategic oversight of the arrangements and ensure compliance; and others, perhaps unit managers, who will be responsible for: liaising with the designated local authority 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.

Initial considerations

5.14 The procedures need to be applied with common sense and judgement. In rare cases allegations will be so serious as to require immediate intervention by children's social care and/or police. Others that meet the criteria in paragraph 5.1 may seem much less serious and on the face of it will not warrant consideration of a police investigation, or enquiries by children's social care. However, it is important to ensure that even allegations that appear less serious are seen to be followed up and taken seriously, and that they are examined objectively by someone independent of the school concerned. Consequently, the LADO should be informed of all allegations that come to a school or FE college's attention and appear to meet the criteria in paragraph 5.1, so that s/he can consult police and social care colleagues as appropriate. The LADO should also be informed of any allegations that are made directly to the police (which should be communicated via the police force's designated officer) or to children's social care.

5.15 The LADOs first step will be to discuss the allegation with the head teacher/principal (or chair of governors/**management committee**) to confirm details of the allegation and establish that it is not demonstrably false or unfounded. If the parents/carers of the child concerned are not already aware of the allegation, the LADO will also discuss how and by whom they should be informed. In circumstances in which the police or social care may need to be involved, the LADO should consult those colleagues about how best to inform parents. However, in some circumstances the establishment may need to advise parents of an incident involving their child straight away, for example if the child has been injured while at establishment or in an establishment related activity, and requires medical treatment.

5.16 The head teacher/principal should inform the accused person about the allegation as soon as possible after consulting the LADO. However, where a strategy discussion is needed, or police or children's social care may need to be involved, the head should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person. If the person is a member of a union or professional association s/he should be advised to contact that organisation at the outset.

5.17 If the allegation is not demonstrably false or unfounded, and 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 paragraph 5.54 of *Working Together to Safeguard Children*. Please note that in these cases the strategy discussion should include a representative of the educational establishment (unless there are good reasons not to do that), and take account of any information the school can provide about the circumstances or context of the allegation and the pupil and member of staff concerned

5.18 In cases where a formal strategy discussion is not considered appropriate because the threshold of "significant harm" is not reached, but a police investigation might be needed, the LADO should nevertheless conduct a similar discussion with the police, the establishment, and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with. (Please note that the police **should** be consulted about any case in which a criminal offence may have been committed.) Like a strategy discussion that initial evaluation may not need to be a face to face meeting. It should share available information about the allegation, the child, and the person against whom the allegation has been made, consider whether a police investigation is needed and if so, agree the timing and conduct of that. In cases where a police investigation is necessary the joint evaluation should also consider whether there are matters which can be taken forward in a disciplinary process in parallel with the criminal process, or whether any disciplinary action will need to wait completion of the police enquiries and/or prosecution.

5.19 If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take account of the fact that teachers and other school and FE college staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour. Advice on this issue is contained in the Department's guidance *Use of Force to Control or Restrain Pupils*, issued in November 2007, at www.teachernet.gov.uk/docbank/index.cfm?id+12187

5.20 If the complaint or allegation is such that it is clear that an investigation by police and/or enquiries by social care are not necessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss next steps with the head teacher/principal and chair of governors/**management committee**. In those circumstances the options open to the educational establishment depend on the nature and circumstances of the allegation and the evidence and information available, and will range from taking no further action to summary dismissal or a decision not to use the person's services in future.

5.21 In some such cases further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the head teacher/principal and chair of governors/**management committee** how and by whom the investigation will be undertaken. In straightforward cases that should normally be undertaken by a senior member of the establishment's staff. However, in other circumstances lack of appropriate resource within the establishment, or the nature or complexity of the allegation will require an independent investigator. Many local authorities already provide for an independent investigation of allegations in some way, often as part of the personnel services that schools and FE colleges can buy in from the authority. It is important that local authorities ensure that schools and FE colleges have access to an affordable facility for independent investigation where that is appropriate.

Suspension

5.22 The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed – in respect of the child(ren) involved in the allegations, and any other children in the individual's home, work or community life. In some cases that will require the establishment to consider suspending the person until the case is resolved.

5.23 Suspension should be considered in any case where there is cause to suspect a child is at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person **should** not be suspended automatically, or without careful thought. Educational establishments must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children until the allegation is resolved, and may wish to seek advice from their personnel adviser. Establishments should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements.

5.24 Neither the local authority, the police, nor children's social care can require an establishment to suspend a member of staff or a volunteer. The power to suspend is vested in the head teacher or principal and the governing body of the school or FE college. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by social care and/or an investigation by the police, the LADO should canvass police and social care views about whether the accused member of staff needs to be suspended from contact with children to inform the establishment's consideration of suspension.

Monitoring progress

5.25 The LADO should regularly monitor the progress of cases either via review strategy discussions or by liaising directly with the police and/or children's social care colleagues, or the employer as appropriate. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

5.26 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.

Information sharing

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

5.28 Wherever possible the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the establishment for disciplinary purposes. That should be done as their investigation proceeds rather than after it is concluded. That will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

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

Action following a criminal investigation or a prosecution

5.30 The police or the Crown Prosecution Service (CPS) should inform the school and LADO straightaway when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to prosecute after the person has been charged. In those circumstances the LADO should discuss with the head teacher or principal and chair of governors 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 should inform that decision. The options will depend on the circumstances of the case and

the consideration will need to take account of the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

Action on conclusion of a case

5.31 If the allegation is substantiated and the person is dismissed or establishment ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the establishment and its personnel adviser whether a referral to the ISA for consideration of inclusion on the barred lists or by the GTC is required. There is a legal duty on employers to refer details to the ISA where they think there are grounds for believing s/he may be unsuitable to work with children and they have removed them from relevant work with children or the person has chosen to cease work. Professional misconduct cases should be referred to the relevant regulatory body. The ISA will consider whether to bar the person from working in the children's sector, including schools and other educational establishments. Local authorities, schools, FE colleges and other bodies all have a statutory duty to make reports, and to provide relevant information to the ISA. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved. Further information on how to make a referral can be found in on the ISA website www.isa-gov.org.uk/default.aspx?page=379

5.32 In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work the establishment should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a very 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 establishment should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the establishment.

Learning lessons

5.33 At the conclusion of a case in which an allegation is substantiated the LADO should review the circumstances of the case with the head teacher or principal and chair of governors/management committees to determine whether there are any improvements to be made to the school'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.

Action in respect of unfounded or malicious allegations

5.34 If an allegation is determined to be unfounded or malicious, the LADO should refer the matter to children's social care to determine whether the child concerned is in need of services, or may have been abused by someone else. In the rare event that an allegation is shown to have been deliberately invented or malicious, the head teacher or principal should consider whether any disciplinary action is appropriate against the pupil who made it, or the police should be asked to consider whether any action might be appropriate against the person responsible if s/he was not a pupil.

Summary of process

Allegation made to school

5.35 The allegation should be reported to the head teacher or principal immediately unless the allegation is about the head teacher or principal in which case it should be reported to the chair of governors or management committee in the case of Short Stay Schools.

5.36 If the allegation meets any of the criteria set out in paragraph 5.1, the head teacher should report it to the local authority designated officer the same day.

Allegation made to the police or children's social care

5.37 If an allegation is made to the police, the officer who receives it should report it to the force designated liaison officer without delay and the LADO should inform the local authority designated officer straight away. Similarly if the allegation is made to children's social care the person who receives it should report it to the LADO without delay.

Initial consideration

5.38 The LADO will discuss the matter with the head teacher or principal and where necessary obtain further details of the allegation and the circumstances in which it was made. The head teacher **or principal** should not investigate the allegation. The discussion should also consider whether there is evidence/information that establishes that the allegation is false or unfounded.

5.39 If the allegation is not patently unfounded and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the local authority designated officer will immediately refer to children's social care and ask for a strategy discussion in accordance with *Working Together to Safeguard Children* to be convened straight away. In those circumstances the strategy discussion should include the LADO and the head teacher or principal.

5.40 If there is not cause to suspect that "significant harm" is an issue, but a criminal offence might have been committed, the LADO should immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. That discussion should also involve the school or FE college and any other agencies involved with the child.

Action following initial consideration

5.41 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. In such cases, if the nature of the allegation does not require formal disciplinary action, the head teacher or principal should institute appropriate action **within 3 working days**. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held **within 15 working days**.

5.42 Where further investigation is required to inform consideration of disciplinary action the head teacher or principal and the school or FE college personnel adviser should discuss who will undertake that with the LADO. In some settings and circumstances it may be appropriate for the disciplinary investigation to be

conducted by a person who is independent of the school or FE college. In any case the investigating officer should aim to provide a report to the employer **within 10 working days**.

5.43 On receipt of the report of the disciplinary investigation, the head teacher or principal and chair of governors should consult the LADO, and decide whether a disciplinary hearing is needed within 2 working days. If a hearing is needed it should be held within 15 working days.

5.44 In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, the head teacher or principal and chair of governors (in the case of Short Stay Schools, the teacher in charge/head teacher, management committee and local authority) should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.

5.45 The LADO should continue to liaise with the school or FE college to monitor progress of the case and provide advice /support when required or requested.

Case subject to police investigation

5.46 If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review. They should at the outset set a target date for reviewing progress of the investigation and consulting the CPS about whether to proceed with the investigation, charge the individual with an offence, or close the case. Wherever possible that review should take place **no later than four weeks** after the initial action meeting and, if the decision is to continue to investigate the allegation, dates for subsequent review should be set at that point. (It is open to the police to consult the CPS about the evidence that will need to be obtained in order to charge a person with an offence at any stage.).

5.47 If the police and/or CPS decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the police should wherever possible aim to pass all information they have which may be relevant to a disciplinary case to the employer within 3 working days of the decision. In those circumstances the employer and the LADO should proceed as described in paragraphs 5.41 to 5.45. In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, any information obtained in the course of those enquiries which is relevant to a disciplinary case should also be passed to the school or FE college.

5.48 If the person is convicted of an offence the police should also inform the employer straight away so that appropriate action can be taken.

Referral to the Independent Safeguarding Authority

5.49 If on conclusion of the case the school or FE college ceases to use the person's services, or the person ceases to provide his/her services, the school or FE college should consult the LADO about whether a referral to the ISA is required. If a referral is appropriate the report should be made within one month. See paragraph 2.36 for more information on how to make a referral.

Annexes/Appendices:

Annex A

Safeguarding Children – Additional Guidance and Advice

Voluntary Community Service by pupils

1. Pupils aged over 14 are encouraged to contribute up to 50 hours of their time to undertake activities, on a voluntary basis, that benefit their local community.

Activities can take place both in and out of school. It would not normally be necessary to apply additional safeguards for a placement of, say 10 weeks for half a day or a day per week, but local authorities, schools, Short Stay Schools and FE establishments organising placements need to ensure that policies and procedures are in place to protect children from harm, focusing greatest protection on settings in which children may be most at risk, for example when children will be placed for long periods in one to one situations with an adult. Organisations hosting these volunteering activities should be made aware of safeguarding issues and asked to cooperate in putting appropriate safeguards in place.

2. If these volunteering opportunities involve work in a regulated activity setting we do not expect pupil or students of compulsory school age to need to register with the ISA if the activity is being carried out as part of a programme of work being organised by the school or FE college that they are attending.

Abuse of trust

3. All education staff need to know that inappropriate behaviour with or towards children is unacceptable. In particular, under the Sexual Offences Act 2003 it is an offence for a person over 18 (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. This applies where the child is in full-time education and the person works in the same establishment as the child, even if s/he does not teach the child. Further information can be found at: www.teachernet.gov.uk/childprotection/guidance.htm

Physical contact with pupils including restraint and intimate care

4. It is not realistic to suggest that teachers should never touch pupils and they, and other staff in schools or FE establishments, have the right to use reasonable force to control or restrain pupils in certain circumstances. Guidance about this can be found in the Department's guidance on the Use of Force to Control or Restrain Pupils, issued in November 2007, at www.teachernet.gov.uk/docbank/index.cfm?id+12187

5. Additional guidance for local authorities and special schools on the use of restrictive physical interventions with children who display extreme behaviour is contained in DfES documents LA/0242/2002 *Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who Display Extreme*

Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders, and LEA/0264/2003 *Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties*. These can be found at: www.teachernet.gov.uk/childprotection/guidance.htm

6. Where staff and volunteers work with young children or children/young people who have special needs and may need intimate care we would suggest that the school or college draw up an **intimate care policy** that sets out for all parties what boundaries and behaviour can be expected in this area. Intimate care can be defined as care tasks of an intimate nature, associated with bodily functions, body products and personal hygiene which demand direct or indirect contact with or exposure of the genitals.

Educating children about issues (PSHE)

7. It is important to make children aware of behaviour towards them that is not acceptable and how they can help keep themselves safe. The non-statutory framework for Personal, Social, Health and Economic education (PSHE) provides opportunities for children to learn about keeping safe; and who to ask for help if their safety is threatened. As part of developing a healthy, safer lifestyle pupils should be taught, for example:

- to recognise and manage risks in different situations and then decide how to behave responsibly;
- to judge what kind of physical contact is acceptable and unacceptable;
- to recognise when pressure from others (including people they know) threatens their personal safety and well-being and develop effective ways of resisting pressure; including knowing when and where to get help;
- to use assertiveness techniques to resist unhelpful pressure; and
- to respect other people's privacy and also to recognise that they are also entitled to privacy, particularly in sensitive situations such as dressing, undressing, changing bathing or showering.

8. Issues such as domestic violence and abuse can be difficult to broach directly in the classroom. However, discussions about personal safety and keeping safe can reinforce the message that any kind of violence is unacceptable; let children know that it is okay to talk about their own problems; and signpost sources of help. Raising these issues can lead children to bring up personal problems and concerns and staff delivering lessons on these subjects need to be prepared for that possibility.

9. Links to more information about PSHE, classroom resources and sources of support, are available at: www.teachernet.gov.uk/childprotection/guidance.htm

Listening to children

10. Experience, and consultation with children, shows that they will talk about their concerns and problems to people they feel they can trust and they feel comfortable with. This will not necessarily be a teacher. It is therefore essential that all staff and volunteers in a school, FE college or other education establishment know how to respond sensitively to a child's concerns, who to approach for advice about them and the importance of not guaranteeing complete confidentiality.

11. Schools may also wish to consider identifying someone who can act as an independent listener for children to contact who have concerns or worries over personal issues.
12. Children also want to know that they will be listened to and their concerns will be taken seriously, so all education establishments should seek to demonstrate to children that they provide them with a safe environment where it is okay to talk. Displays of helpful information about such things as national children's help lines (Child Line, NSPCC) and peer support schemes for children in easily accessible places (e.g. on pupils' year planners) can encourage them to share concerns and help provide assurance about that.
13. Any member of staff or volunteer who is approached by a child wanting to talk should listen positively and reassure the child. They should record the discussion with the pupil as soon as possible and take action in accordance with the establishment's child protection procedures.
14. The available UK evidence on the extent of abuse among disabled children suggests that some may be especially vulnerable to abuse, for example those who have difficulty communicating. Learning support assistants working with children with special educational needs and disabilities provide close support to them and may encounter indications of possible abuse. Whilst extra care may be needed to ensure that signs of abuse and neglect are interpreted correctly, any suspicions should be reported in exactly the same manner as for other children.
15. The way in which a member of staff talks to a child who discloses abuse could have an effect on the evidence that is put forward if there are subsequent proceedings, and it is important that staff do not jump to conclusions, ask leading questions, or put words in a child's mouth. If a child makes a disclosure to a member of staff s/he should write a record of the conversation as soon as possible, distinguishing clearly between fact, observation, allegation and opinion, noting any action taken in cases of possible abuse and signing and dating the note.
16. Staff **should** also be aware that:
- it is not the responsibility of teachers or other staff or volunteers in schools and FE colleges to investigate suspected cases of abuse;
 - they should not take any action beyond that agreed in the procedures established by the LSCB; and
 - they cannot promise a child complete confidentiality – instead they **should** explain that they may need to pass information to other professionals to help keep the child or other children safe.

If you have concerns about a child's welfare

17. Where there are concerns about a child's welfare relevant agencies need to be involved at an early stage. If a member of staff or a volunteer has concerns about a child's welfare, or if a child discloses that s/he is suffering abuse or reveals information that gives grounds for concern, the member of staff should speak to their designated person with a view to passing on the information. *What To Do If You're Worried A Child Is Being Abused* sets out what should happen next.

18. Abuse or neglect can have a damaging effect on a child's health, educational attainment and emotional well-being. Staff may see changes of behaviour or attendance patterns in existing pupils which are likely to adversely impact on a child's performance at school or FE college. Such changes may not necessarily indicate that a child is suffering abuse or neglect. In some cases those changes may be the symptoms of an unseen disability, or undiagnosed medical condition, and the need to distinguish those cases reinforces the need for a careful and thorough assessment of the child and his/her needs when concerns are passed on.

19. Children can be put at risk of harm by a variety of behaviours. Some examples with links to further information or guidance (although not an exhaustive list) are included below whilst others can be found at: www.teachernet.gov.uk/childprotection

Drug/alcohol abusing parents

20. Drug and alcohol abuse by parents can have a serious effect on their children. 70% of children taken into care have parents who are suspected of substance misuse. Not all parents who misuse drugs or alcohol mistreat or neglect their children. But sometimes they can be put at considerable risk.

21. There is an increased risk of violence in families where parents misuse drugs or alcohol. Children can suffer from lack of boundaries and discipline and live chaotic lives. This can seriously affect their psychological and emotional development and may cause problems with their relationships later on in life. Some 350,000 young people are affected by a parent's drug misuse and 1.3 million children live with one or both parents affected by alcohol misuse.

22. The children who are most vulnerable are those whose parents are violent, aggressive, neglectful or rejecting. These children can remain "invisible" from the services intended to support them unless their behaviour attracts attention at school, FE college or elsewhere outside the home.

23. The Advisory Council on the Misuse of Drugs report on children of drug-misusing parents, Hidden Harm can be found at: www.teachernet.gov.uk/childprotection/guidance.htm

24. The Drug Strategy (2008) clearly prioritised children and families, with a commitment to support those parents affected by substance misuse and to ensure rapid access to treatment for drug-using parents.

25. All schools should have a drug and alcohol policy that clearly sets out how they will deal with drug or alcohol-related incidents. This includes incidents involving parents or ongoing problems with parental substance misuse which are having an adverse effect on the pupil, in which case the school should carry out a CAF on the pupil and if necessary make a referral to Children's Social Services or local 'Think Family' multi-agency arrangements which can address the wider family problems. Guidance can be found at www.dcsf.gov.uk/ecm/thinkfamily or www.teachernet.gov.uk/wholeschool/behaviour/drugs/ The drugs guidance is currently being updated and with a consultation on draft new guidance closing in February 2010, with final guidance produced in spring 2010.

Domestic violence

26. The effect of domestic violence on children is such that it must be considered as abuse. Either witnessing it or being the subject of it is not only traumatic in itself but is likely to adversely impact on a child and it should be treated as physical or emotional abuse as appropriate.

27. Statistics confirm the strong link between domestic violence and child abuse. One in three child protection cases show a history of domestic violence to the mother. Children in violent households are three to nine times more likely to be injured and abused, either directly or while trying to protect their parent.

28. It is widely accepted that there are dramatic and serious effects of children witnessing domestic violence, which often result in behavioural issues, absenteeism, ill health, bullying, anti-social behaviour, drug and alcohol misuse, self-harm and psychosocial impacts. Growing up in a violent household is also a major factor in predicting delinquency.

29. Moving from the former family home to new accommodation may mean that children have to change school or FE college. Any change of school or FE college can be a difficult time for a family, but the particular circumstances associated with escape from domestic violence can make it an even more difficult occasion, particularly if there is an appreciable delay before a school or FE college place can be found. If the mother changes her address often or enters a refuge to escape her violent partner, social isolation and loss of friends add to the child's insecurity. Schools and FE colleges should develop protocols focusing on the special needs and requirements of vulnerable children attending from a refuge environment.

30. Further information is available at: www.teachernet.gov.uk/childprotection/guidance.htm

Children and young people who sexually abuse

31. A distinction needs to be drawn between behaviour best dealt with by anti bullying policies and more complex behaviour which can be particularly sexually harmful and where both the perpetrator and the victim may need specialist help. Abuse is not just an adult crime. Children can pose a threat either physically or sexually to other children. Even when sexualised behaviour is identified and a pupil is on a treatment programme, they still have to be educated and managed in a school or FE college setting. Management of this behaviour in school or FE college needs to be approached on a whole school, FE college, classroom/curriculum and individual level.

32. Further information is available at: www.teachernet.gov.uk/childprotection/guidance.htm

Safeguarding children from sexual exploitation

33. Sexual exploitation of children and young people has been difficult to identify, but is increasingly recognisable as practitioners gain more understanding of grooming and other methods of sexual exploitation, and begin to take a proactive and coordinated approach to combat this type of abuse. Revised guidance *Safeguarding Children and Young People from Sexual Exploitation* was issued in August 2009. This guidance is supplementary to, and should be read in conjunction with, *Working Together to Safeguard Children*. A copy of the guidance can be found at: <http://publications.everychildmatters.gov.uk/eOrderingDownload/00689-2009BKT-EN.pdf>

Female Genital Mutilation

34. This form of physical abuse involves female genital mutilation (FGM) by way of female circumcision, excision or infibulation. FGM is extremely harmful. It is not like male circumcision. It causes long-term mental and physical suffering, difficulty in giving birth, infertility and even death. It cannot be justified as a cultural or religious practice. Leaders of all the main faiths have spoken out against it.

35. It is much more common than most people realise. Best estimates suggest there are around 74,000 women in the UK who have undergone the procedure, and about 7,000 girls under 17 who are at risk.

36. The Female Genital Mutilation Act 2003 was brought into force on 3 March 2004 and makes it an offence for the first time for UK nationals or permanent UK residents to carry out female genital mutilation (FGM) abroad, or to aid, abet, counsel or procure the carrying out of FGM abroad, even in countries where the practice is legal.

37. To reflect the serious harm that FGM causes, the Act also increases the maximum penalty from 5 to 14 years' imprisonment. Further information can be found at: www.teachernet.gov.uk/childprotection/guidance.htm

Forced marriages

38. Forced marriage is a marriage in which one or both spouses do not (or, in the case of some vulnerable adults, cannot) consent to the marriage and duress is involved. It is an entirely separate issue from arranged marriage, and the two things should not be confused. Forced marriage is a human rights abuse and falls within the Crown Prosecution Service definition of domestic violence. Young people at risk of a forced marriage are usually experiencing emotional and/or physical abuse at home.

39. The majority of forced marriages involve a young female victim, but young men can also be victims. Around one-third of the cases handled by the FMU involve children under 18 years of age.

40. If there are concerns that a child (male or female) is in danger of a forced marriage, in addition to operating normal safeguarding procedures, the Forced Marriage Unit should be contacted. The Forced Marriage Unit (a joint Home Office/ Foreign and Commonwealth Office Unit) was launched in January 2005 as the UK's 'one stop shop' for forced marriage. It is responsible for developing Government policy on forced marriage, for raising awareness and for casework. It runs a public helpline that provides confidential advice and support to victims, and to practitioners

handling cases of forced marriage. Caseworkers in the Unit have extensive experience of the cultural, social and emotional issues surrounding forced marriage. They can also directly assist to help British nationals facing forced marriage abroad by helping them to a place of safety and helping them to return to the UK. The helpline number is 0207 008 0151 (www.fco.gov.uk/forcedmarriage).

41. There may be only one opportunity to speak to a potential victim of forced marriage, so an appropriate initial response is vital. Without the right information being taken down (for example, a traceable address overseas), a victim may never be seen again. It is important to gather as much information as possible about the victim immediately, but this should be done on their own, in a private place where the conversation cannot be overheard. Victims should be reminded of their rights – they have the right to choose who they marry and the right to make decisions about their lives.

42. Many victims are terrified that their families will find out that they have asked for help. **Do not** inform the victim's family, friends or members of the community that the victim has sought help as this will likely increase the risk to the victim significantly. Forced marriage is closely linked to honour-based violence and honour killings. All those involved will want to bear in mind that **mediation as a response to forced marriage can be extremely dangerous**. There have been cases of victims being murdered by their families during mediation. Mediation can also place someone at risk of further emotional and physical abuse.

43. All those with a duty to safeguard and promote the welfare of children should have regard to the statutory guidance *The Right to Choose: Multi-agency statutory guidance for dealing with forced marriage*⁹⁶. This statutory guidance sets out the responsibilities of Chief Executives, directors and senior managers. It covers issues such as staff training, developing inter-agency policies and procedures, raising awareness and developing prevention programmes through outreach work.

44. In addition to this, all practitioners working with children should have access to *Multi-agency practice guidelines: Handling cases of Forced Marriage*⁹⁷, published by the Government in 2009. These guidelines provide advice and support to front line practitioners.

Parental involvement

45. All parents need to understand that schools and FE colleges have a duty to safeguard and promote the welfare of children who are their pupils or students, that this responsibility necessitates a child protection policy and procedures, and that a school or FE college may need to share information and work in partnership with other agencies when there are concerns about a child's welfare. It may be helpful to include a reference to this in the establishment's prospectus or other information provided to parents and pupils or students.

46. In general professionals should seek to discuss any concerns about a child's welfare with the family and, where possible, seek their agreement to making referrals to children's social care. However this should only be done where it will not place a child at increased risk of significant harm. It is particularly important that in cases where forced marriage is suspected, the advice of the Forced Marriage Unit is sought before involving family members. The child's views should also be considered in

deciding whether to inform the family in some circumstances, particularly where the child is sufficiently mature to make informed judgements about the issues, and about consenting to that.

47. Where there are any doubts or reservations about involving the child's family, the designated person should clarify with the statutory agencies, whether, and if so when and by whom, the parents should be told about the referral. That may also be important in cases where the police may need to conduct a criminal investigation. Where appropriate, they should help parents understand that a referral is in the interests of the child and that the establishment will be involved in the s.47 enquiry as per the Children Act 1989, or a police investigation. The establishment should keep the parents informed of the educational progress of the child.

Safeguarding children and young people in contact with Higher Education institutions

48. Currently higher education (HE) institutions are not required by law to obtain CRB disclosures. However, HE institutions are aware of the need to safeguard children and take this issue very seriously. Most HE institutions have a nominated senior officer with responsibility for safeguarding children; many have or developing written policies; and most undertake CRB checks on staff where they consider it appropriate to do so.

49. Some outreach activities, and the staff, volunteers or students engaged on them, may fall under provisions on regulated positions contained in the Criminal Justice and Court Services Act 2000. (The Act defined as regulated position and the definition includes "a position whose normal duties include caring for, training, supervising or being in sole charge of children". **In such cases, it is common practice for HE institutions to obtain CRB Disclosures at an enhanced level.** As an alternative, HE institutions could ascertain whether an individual is included **on the ISA barred lists** by contacting **the ISA** (telephone 01325 953 795).

50. HE institutions may use other people for whom these duties are not a "normal" part of their position. This includes, for example, undergraduates involved in mentoring children. HE institutions may be undertaking risk assessments to determine what action, if any, to take. **The action taken will depend on the level of risk identified and may or may not include a CRB Disclosure. This does not mean that every person coming into contact with the child during the activity should obtain a CRB Disclosure. Indeed, it is unlikely that there will be any need to undertake checks on the vast majority of staff at an HE institution, and CRB checks on undergraduates will be very much the exception.**

51. Schools and FE colleges will want to be sure that, as far as possible, action is taken to minimise risks, **including through the use of CRB Disclosures, where appropriate.** If an HE institution is unable or unwilling to provide the necessary assurances, the school or FE college will have to consider the implications for meeting its own responsibilities for the safeguarding the children concerned, and for the participation of children under its care in activities put on by the HE institution. Such cases are, however, likely to be rare.

Children not receiving a suitable education

52. All schools and FE colleges (including independent and non-maintained schools) should notify the LA when children of compulsory school age leave the roll, and to inform them of the destination where this is known to them.

Overseas pupils

53. Local Authorities Every Child Matters responsibilities extend to all children receiving services in their areas, and schools and FE colleges should contact the Local Authority when they have concerns about the welfare of an overseas pupil. Pupils who receive education in schools in England, but who are not ordinarily resident in England, are covered by ContactPoint.

Pupils placed in a school by a local authority

54. Regulations to be made under the Children and Young Persons Act 2008 concerning support for pupils in long term residential placements ensure that pupils placed by an LA in a residential school should be visited regularly by a representative of their placing authority, and have ongoing direct access to an independent visitor, whom they may also contact between scheduled visits, with whom they are able to raise any concerns about their safety and wellbeing. LAs should satisfy themselves that safeguarding arrangements at a school or FE college are satisfactory before making a placement. They should also request regular updates and contribute to the school inspections process by offering their views to the various relevant inspectorates.

Post-16 provision in independent FE colleges.

55. *Safer Practice, Safer Learning* sets out the safeguarding responsibilities of further education colleges, adult and community learning providers and providers of work-based training in the Learning and Skills Sector in England. Although the guidance is targeted at safeguarding vulnerable adults, recognising that certain groups of people are legally identified as vulnerable, it sets out the aim of having fully inclusive and integrated 'safer' practices that apply to all staff and learners. This creates a safer environment for all.

Photographing children at school events

56. Unless a child has special circumstances involving a need to protect their identity, (witness protection scheme or similar issues such as a family relocating to flee domestic abuse) there are no child protection issues involved in parents or other relatives wanting to photograph their children taking part in events at school such as drama productions or sporting events. Consent is not required for photographs taken for personal use unless the school or individual is seeking to retain or publish the photographs for commercial or publicity purposes. Consent might be needed in such cases for data protection reasons.

57. We do recommend that if a school is considering publishing photographs of children, that they do not include the full name of the child with the photograph.

58. Further advice on this issue can be obtained from the Information Commissioner's Office www.ico.gov.uk

Regular visitors to schools

59. Regular visitors to the same school who have contact with the same groups of children on a frequent or intensive basis will need an enhanced CRB check and will be required to register with the Independent Safeguarding Authority.

60. However this will **not** be required in cases where a person may visit a school only once but their work takes them into numerous schools as a one off visit. This would be likely to apply to visiting authors, drama companies, poets and other people who visit an individual school to deliver a one off session for pupils, but will repeat such sessions in other schools on a regular basis.

Safeguarding children from involvement in violent extremism

61. One of the risks that children and young people can be affected by today is exposure to or involvement with groups or individuals who condone violence as a means to a political end. Violent extremist causes range from animal rights to far right to international terrorist organisations such as Al Qaeda. Children and young people can be drawn in to violence themselves or they can be exposed to messages if a family member is involved in an extremist group.

62. Evidence suggests that young people from their teenage years onwards can be particularly vulnerable to getting involved with radical groups, through direct contact with members or, increasingly, through the internet. This can put a young person at risk of being drawn in to criminal activity and has the potential to cause significant harm.

63. Levels of risk vary across different areas so LSCBs and children's services practitioners should ensure they are informed of the particular risks in their area.

64. Further guidance on this issue can be found in *Learning Together to be Safe: a toolkit to help schools contribute to the prevention of violent extremism* DCSF-00804-2008

Private fostering

65. A private fostering arrangement is essentially one that is made privately (that is to say without the involvement of a local authority) for the care of a child under the age of 16 (under 18, if disabled) by someone other than a parent or close relative for 28 days or more, in the carer's own home.

66. Privately fostered children are a diverse and potentially vulnerable group. Privately fostered children include those where arrangements are made due to parental illness or distress or when parents' work or study involves long or anti-social hours. They also include young people who stay with friends because they have fallen out with their parents and children staying with families while attending a school away from their home area or children from overseas whose parents do not reside in this country.

67. Under the Children Act 1989, private foster carers and those with parental responsibility are required to notify the local authority of their intention to privately foster or to have a child privately fostered. It is an offence not to notify of an arrangement or to comply with any requirement or prohibition imposed by the authority. Certain people are disqualified from being private foster carers.

68. Private fostering is a key area of child protection and all professionals working with children have an important role to play in relation to safeguarding privately fostered children. Teachers, health and other professionals should notify the local authority of a private fostering arrangement that comes to their attention, where they are not satisfied that the local authority has been or will be notified of the arrangement.

69. Further information on private fostering is available at: **www.dcsf.gov.uk/everychildmatters/safeguardingandsocialcare/safeguardingchildren/privatefostering/fostering**.

Appendix 1: Relevant guidance

The following guidance issued by the Secretary of State may be relevant when drawing up policies and procedures to safeguard and promote the welfare of children in accordance with Section 175 of the Education Act 2002. All of these documents are available from: www.teachernet.gov.uk/childprotection/guidance.htm

<i>PSHE Sex & Relationship Education Guidance</i> DfEE 0116/2000 (Under revision)
Staffing Guidance Under Section 35 (8) and 36 (8) of the Education Act 2002
<i>Extended Schools – A Guide for Governors</i> NGA 2006
<i>Governance of Sure Start Children’s Centres and Extended Schools</i> 2007
<i>Sure Start Children’s Centre Guidance</i> (Under Revision)
<i>School Security – A legal toolkit for schools: tackling abuse, threats and violence towards members of the school community</i> DfES/0504/2002 (due for revision)
<i>Learning Together to be Safe: a toolkit to help schools contribute to the prevention of violent extremism</i> DCSF-00804-2008
<i>ISA Referral Guidance</i>
<i>Caring for Young People and the Vulnerable: Guidance for preventing abuse of trust</i> (published by the Home Office, Department for Education and Employment, Department of Health, National Assembly for Wales and the Northern Ireland Office)
<i>Work Related Learning at Key Stage 4: Advice for Practitioners on Legal Background & Other Areas</i> DfES/0132/2003
<i>Safe to Learn – Embedding anti-bullying work in schools</i>
Health & Safety of Pupils on Educational Visits and supplementary guidance <ul style="list-style-type: none"> • Standards for local authorities in Overseeing Educational Visits • Standards for Adventure • Handbook for Group Leaders (all under revision)
<i>Health and Safety: Responsibilities and Powers</i> DfES/0803/2001 (due for revision)
<i>Work Experience: Legal Responsibility and Health and Safety</i> (May 1999)
<i>“Safe Place to Be”</i> publication from QiSS Under Development and focussing on study support
4Children developing a web based extended services toolkit.

<p>Guidance on First Aid for Schools: Good Practice Guidance</p> <p><i>Managing Medicines in Schools and Early Years Settings should be included.</i> 1448-2005DCL-EN (Under revision)</p> <p><i>Drugs: Guidance for Schools</i> DfES/0092/2004 (Under revision)</p>
<p>Statutory guidance on the duty on local authorities to promote the educational achievement of looked after children under section 52 of the Children Act 2004 (Due for revision)</p>
<p>Governors Guides to the Law</p>
<p><i>Together from the Start: Practical Guidance for Professionals Working With Disabled Children (birth to third birthday) and Their Families</i> LA/0067/2003</p> <p>SEN Code of Practice DfES/0581/2001</p>
<p><i>Working Together to Safeguard Children</i> (2006) (Published by The Stationery Office on behalf of the Department for Education and Skills) (Under revision)</p>
<p><i>Framework for the Assessment of Children In Need Practice Guidance</i> (2000) (published by Department of Health, Home Office and Department for Education and Employment)</p>
<p><i>What to Do if You are Worried a Child is Being Abused. Children's Services Guidance</i> (published by Department of Health, Department of Culture Media and Sports, Department for Education and Skills, Home Office, Office of the Deputy Prime Minister and the Lord Chancellors Department)</p>
<p>Registration of Independent Schools Information Pack</p>
<p><i>Use of Force to Control or Restrain Pupils</i>, issued in November 2007, at www.teachernet.gov.uk/docbank/index.cfm?id+12187</p> <p><i>Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who Display Extreme Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders</i> LA/0242/2002</p> <p><i>Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties</i> LEA/0264/2003</p>

Appendix 2: Broad areas of responsibility proposed for Local Authority Lead Officers and specific issues within those areas

Coordination

Staff structure to deliver responsibilities.

Funding for local authority activities.

Provision of advice, guidance and support

Casework, court appearances, legal issues.

New legislation.

Managing reports of missing pupils.

Allegations against staff.

Specific circumstances of abuse:

- female genital mutilation, forced marriage, fabricated or induced illness, domestic violence, child on child abuse, sexual exploitation, young carers.

Development of good working relationships and partnerships

Membership of LSCB.

Maintaining supportive and effective working relationships within the department and inter agency.

Network of senior designated persons for child protection.

Relationships with non-local authority educational establishments and organizations including independent sector and FE colleges.

Relationships with voluntary groups.

Training and awareness raising

Single agency, Interagency.

Written guidance.

Promoting safe and positive environments

Recruitment and selection.

Curriculum (formal and informal).

Code of conduct for staff.

Confidentiality, record keeping, transfer of records.

Support for abused pupils to enable full use of educational opportunities.

Issues in residential schools.

Management of allegations

Procedures and guidance.

Training, links with other agencies, record keeping.

Monitoring and reporting.

Casework management.

Development and planning

Corporate commitment to multi-agency work.

Local authority policy, overview of local authority activities.

Development of the work of the local authority: inclusion of child protection in all plans.

Children's services plans and similar.

Contribution to the work of the LSCB and its subgroups.

Development of single agency procedures and practice guidance.

Specific issues which may have a child protection dimension:

- Health and safety, restraint, bullying.
- School trips, transport of pupils, residential visits, school exchange visits.
- Child employment, work experience, taking & using images of children.
- Pupils without a school place.
- Showers and changing arrangements.
- Parents and other volunteer helpers.
- First aid and administration of medicine.
- Extended school arrangements and after school clubs.
- Internet use.
- Children with parents who have mental illness or disability.
- Children with parents who misuse substances or drugs.
- Children in residential schools outside the local authority.

Monitoring

Contribution to work of LSCB and departmental Quality Assurance groups.

Senior Designated Persons and status of training.

Referrals to children's social care (numbers, quality and response).

Level of child protection activity within schools and links to training received.

Governors and status of training.

School policies, attendance at case conferences.

Children subject to a child protection plan.

Procedures and policies are in place in each school.

Record keeping in schools.

Compliance with DCSF, LSCB procedures or standards.

Implementation of recommendations of Part 8 reviews or similar.

Use of restraint.

Accountability

Representation of local authority at local and national level.

Personal training to be able to fulfil the role.

Liaison with Personnel Services Provider

Safe recruitment and selection procedures, vetting arrangements.

Disciplinary procedures and consideration of suspension.

Appendix 3: Broad areas of responsibility proposed for the Designated Senior Person for child protection

Referrals

Refer cases of suspected abuse or allegations to the relevant investigating agencies.

Act as a source of support, advice and expertise within the educational establishment when deciding whether to make a referral by liaising with relevant agencies.

Liaise with head teacher or principal (where role not carried out by the head teacher or principal) to inform him or her of any issues and ongoing investigations and ensure there is always cover for this role.

Training

To recognise how to identify signs of abuse and when it is appropriate to make a referral.

Have a working knowledge of how LSCBs operate, the conduct of a child protection case 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 child protection policy especially new or part time staff who may work with different educational establishments.

Ensure all staff have induction training covering child protection and are able to recognise and report any concerns immediately they arise.

Be able to keep detailed accurate secure written records of referrals and/or concerns.

Obtain access to resources and attend any relevant or refresher training courses at least every two years.

Raising awareness

Ensure the establishment's child protection policy is updated and reviewed annually and work with the governing body, management committee or proprietor regarding this.

Ensure parents see copies of the child protection policy which alerts them to the fact that referrals may be made and the role of the establishment in this to avoid conflict later.

Where children leave the establishment ensure their child protection file is copied for new establishment as soon as possible but transferred separately from the main pupil file.

Appendix 4: Recruitment and selection checklist

Pre-interview:	Initials	Date
<p>Planning Timetable decided: job specification and description and other documents to be provided to applicants reviewed and updated. Application form seeks all relevant information and includes relevant statements about references etc. – paragraphs 3.18-3.32 and 3.35</p>		
<p>Vacancy advertised (as appropriate) Advertisement includes reference to safeguarding policy, i.e. statement of commitment to safeguarding and promoting welfare of children, and need for successful applicant to be CRB checked – paragraphs 3.15 and 3.18</p>		
<p>Applications on receipt scrutinised – any discrepancies/anomalies/gaps in employment noted to explore if candidate considered for short listing – paragraphs 3.33 and 3.36</p>		
<p>Shortlist prepared</p>		
<p>References – sought directly from referee on short-listed candidates: ask recommended specific questions: include statement about liability for accuracy – paragraphs 3.35 and 4.65 to 4.71</p>		
<p>References – on receipt Checked against information on application; scrutinised; any discrepancy/issue of concern noted to take up with applicant (at interview if possible) – paragraphs 4.72</p>		
<p>Invitation to interview Includes all relevant information and instructions – paragraphs 3.39</p>		
<p>Interview arrangements At least 2 interviewers: panel members have authority to appoint: have met and agreed issues and questions/assessment criteria/standards – paragraphs 3.43-3.45</p>		

Interview	Initials	Date
Explores applicants' suitability for work with children as well as for the post – paragraphs 3.46 and 3.47. Identity and qualifications of interview candidates verified on day of interview by scrutiny of appropriate original documents: copies of documents taken and placed on file; where appropriate applicant completes application for CRB Disclosure – paragraphs 3.40-3.41		
Conditional offer of appointment: pre-appointment checks	Initials	Date
Offer of appointment made subject to satisfactory completion of the following pre-appointment checks and for non-teaching posts a probationary period – paragraphs 3.48-3.51:		
References (if not obtained and scrutinised previously) paragraph 3.35		
Identity (if that could not be verified straight after the interview) paragraph 4.13		
Qualifications (if not verified on the day of interview) paragraph 4.63		
Permission to work in UK paragraph 4.113 and Appendix 5		
Evidence of additional overseas checks if required 4.114-4.118		
CRB – Satisfactory CRB Disclosure received paragraphs 4.41-4.56		
ISA registration – 4.37		
Health – the candidate is medically fit paragraph 4.73		
GTC England – (for teaching posts in maintained schools and non-maintained special schools) the teacher is registered with the GTC or exempt from registration paragraph 4.74		
QTS – (for teaching posts in maintained schools the teacher has obtained QTS or is exempt from the requirement to hold QTS (for teaching posts in FE colleges the teacher has obtained a Post Graduate Certificate of Education (PGCE) or Certificate of Education (Cert Ed.) awarded by a Higher Education institution or the FE Teaching Certificate conferred by an Awarding Body paragraph 4.75-4.78 FE have similar requirements in relation to QTLS or ATLS status 4.85		
Statutory induction (For teachers who obtained QTS after 7 May 1999) paragraph 4.79		

Appendix 5: Permission to work and documents for staff from overseas

Permission to work in the UK

This Appendix is intended to accompany the *Comprehensive Guidance for employers on preventing illegal working* published by the UKBA and this guidance and this and other related information can be downloaded from:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/currentguidanceandcodes/comprehensiveguidancefeb08.pdf?view=Binary>

The above guidance also contains examples of the different types of documents that will allow you to confirm that the person has permission to work or volunteer in the UK.

If you have any further queries you should contact the UKBA's dedicated Employers Helpline on 0845 010 6677.

Employers, agencies schools and FE colleges need to be sure that foreign nationals have permission to work or volunteer in the UK. Nationals of Gibraltar, Switzerland and of countries within the European Economic Area (EEA) do not need permission to take employment here and can be employed on the same basis as UK nationals. A list of countries within the EEA is given below:

EEA Countries including 2004 Accession countries (*): Austria, Belgium, France, Germany, Italy, Luxembourg, Netherlands, Denmark, Iceland, Ireland, Liechtenstein, Norway, UK, Greece, Portugal, Spain, Finland, Sweden, Cyprus*, Czech Republic*, Estonia*, Hungary*, Latvia*, Lithuania*, Malta*, Poland*, Slovakia*, Slovenia*.

Nationals of countries marked* (other than Cyprus and Malta) who wish to work for more than one month for an employer in the UK need to register under the Worker Registration Scheme. Once they have worked legally in the UK for more than 12 months without a break there is no need to register on the Worker Registration Scheme. More information can be found at **http://www.workingintheuk.gov.uk/working_in_the_UK/en/homepage/schemes_and_programmes.htm**

There are different arrangements for nationals of Bulgaria and Romania. From 1 January 2007 nationals of Bulgaria and Romania have the right to travel throughout the EU as the countries joined the EU on this date. Skilled Romanian and Bulgarian workers with the right qualifications and experience will continue to be allowed to come to the UK on work permits to take up specific jobs where no suitable UK

applicants can be found. Bulgarian and Romanian workers with high levels of skills and experience will continue to be admitted under the Highly Skilled Migrants Programme. More information can be found at www.ukba.homeoffice.gov.uk/workingintheuk/eea/bulgariaromania/liveworkuk/

Most other foreign nationals will need permission to work in the UK. If there is uncertainty about whether an individual needs permission then prospective employers should contact the UK Border Agency's immigration enquiry bureau at UK Border Agency, Lunar House, 40 Wellesley Road, Croydon, CR9 2BY. E-mail UKBApublicenquiries@ukba.gsi.gov.uk or telephone 0870 606 7766.

Under the Education (Specified Work and Registration) (England) Regulations 2003 an overseas trained teacher may work as a teacher in a school in England (other than a Short Stay School) for a period of up to four years if s/he has successfully completed a programme of professional training for teachers in any country outside the UK which is recognised by the competent authority in that country. The four year period commences on the day the teacher first worked as a teacher in England and expires four years later, regardless of any breaks in teaching and irrespective of immigration status. In order to continue teaching after this four year period has expired, the overseas trained teacher must have obtained been awarded qualified teacher status (QTS) and full registration with GTC. Teachers on TDA's Overseas Trained Teacher Programme who have more than 2 years teaching experience may be exempt from the requirement to complete an induction period. The school should check what age ranges and subjects were covered in initial training, and what practical experience the teacher has gained on or following the training course. When teachers claim to be overseas trained, either within the European Economic Area or elsewhere, employers should ask for proof of their qualifications (originals if possible, or certified copies).

The points-based system

Most non-EEA teachers will require permission to work under Tier 2 of the Points-Based System. Tier 2 replaced the old work permit arrangements in 2008 (other than for Bulgarian and Romanian nationals).

To sponsor a teacher under Tier 2, either the school or the LEA must be licensed by the UK Border Agency to act as a sponsor. Tier 2 cannot be used for casual or ad hoc work as a supply teacher. Prospective employers can obtain further advice on sponsorship, and can apply for a sponsor licence online, at www.ukba.homeoffice.gov.uk/employers/points/ or can contact the sponsorship and employers' helpline by e-mail at sponsorshipPBSenquiries@ukba.gsi.gov.uk or telephone 0300 123 4699.

Teachers applying to work in a shortage occupation need to score points for having a certificate of sponsorship from the school or LEA; for their English language ability; and for maintenance (level of available funds to support themselves).

The following teaching jobs are currently shortage occupations:

- secondary education teachers in the subjects of maths or pure sciences (physics, chemistry, biology and any combinations of these)
- all teaching posts in special schools

The shortage occupation list is reviewed every six months by the independent Migration Advisory Committee. The latest list can be found at www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/shortageoccupationlist/

Teachers in jobs that are not on the shortage occupation list can still be sponsored under Tier 2. However, there are additional requirements. The job must pass the Resident Labour Market Test (www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/residentlabourmarkettest/). The teacher must also score additional points for his/her qualifications and/or prospective earnings. For example, a teacher with a Bachelor degree will need to have a prospective salary of £20,000 in order to score enough points under Tier 2.

Further information about making a Tier 2 application is available at www.ukba.homeoffice.gov.uk/workingintheuk/tier2/general/

The DCSF, pays for certificates of sponsorship issued for teachers in state maintained schools and non maintained special schools in England. DCSF pay for the certificates of sponsorship directly to the UK Border Agency every month.

Nationals of Australia, Canada, Japan or New Zealand who have been admitted to the UK under the Tier 5 Youth Mobility Scheme (the successor to the working holidaymaker scheme) are permitted to work without needing further permission. This means that they could work as a supply teacher or full-time. However, on expiry of their Tier 5 visa they will not be permitted to continue working in the UK. Youth Mobility Scheme participants are not permitted to switch into Tier 2 employment.

Volunteers and permission to work

Permission to work is required for all staff and volunteers. Some categories within the Tiers of the Points-Based System allow the person to undertake voluntary work without the need to obtain further permission. The following categories in the Points-Based System, for example, do permit unpaid voluntary work:

- Tier 1 (General)
- Tier 1 (Investor)
- Tier 1 (Post Study)
- Tier 2 (all categories)
- Tier 4 (all categories)
- Tier 5 (Youth Mobility Scheme)

Permission granted under the Tier 5 (Temporary Worker) – Charity Worker, however, only permits the holder to undertake voluntary work for the sponsor and supplementary voluntary work for similar charities. Voluntary work is not usually permitted under the other Tier 5 (Temporary Worker) sub-categories or is not permitted at all under Tier 1 (Entrepreneur).

Asylum seekers are also only allowed to volunteer for a registered charity, a voluntary organisation or a body that raises funds for either of these types of organisation.

Appendix 6: The Criminal Records Bureau

Who should register with the CRB?

In the Department's view the following organisations and establishments in the education sector will, or may, need to register to authorise applications for Standard and Enhanced CRB Disclosures:

- i.** Local authorities and other organisations that provide personnel services to schools;
- ii.** diocesan authorities that provide personnel services to aided schools, or intend to make checks on people they nominate as foundation governors of aided schools;
- iii.** independent schools and any maintained schools that provide their own personnel services;
- iv.** FE colleges that provide their own personnel services;
- v.** employment agencies and businesses that provide supply teachers and/or other staff to schools and/or FE colleges;
- vi.** Connexions service partnerships;
- vii.** higher education institutions which provide initial teacher training, or other training that involves students in working with children as part of their course, or that routinely includes students under 18 years of age.

Organisations wishing to register with the CRB directly need to meet a number of registration requirements, which include a volume threshold. Alternatively organisations can access CRB Disclosures through organisations that are already registered with the CRB and who provide an Umbrella service.

Should schools register with the CRB?

Local authorities should act as the registered body and authorise all applications for CRB Disclosures for the schools they maintain and for which they provide personnel services. Other organisations that provide personnel services to schools should also register and arrange checks for their client schools. Only independent schools and any other schools, that provide their own personnel services in-house, for example academies and foundation schools should register with the Bureau in their own right, however, there is a threshold limit of 100 checks a year, so any organisation requiring less than this number will need to register via an umbrella body. In the case of community schools that do not obtain personnel services from their local authority, the authority will need to make arrangements with the school, or the body that provides the school's personnel services, to ensure that it is given the assurance that the check on a new employee shows that he or she is not barred. This is necessary to fulfil the authority's statutory duty not to employ a barred person.

How long will it take the CRB to process an application for a CRB check?

The CRB undertakes to provide 90% of Standard Disclosures within 10 days of receiving a correctly completed application form, and 90% of Enhanced Disclosures within 28 days of receiving a correctly completed form.

Who should be asked to apply for a CRB check?

Standard CRB Disclosure

People who are selected for appointment to a position in a Further Education institution in which the normal duties involve regular contact with children under the age of 18 (but which is not providing education). Anyone who is selected for appointments to a position in a regulated position as set out in section 36 of the Criminal Justice and Court Services Act 2000.

Pupils who undertake short periods of work experience that involve contact with children in other schools or education establishments need not apply for Disclosure. However, students who are required to work with children as a necessary part of a training course, e.g. student teachers, nursery nurses, etc, will need to apply for disclosure when they are accepted onto the course.

Enhanced CRB Disclosure

Teachers, other staff and volunteers whose job involves regularly caring for, training, supervising or being in sole charge of children under 18 years of age should obtain an Enhanced Disclosure; as must all⁹⁸ members of the schools workforce. This includes applicants for teacher training courses, and trainee teachers. All new FE staff providing education and who regularly care for, train, supervise or have sole charge of persons under 18 will require a CRB Enhanced Disclosure⁹⁹. School and FE college governors require an enhanced Disclosure for positions that include regular work in the presence of children, or where they care for, train, supervise or are in sole charge of children. The DCSF School Governors Centre website (www.dcsf.gov.uk/governor/index.cfm) and the A-Z of School Leadership and Management (www.dcsf.gov.uk/a-z/home.html) contain further information about obtaining Disclosures on school governors.

Is there a charge for CRB Disclosures?

Yes. See www.crb.gov.uk for up to date charging information. It will be up to employers and organisations which ask for the CRB Disclosure, to decide whether or not they wish to reimburse the applicant or pay on his or her behalf. Volunteers will not be charged for a CRB Disclosure.

What is meant by additional information?

This is information held on local police records, which does not form part of a person's criminal record. It is often called 'non-conviction' information. Each Chief Constable decides what, if any, non-conviction information should be released in response to an application for a CRB check. While non-conviction information can be included on both copies of the CRB check, particularly sensitive information, such as details of a police investigation, will be sent under separate cover to the Registered Body only. In these circumstances, the employer's copy of the CRB Disclosure will

indicate that the police are sending further information by letter. This information must not be passed on to the applicant. The recipient must not pass on the information, even to the school, without the permission of the Chief Police Officer¹⁰⁰.

Can a registered person or body share information from a Disclosure?

The Police Act 1997 makes unauthorised disclosure of any information revealed in a Standard or Enhanced CRB Disclosures a criminal offence. However, the Act provides for information to be passed on in various circumstances in addition to those highlighted in paragraph 4.52. For example:

- i. the person who countersigned an application for a CRB Disclosure can share the information with another member of the Registered Body if the other person needs to know the information for the purpose of his or her duties;
- ii. if the person countersigned the application on behalf of another body (e.g. a local authority arranged a check for a school) the countersignatory can pass the information to that body;
- iii. where a body receives information from a registered person as above, the information can be shared with members of that body who need to know it for the purposes of their duties, and
- iv. information can be passed to a government department.

If anyone in possession of Disclosure information is in any doubt about whether he or she can pass on the information to someone else, he or she should seek advice from the lead countersignatory of the registered body which authorised the check.

Supplementary guidance from the bureau.

It is an offence to knowingly permit a person to engage in a regulated activity from which he or she is barred¹⁰¹. If a Disclosure reveals that the ISA has placed included the person on the Children and/or Adult's barred lists, the person must¹⁰² not in any circumstances be placed in a post in regulated activity.

How does an employer decide whether a person's criminal record is relevant?

An applicant's suitability should be judged in the light of the results of all the relevant pre-appointment checks carried out on him or her. The fact that a person has a criminal record does not automatically make him or her unsuitable for work with children. Employers, in conjunction with the registered body or person authorised to receive Disclosure information, should make a judgement about suitability, taking into account only those offences which may be relevant to the particular job or situation in question. Neither the Department nor the ISA can advise employers whether or not they should employ a particular person. In deciding the relevance of convictions a number of points should be considered:

- i. **the nature of the offence:** In general, convictions for sexual, violent or drug offences will be particularly strong contra-indications for work with children;

ii. **the nature of the appointment:** Often the nature of the appointment will help to assess the relevance of the conviction. For example, serious sexual, violent, drug or drink offences would give rise to particular concern where a position was one of providing care. Driving or drink offences would be relevant in situations involving transport of children;

iii. **When the offence was committed:** Offences which took place many years in the past may often have less relevance than recent offences. However, convictions for serious violent or sexual offences or serious offences involving substance abuse are more likely to give cause for continuing concern than, for instance, an isolated case of dishonesty committed when the person was young. The potential for rehabilitation should be weighed against the need to protect children;

iv. **the frequency of the offence:** A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.

Anyone who is barred from work in the education sector¹⁰³ or with children on the grounds that he or she is unsuitable to be employed to work with children¹⁰⁴, will also be disqualified from all work with children¹⁰⁴ in a regulated position as set out in section 36 of the Criminal Justice and Court Services Act 2000. It is an offence for a disqualified person to apply for, offer to do, accept or do any work in any of the regulated positions set out in the Act (Appendix 12). It is also an offence for an employer knowingly to offer work in a regulated position, or to procure work in a regulated position for an individual who is disqualified from working with children, or to fail to remove such an individual from such work. The CRB will inform the police if a disqualified person attempts to obtain work with children.

The CRB has also produced guidance for employers on judging the suitability of applicants.

Where can I find out more about the CRB?

Further information about the CRB and its service can be found on its website at: **www.crb.gov.uk**. Alternatively, the CRB can be contacted by post or telephone. The CRB's address is PO Box 110, Liverpool L69 3EF. The information line number is: 0870 90 90 811 and the Registration application line for organisations wishing to register to authorise checks is 0870 90 90 822.

Appendix 7: Guidance for employment agencies supplying staff to schools and FE colleges

Employment agencies and employment businesses (referred to in this guidance as 'agencies'), schools and FE colleges must comply with the requirements of the School Staffing (England) Regulations 2009 and the Further Education (Providers of Education) (England) Regulations 2006 in relation to the use of supply staff. Agencies must also comply with the Conduct of Employment Agencies and Employment Businesses Regulations 2003. The key provisions of these regulations are summarised below.

a) Summary

Agencies are not allowed to introduce or supply a work-seeker to a hirer unless they have made checks to ensure that both work-seeker and hirer are aware of any legal or professional body requirements, which either of them must¹⁰⁵ satisfy to enable the work-seeker to work for the hirer. So in the case of agencies supplying staff to schools or FE colleges, the agency should check that any supply staff have the qualifications required for the post the hirer is seeking to fill.

Schools and FE colleges must ensure that before a supply worker is allowed to commence work the agency has supplied written confirmation [direct not via the person being hired] that all the recruitment checks required have been satisfactorily completed. *Where the CRB Disclosure contains information a copy of the CRB Disclosure must¹⁰⁶ be supplied to the school or FE college. This can be faxed but agencies should first confirm by phone that a fax is being sent; and should, for security, first fax a blank sheet of paper and confirm receipt by the designated individual, to ensure it has been sent to the correct fax number. Recipients should be aware of the CRB Code of Practice when handling Disclosures, as copies must be handled in the same way as originals; see www.crb.gov.uk If a CRB Disclosure is pending, this fact must also be notified to the school or FE college, with details of when the Disclosure was sought. Subsequent clearance should then be notified to the school or FE college with a copy of the certificate if it contains information.*

b) Step by step guide

1) what agencies/employment businesses have to do before introducing a teacher or any other worker to a school or FE college

- The Conduct Regulations require the agency to make all reasonable enquiries to ensure that the interests of the work seeker or hirer (i.e. in this case the school or FE college) would not be harmed if the work seeker were to carry out the work.

- Further requirements are placed on agencies where the position involves working with vulnerable persons (e.g. school children, FE college students).
- These obligations require the agency to obtain, and offer to the hirer, copies of the work seeker's relevant qualifications or authorisations, and two independent references.
- Where the work seeker is to work with children, the agency is also required to take all reasonable steps to confirm that the work seeker is not unsuitable for the work.
- While the Conduct Regulations do not spell out what "all reasonable steps" means, the School Staffing (England) Regulations 2009 and the Further Education (Providers of Education) (England) Regulations 2006 specify that a CRB Disclosure must be obtained, and a copy supplied for supply staff to the relevant school or FE college where the Disclosure includes information. This requirement applies to all staff in schools but in FE colleges only to those staff providing education who regularly care for, train, supervise or have sole charge of persons under 18.

2) How to get a CRB Disclosure, and role of umbrella bodies

See Appendix 9

3) Supplying teachers or other staff while a CRB Disclosure is awaited – agency's duty to notify school and FE college

Ideally, a CRB Disclosure should be obtained before an individual begins work, and details of this and other checks confirmed with the receiving school or FE college. Where the Disclosure contains conviction or other information, a copy of the Disclosure should be forwarded to the school or FE college via post or fax, before an individual begins work. Where a Disclosure remains outstanding at the time an individual begins work this fact and the date the Disclosure was requested must be notified to the school or FE college, and they must be notified as soon as the Disclosure is received and a copy forwarded where it contains conviction or other information.

4) Co-operation between agencies where work seekers are registered with more than one agency

Work seekers who are on the books of more than one agency at the same time need not be asked to obtain a separate Enhanced CRB Disclosure by each agency. In those circumstances the second or subsequent agency should request the work seeker produce his or her copy of the CRB Disclosure obtained by the first agency, and should verify the validity of the document by checking with the first agency. If the disclosure contains any information then the second agency will need to seek the individual's consent and get the agency's copy of the Disclosure so it can be transferred to any school or FE college to which they supply the individual. If the first agency advises that the police disclosed additional (so-called brown envelope) information that was not included on the staff member's copy of the CRB Disclosure, then the second agency, school or FE college will need to obtain a separate Enhanced CRB Disclosure as additional information cannot be disclose without the permission of the Chief Police Officer who provided the additional information.

Disclosures with additional information are extremely rare; and it would be unusual for employers/agencies to take on staff where relevant additional information is disclosed by the police.

5) Duty on agencies when results of CRB Disclosure is obtained

If an agency receives information which gives it reasonable grounds to believe that the work seeker is unsuitable to work for the hirer, it must without delay inform the hirer and end the supply of that work seeker (i.e. inform the school or FE college and withdraw the work seeker);

If however the agency receives information that the work seeker may be unsuitable, the agency must without delay inform the hirer of this information and start further enquiries to check the work seeker's suitability. The hirer should be informed of the further enquiries and of any further information received. If those further enquiries give reasonable ground for believing the work seeker is unsuitable, the agency must, without delay, inform the hirer, that is the school or FE college and withdraw the work seeker.

Note on portability of CRB checks and their shelf-life, and storage

Agencies should obtain an Enhanced CRB check when they first register or engage a teacher, and should obtain a fresh Enhanced CRB check every 3 years, or earlier if the teacher has a break in service of 3 months or more, or if there are grounds for concern about the person's suitability to work with children.

Information disclosed as part of a CRB check must¹⁰⁷ be treated as confidential. It is an offence for information in a Disclosure to be passed to anyone who does not need it in the course of their duties. The Disclosure must be kept in secure conditions and must be destroyed – by secure means – as soon as it is no longer needed.

While the CRB Code of Practice specifies that a CRB check should not normally be kept more than 6 months after the decision is taken to appoint or employ an individual, the requirement in the Conduct Regulations that agencies and employment businesses must keep records relating to all applications received from workers for at least a year takes precedence over the Code. Agencies must therefore retain CRB checks for 12 months. (This requirement simply enables the agency/employment business to demonstrate that it is complying with the Conduct Regulations; it does not mean that the information in the CRB check will still be up to date.)

Before the Disclosure is destroyed, records need to be kept detailing the date the Disclosure was obtained, who obtained it (i.e. school, local authority, or supply agency), the level of the disclosure, and the unique reference number. The governing body or principal will also need to include on the Single Central Record information recording whether written notification has been received from the agency that the appropriate checks have been carried out and that an enhanced CRB check has been applied for or obtained. Where the agency has provided written notification that it has obtained an enhanced CRB which disclosed any matter or information (or 'brown envelope' information has been provided) whether the agency provided a copy of that information to the school or FE college.

8) Duty of school to include requirements for checking in contracts with agencies

Head teachers must ask supply agencies to verify that the check has been made. This verification should be in writing. Schools must obtain the Disclosure from the agency where it discloses information.

In the case of agency staff provided to schools, agencies are required to carry out the checks below in the same way as for permanent staff, and schools must confirm with the agency that the appropriate checks have been carried out.

c) Further sources of information

Guidance on Employment Agency Legislation is available on the DTI's website – **<http://www.dti.gov.uk/employment/employment-agencies/index.html>**

Further information about the CRB and its service can be found on its website at: **www.crb.gov.uk**. Alternatively, the CRB can be contacted by post or telephone. The CRB's address is PO Box 110, Liverpool L69 3EF. The information line number is: 0870 90 90 811 and the Registration application line for organisations wishing to register to authorise checks is 0870 90 90822.

Appendix 8: Case studies

Case Studies: Volunteers and ISA registration* – when a school or college should require a CRB-check and/ or register for ISA-registration status updates. (These case studies are based upon the assumption that no further CRB disclosures would normally be required if someone is already registered with the ISA.)

*See information at 4.23 on VBS legal requirements in relation to ISA registration for those in regulated activity.

(1) Volunteer will be in a regulated activity** as defined by the VBS

**See information at 4.24 on how to decide when a volunteer will be in a regulated activity.

(a) ISA registration status updates – DCSF guidance

DCSF recommends that, for a volunteer in a regulated activity who is ISA-registered, the school **should**:

- require the volunteer to consent to the school registering to receive updates on any change in that volunteer's ISA registration status.

This enables the school to confirm that the ISA continues to know of no reason why the volunteer should not work in regulated activity with children.

(b) CRB checks – DCSF guidance

DCSF recommends that for a new volunteer in regulated activity, the school **should**:

- for a volunteer who is not already ISA-registered:
 - require the volunteer to apply for a CRB disclosure on their application form for ISA registration;
- for a volunteer who is already ISA-registered*:
 - not require the volunteer to apply for a CRB disclosure, unless there is a specific cause for concern about that volunteer.

Where a school requires a volunteer to apply for a CRB Disclosure, then until the school receives its copy, the school should decide whether to let the volunteer work only with appropriate supervision, taking account of guidance at paragraphs 4.23 to 4.26.

(2) Volunteer will not be in a regulated activity as defined by the VBS

DCSF recommends that the school **should:**

- not require the volunteer to ISA-register***;
and therefore
- not register to receive ISA registration status update;
and therefore
- not require the volunteer to apply for a CRB disclosure****.

***See information at 4.30 on when a school is legally entitled to require a volunteer to ISA-register.

****See information at 4.42 on when a school is legally entitled to require a volunteer to apply for a CRB disclosure.

The cases below are examples of how head teachers and principals could, taking account of guidance above (and of information at 4.23 on how to decide when a volunteer will be in a regulated activity), decide whether to require a volunteer to:

[i] apply for an enhanced CRB disclosure (and if so, under what conditions to allow the volunteer to work until the school receives its copy);

and/or

[ii] consent to the school registering for updates on the volunteer's ISA-registration status.

[1] Case study: Mrs Smith offers to accompany a class on a 3-hour school visit to a Hindu temple. Several adults including a teacher and teaching assistant will be present at all times. Mrs Smith has lived in the area for several years and she, her husband and children are well known to the school: there has never been anything that suggests that Mrs Smith might present a risk to children. Mrs Smith is not already ISA-registered for regulated activity with children.

Decision: The head teacher decides:

- after reviewing the information at 4.23 that Mrs Smith will not be in regulated activity as defined by the VBS because her volunteering, although it is work for the school, is not frequent – it is one-off;

and

- taking account of DCSF guidance above, not to require Mrs Smith to be ISA-registered, and therefore not to require a CRB check, because
 - Mrs Smith is not in regulated activity; and
 - she has no cause for concern, because Mrs Smith will not have unsupervised access to children, and what the school knows of Mrs Smith is positive.

[2] Case study: The mother of a child in Year 1, Miss Jones, offers to take small groups of children to a screened off area of the classroom to do basic cooking one afternoon a week for 8 weeks. Miss Jones and the children can only be seen from a far corner of the classroom. The sessions last for 20 minutes. The teachers know Miss Jones from parents' evenings and as a helper on the PTA cake stall once a month: there is no evidence that she is unsuitable to work with children. Miss Jones is not already ISA-registered for regulated activity with children.

Decision: The head teacher decides:

- after reviewing the information at 4.23 that Miss Jones will be in regulated activity as defined by the VBS, because her volunteering is work for the school and is frequent – once a week, for several weeks, and therefore the school must require Miss Jones to be ISA-registered before starting this volunteering;

and

- taking account of DCSF guidance above:
 - to require Miss Jones to apply for a CRB disclosure on her application form for ISA registration;
 - to require Miss Jones to consent to the school registering to receive updates on any change in her ISA registration status.

[3] Case study: Ms Callaghan has a child in reception and has offered to come in for 2 hours per week to read in class with a small group of children who do not speak English at home. She previously volunteered at her daughter's playgroup. Ms Callaghan is already ISA-registered for regulated activity with children.

Decision: The head teacher decides:

- after reviewing the information at 4.23, that Ms Callaghan will be in regulated activity as defined by the VBS, because her volunteering is work for the school and is frequent – once a week, continuing; and therefore the school must check that Ms Callaghan is ISA-registered, before allowing her to start this volunteering;

and

- taking account of DCSF guidance above:
 - to require Ms Callaghan to consent to the school registering to receive updates on any change in her ISA registration status;
 - not to require Ms Callaghan to apply for a CRB disclosure.

[4] Case study: Mr Sinclair is a recently retired grandfather of one of the children in the school. He offers to come in one afternoon a week to read in class with a boy who has learning difficulties. Mr Sinclair is not known to the school and has not worked with children before, although his daughter-in-law (who is his grandson's mother) thinks that Mr Sinclair would be an asset to the school. Mr Sinclair is not already ISA-registered for regulated activity with children.

Decision: The head teacher decides:

- after reviewing the information at 4.23 that Mr Sinclair will be in regulated activity as defined by the VBS, because his volunteering is work for the school and is frequent – once a week, continuing and therefore the school must check that Mr Sinclair is ISA-registered, before allowing him to start this volunteering;

and

- taking account of DCSF guidance above:
 - to require Mr Sinclair to apply for a CRB disclosure on his application form for ISA registration;
 - to require Mr Sinclair to consent to the school registering to receive updates on any change in her ISA registration status;

because his volunteering will be regulated activity and he is not already ISA-registered; and

- to allow Mr Sinclair to work in accordance with guidance paragraphs 4.23 to 4.26, until the school receives its copy of the CRB disclosure;

because he is not known to the school, has not worked with children before, and would have a high level and frequency of contact.

[5] Case study: Mr Patel offers to help on a weekend geography field trip where teachers, volunteers and children stay overnight in a youth hostel. Mr Patel has helped with school trips and reads once a fortnight in class with two children in Y4 who need extra help. He is not already ISA-registered for regulated activity with children.

Decision: The head teacher decides:

- after reviewing the information at that Mr Patel will be in regulated activity as defined by the VBS, because his volunteering is work for the school and is intensive – it includes an overnight stay, and therefore the school must check that Mr Patel is ISA-registered, before allowing him to start this volunteering;

and

- taking account of DCSF guidance above:
 - to require Mr Patel to apply for a CRB disclosure on his application form for ISA registration;
 - to require Mr Patel to consent to the school registering to receive updates on any change in his ISA registration status;

because his volunteering will be regulated activity and he is not already ISA-registered; and

- to allow Mr Patel to work in accordance with guidance paragraphs 4.24-4.26, until the school receives its copy of the CRB disclosure;

because Mr Patel could have a high level of unsupervised access to children in the course of the overnight trip.

[6] Case study: Mrs Francoise moved into the area 4 months ago, from outside the UK. Two of her children attend the school. She has offered to come into school once a week to help with sewing lessons. Mrs Francoise is not already ISA-registered for regulated activity with children.

Decision: The Head teacher decides

- after reviewing the information at 4.24 that Mrs Francoise will be in regulated activity as defined by the VBS, because her volunteering is work for the school and is frequent – once a week, continuing; and therefore the school must check that Mrs Francoise is ISA-registered, before allowing her to start this volunteering;

and

- taking account of DCSF guidance above:
 - to require Mrs Francoise to apply for a CRB disclosure on her application form for ISA registration;
 - to require Mrs Francoise to consent to the school registering to receive updates on any change in her ISA registration status;

because her volunteering will be regulated activity and she is not already ISA-registered;

and

- taking account of DCSF guidance at 4.113 to 4.117 and Appendix 5 to require Mrs Francoise to consent to other background checks, to be completed before allowing her to start this volunteering;

because Mrs Francoise has not been in the UK long;

and

- not to allow Mrs Francoise to work in regulated or controlled activity (guidance paragraphs 4.24, 4.25 and 4.27), until the school receives its copy of the CRB disclosure and other background checks,

because Mrs Francoise will not have unsupervised access to children, and her level of contact with the children is low .

[7] Case study: Mrs Hall has just moved into the area from elsewhere in the UK, and three of her children have entered the school. Previously she took small singing groups two afternoons a week at an FE college elsewhere, and has offered to do the same at her children's new school. No one in the school has first hand knowledge of Mrs Hall and her family. Mrs Hall is already ISA-registered for regulated activity with children.

Decision: The head teacher decides:

- after reviewing the information at 4.24 that Mrs Hall will be in regulated activity as defined by the VBS, because her volunteering is work for the school and is frequent – twice a week, continuing; and therefore the school must check that Mrs Hall is ISA-registered, before allowing her to start this volunteering;

and

- taking account of DCSF guidance above:
 - to require Mrs Hall to consent to the school registering to receive updates on any change in her ISA registration status;
 - not to require Mrs Hall to apply for a CRB disclosure.

[8] Case study Mr Anderson volunteers two days a week in the office of an FE college, organising fundraising events with a group of former students, all adults. His work in the office gives him the opportunity of contact with students at the college who are under 18. He has disclosed to the college that he has a conviction for which, if he were to apply for ISA registration, the ISA would automatically have to bar him from regulated activity.

Decision: The principal decides:

- after reviewing the information at 4.27, that Mr Anderson is in controlled activity as defined by the VBS, because his volunteering is work for the college which is frequent and gives him an opportunity to have contact with children;
- because Mr Anderson began this volunteering for the college before the start of requirements on new entrants to controlled activity (which the Government plans to introduce from 1 April 2010, see para 2.50 of the VBS guidance at www.isa.gov.uk/default.aspx?page=402), and because the Government proposes not to start any requirements in relation to “existing workers” in controlled activity until 2015, there is until then no legal requirement for the college to do anything before allowing Mr Anderson to continue this volunteering;

and

- taking account of DCSF guidance on safer employment practice generally, in Chapter 4, puts in place clear agreements as to what work and activities Mr Anderson is allowed to undertake within the college;

and

- taking account of DCSF guidance on CRB checks on non-teaching staff in FE colleges.

Appendix 9: Young people involved in both education and the workplace

Introduction

1 Organisers of placements for young people should consider safeguarding in a variety of circumstances, including:

- Work experience for pupils aged under 16.
- Students aged 16-17 on placements.
- Pupils and students on community volunteering placements.
- Employees aged 16-17 in training.

2 This guidance sets out some general safeguarding considerations, and goes on to discuss legal requirements and entitlements in different circumstances, in the light of the introduction of the vetting and barring scheme (VBS). This guidance should be read alongside the generic guidance on the VBS, available at http://www.isa-gov.org.uk/PDF/VBS_guidance_ed1_2010.pdf. The generic guidance provides more detail about the coverage of the scheme, the barred lists, referring unsuitable people to the Independent Safeguarding Authority (ISA), and the application and checking processes

3 This guidance endorses the existing approach to safeguarding during work-related learning, which is set out in the Work-Related Learning Guide (Second Edition), available at www.dcsf.gov.uk/14-19/documents/work-relatedlearningguide_2.pdf, and reiterated in other historic guidance documents including the 2006 edition of Safeguarding Children and Safer Recruitment in Education; Work-Related Learning and the Law, DfES 2006; and Work Experience: A guide for secondary schools, DfES 2002.

4 There are no current statutory requirements for particular positions in the workplace to be subject to either CRB disclosures or ISA registration. Instead the approach to safeguarding is based on **risk assessment**. Prior to the introduction of the vetting and barring scheme and ISA-registration, this approach has informed decisions as to whether or not particular roles which are eligible for CRB disclosures should be subject to disclosures. The same approach applies to decisions as to whether the holders of particular roles should be ISA-registered.

5 *While Safeguarding Children and Safer Recruitment* as a whole is aimed at an education audience, this section will be of interest to education-business partnership organisations, private FE providers and other relevant interests. It therefore provides broader information about safeguarding in the workplace, including community volunteering settings; and also including the application of the VBS to apprenticeships training¹⁰⁸ that is funded pursuant to section 41 and 100 of the Apprenticeships, Skills, Children and Learners Act 2009.

Workplace suitability and risk assessment

6 Schools, local authorities and FE colleges have a duty under section 175 of the Education Act 2002 to make arrangements to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children receiving education or training at the institution. In addition, those bodies must have regard to this and any other guidance issued by the Secretary of State in drawing up those arrangements. This guidance should be read in conjunction with the section in the *Work-Related Learning Guide (Second Edition)* entitled *Keeping young people safe during work-related learning*. Employers of 16-17 year olds also have responsibilities for the health, safety and welfare of their employees and are advised to have regard to this guidance as appropriate.

7 Pupils, students aged 14-18 and apprentices aged 16-18 may take up a variety of placements of different kinds and durations for the purposes of their general or vocational education. The main scenarios are listed below, together with the legal requirements and entitlements in each scenario in respect of ISA registration and CRB disclosures. This guidance should be interpreted and applied as appropriate in each scenario.

8 Placement organisers should approach child protection in a similar way to health and safety. Currently, a great deal of attention is rightly paid to ensuring that placements are generally suitable and that risks have been reduced to the lowest level practicable. Placement organisers have a responsibility for assessing the general suitability of a placement, while employers have a responsibility to carry out a risk assessment. The *Work-Related Learning Guide (Second Edition)* gives more detail on procedures and some useful links.

9 Any potential risks to the young person from the placement should be considered as part of this initial assessment of general suitability which looks at health, safety and welfare. Additional safeguards may be necessary when the following risk factors are present:

- Children are more vulnerable to abuse or harm in longer term or extended placements than in short term placements. Local authorities, schools and FE colleges organising long term placements therefore need to ensure that policies and procedures are in place to protect children from harm, focusing greatest protection on settings in which children may be most at risk, for example when children will be placed for long periods in one to one situations with the same adult. Employers and training organisations need to be made aware of safeguarding issues and asked to cooperate in putting appropriate safeguards in place.
- Where the child may be particularly vulnerable. A variety of factors can make a child particularly vulnerable, including special needs, immaturity, previous abuse or neglect, substance misuse, etc. The school or further education institution that the child attends should identify to the placement organiser any child who may be vulnerable, and who may therefore require additional safeguards.
- Where the nature of the business means that the child is likely to be or will be alone with an adult as part of the work placement, e.g. sole trader, self-employed artisan or tradesman, self-employed person working from home

(This does not apply to short periods alone, for example, a solicitor taking a student to and from court in a properly insured car).

- Where the work placement has a residential component, or is for more than one day per week or for longer than one term in any academic year.

10 If any of the above conditions apply, the following safeguards should be considered:

- staff of the local authority, school or FE college who arrange, vet, or monitor work placements should have had training in child protection – they must be able to advise employers and brief supervisors and students. Supervisors should have some child protection training or briefing; and
- training organisations or employers taking responsibility for a child or children on a long term placement should be asked to make a commitment to safeguarding their welfare by endorsing an agreed child protection policy or statement of principles. It is sensible to keep a record of what is agreed so that the organisation arranging the placement can demonstrate to Ofsted inspectors that they have followed proper and considered steps to ensure the young person's safety.

In some circumstances, individuals working with a child as part of the placement should be registered with the ISA and/or have a CRB Enhanced Disclosure.

See below for further details.

In some cases it is also important to ensure that the child or student concerned is suitable for the placement (for example, when placing children in environments involving them working with younger children, as in a course in health and social care), and in some circumstances a CRB Disclosure on the young person may be required.

11. In all cases:

- young people who are placed in settings outside their normal education or workplace setting should be given clear advice about who to contact if they are worried or uncomfortable about their surroundings or if they suffer abuse. They should have a continuing point of regular contact within the local authority, school, FE college or workplace and be given opportunities to raise any concerns they may have; and
- school, FE college or local authority policies and procedures should define what actions need to be taken by whom and when if any child protection issues are raised prior, during or after the placement.

Young people in the workplace – legal position on ISA registration and checking and CRB disclosures in different scenarios

12 By way of background, the general or 'default' position (ie. the position in the absence of variations that apply in specific scenarios) for adults working with employees and volunteers aged under 18, and students in education aged under 18, is as follows (references to employers and employees should be taken to include voluntary activity providers and volunteers):

i) General position for adults working with employees aged under 18

- a) If the employee is aged 16-17, no manager or fellow employee carries out regulated activity; no one commits an offence if barred, no one is required to be ISA-registered and no organisation is required or entitled to check that individuals are ISA-registered.
- b) Employers are not entitled to ask for CRB disclosures on employees who do any activity (training, supervision etc.) with, or work alongside, 16-17 year old colleagues.
- c) If the employee or work experience student is aged under 16, a person who has a specific responsibility for supervising or training the child and does so frequently or intensively will carry out regulated activity and will commit an offence if barred. The employer may but is not required to check whether that employee is ISA-registered.
- d) Employers are entitled to ask for enhanced CRB disclosures on employees who carry out regulated activity with, or where a substantial part of their normal duties includes caring for, training, supervising or being in sole charge of employees who are aged under 18.

ii) General position for adults who work with students aged under 18 in education

- a) Any employee of a school or FE college which is exclusively or mainly for the provision of full-time education to students aged under 18 is engaging in regulated activity. In mixed age FE colleges anyone who carries out the teaching, training or instruction of students aged under 18 is engaged in regulated activity and persons working in a pastoral role may be engaging such activity if they provide, wholly or mainly for children, any form of advice or guidance relating to their physical, emotional or educational well-being¹⁰⁹. From November 2010, any new entrants or job movers carrying out that regulated activity must be ISA registered, and the school or college must check the individual is ISA-registered, before the individual starts work in regulated activity.
- b) There are separate existing requirements or entitlements about which staff in educational institutions must or can be CRB-checked. These are set out in Chapter 4 of *Safeguarding Children and Safer Recruitment in Education*.

13 These general positions are applied or amended in the following ways in the specified scenarios:

iii) Schools that send pupils aged under 16 to work experience or community volunteering placements

- a) Employees do not carry out regulated activity for the purposes of the VBS if they work alongside children on work experience placements, and have no explicit role of supervising or instructing them.
- b) Any employee in respect of whom arrangements exist principally for the purpose of instructing, supervising, advising on well-being, or treating (except for ancillary first aid) a child under 16 in employment, is carrying out regulated activity. That employee's day-to-day manager is also carrying out regulated activity. Any such employee will commit an offence if he or she carries out regulated activity while barred. The employer will commit an offence if it allows an employee, whom he knows or has reason to believe is barred, to carry out regulated activity.
- c) Employees in respect of whom arrangements do not exist principally for the purpose of instructing, supervising, advising on well-being, or treating a child under 16 in employment, might still carry out those activities, but the activity is not regulated activity and the offence of carrying out regulated activity while barred will therefore not apply. In other words, if it is not part of a person's normal job, paid or otherwise, to instruct, supervise, advise on well-being, or treat a child under 16, then there is no regulated activity and no offence in this area applies.
- d) There will be no statutory **requirement** on an employee who is not engaging in regulated activity to be ISA-registered nor on an employer to check that such an employee is ISA-registered.
- e) There will be a statutory **requirement** for employers to check whether an employee is ISA-registered when they are engaged in regulated activity in the following cases:
 - employees who fall within the definition at b) above and their day-to-day managers; and
 - employees who fall within the definition at c) above and their day-to-day managers.
- f) Existing requirements on placement organisers to carry out workplace suitability and risk assessments remain in place. Organisers currently decide on the basis of these assessments which if any employees who are eligible to be CRB-checked should be CRB checked. From November 2010, the risk assessment should also consider VBS checks, and we recommend that in those cases where the employer asks the employee for a CRB check, they should ask the employee to register with the ISA using the same CRB application form.
- g) If the employee is already ISA-registered, it is open to the employer to decide whether they still require a CRB check or would be content to check the ISA-registration.

iv) Adults working with employees aged 16-17 who are being trained in the course of their employment

- a) The trainers, whether in-house or employed by private training providers or FE colleges, are not carrying out regulated activity.
- b) Others involved in the training of young employees, such as those responsible for their accommodation during residential training, are not carrying out regulated activity.
- c) However, in the case of apprenticeships training funded under the Apprenticeships, Skills, Children and Learners Act 2009, the employer **may** check whether any employee carrying out the funded activity is ISA-registered; in effect the employer can, if it wishes, require that individual to become ISA-registered. Any other employer whom the employer of the apprentice engages to provide these services may similarly check their employees who carry out the activity.
- d) The employer of such an apprentice may decide who if anyone to check, on the basis of suitability and risk assessments of the kind recommended in this guidance, which will also be stipulated in the funding contract. This will encourage a sensible and proportionate approach. It is the responsibility of the training provider to ensure the employer is aware of and understands this requirement.
- e) FE college staff who teach or train apprentices would be required by their employers to be ISA-registered anyway, if their job entails teaching enrolled students under the age of 18.

v) Adults who work with students aged 16-17 who are placed in workplace training placements in the course of their studies

- a) No manager or other employee/volunteer carries out regulated activity in working with a student aged 16-17 on a placement¹⁰. No one commits an offence if barred or is required by statute to be ISA-registered/checked.
- b) However, in the case of education or training funded under the Apprenticeships, Skills, Children and Learners Act 2009, the college (or school if applicable) may ask the employer to check whether any employee carrying out the funded activity (ie. training, instruction or supervision) is ISA-registered. The college may ask the employer to carry out the checks before it agrees to the placement. The college and the placement provider should agree, through their partnership arrangements, who if anyone in the workplace the employer should check on the basis of workplace suitability and risk assessments. Note that if this process results in an employer requiring an employee to apply to register with the ISA, the employer has no entitlement to require the employee to use the facility on the application form to apply for a CRB disclosure.

vi) Workplace or community volunteering placements for students where the provider carries out regulated activity with children or vulnerable adults

- a) Work experience students under the age of 16 are not required to be, and should not be, CRB-checked or ISA-registered.
- b) Students aged 16-18 in schools and FE colleges (including those who have passed their 18th birthday) should not be CRB-checked and ISA-registered/checked if they carry out forms of regulated activity which are not subject to specific staffing regulations that require those checks.
- c) Students aged 16 and over must be CRB-checked and ISA-registered/checked if they are carrying out regulated activity and if sectoral staffing regulations require these checks, ie. any work with frequent or intensive opportunity of contact with children in registered childcare premises or certain other specified places (listed in section 2 of *Safeguarding Children and Safer Recruitment in Education*), or with vulnerable adults in a care home. However, it should be noted that there are no plans to change the staffing regulations for schools in order to require students on placements to be CRB-checked or ISA-registered.

Where there are entitlements to ISA registration and/or Criminal Records Bureau checks, when are they necessary?

14 Legal requirements and entitlements for people involved in work placements to register with the ISA or obtain CRB enhanced disclosures are set out above. There is currently no **requirement** under the SVG Act for any particular workplace role to be subject to VBS checking and registration. Schools, FE colleges, local authorities and where appropriate, employers, must have regard to this guidance in deciding whether to require ISA registration or a CRB disclosure in any particular case where the **entitlement** exists.

15 The assessment of the general suitability of the placement will need to include consideration of whether any additional safeguards are necessary. Placement organisers are required to make a judgement in each case as to whether the entitlements to conduct a check against the ISA barred lists or require ISA registration or a CRB disclosure exists. In addition to the requirements and entitlements to CRB disclosures and ISA registration introduced by the SVG Act, which are noted above, the original criterion for eligibility for a CRB enhanced disclosure still applies: namely if a person is *in a position the normal duties of which include regularly caring for, training, supervising, or being in sole charge of a child*. Normal duties will generally mean that the function is written down in a job description; however, this might not always be the case.

16 The eligibility criteria for CRB disclosures and ISA registration relate to a "position" or "activity" respectively which need not relate to a person's paid employment. They therefore cover voluntary activity such as that carried out by a workplace mentor.

17 Not every person coming into contact with the child during a placement, whose position is eligible for CRB checks and ISA registration, should be CRB checked or asked to register with the ISA. There may be someone in most long-term extended work placements who has a designated responsibility for the child and who has contact with them on the days when they are at the placement and who meets the criteria for checks. Equally, there may be some circumstances, because of the nature of the workplace or the organisation of the placement, where there is no one eligible for a CRB or VBS registration check. This might be the case, for example, where there is a member of staff who is responsible for liaison with the placement organisers and for general oversight of students, but who does not have regular contact with them. In other circumstances the student may move around different departments or workstations so that s/he interacts with a number of people during the placement who each take some responsibility for supervising him/her. In this case there may be no single individual who meets the criteria, and a CRB check or ISA registration check on all of the eligible staff the child might come into contact with would not be appropriate.

18 If an LA, school or FE institution is responsible for a young person, it should decide whether or not a CRB check or ISA registration is necessary in the circumstances pertaining in each placement where the eligibility criteria are met. Where this function is delegated to a placement organiser any decision on whether or not a checks or registration are appropriate should be discussed with the LA or school or FE institution. The rationale behind any decision not to have a CRB check done or to require ISA registration should be recorded.

19 If an employer is responsible for a young apprentice, it should be guided by this guidance and the apprenticeship funding contract in determining whether it should carry out a CRB check or require ISA registration for any of its own employees or whether it should require an assurance from another training provider with whom it places an apprentice that it has carried out such checks on any of its employees. The approach to checking should be proportionate and based on suitability and risk assessments. It is recommended that checks be carried out in circumstances that mirror the criterion for determining whether an employee is carrying out regulated activity with an employee under the age of 16: namely, **if the person has a specific responsibility for supervising or training the child or children and does so frequently or intensively.**

20 If a student on a placement has a buddy, coach or mentor (often young workers aged 18-24) to provide additional support, the question arises as to whether such individuals need to be CRB checked or register with the ISA.. Again this is a situation where eligibility needs to be established, and then the judgement of the placement organiser needs to be applied in the workplace suitability and risk assessment. A workplace 'buddy' scheme should not require the 'buddies' to be CRB checked or registered with the ISA if this would be a short term activity, not a regular part of the individual's normal duties, that would only last for a short time until the student was settled in.

21 The role of the workplace coach can focus on developing specific vocational skills, i.e. there may be a training component. If this is a formal role that is part of the individual's normal duties and the role lasts throughout the duration of the long-term extended placement it is likely that a CRB check and registration with the ISA will be appropriate.

22 As noted above (para 16) the eligibility for CRB checks and ISA registration relates to the position or activity that the person engages in. The workplace mentor is therefore likely to be eligible for CRB checks and ISA registration even though the role may well have been taken on voluntarily and is not covered by their job description. So the role of workplace mentor would be eligible for checks, although these checks might not always be necessary (subject to safeguards and for the considerations given above). Although business mentors (people from the world of work) acting as mentors to students in schools have routinely been CRB checked there are safeguards, short of this that could be introduced, and therefore such checks may not be necessary. For instance, as with all mentoring programmes, the purpose and boundaries of the relationship need to be clarified to the mentee during their preparation and to the mentor in their briefing or training session. In good practice, all meetings should take place at the workplace and should not be in private; there should not be contact outside of the workplace setting, and a more senior member of staff should monitor the mentoring programme.

23 In some Young Apprenticeship partnerships there are plans to designate apprentices aged 18-25 as 'supervisors' to the Young Apprentices. Whether or not the apprentices acting as supervisors should be subject to checks and registration would depend on the precise nature of their role. It is possible, however, that the 'supervisor' relationship in this case is an informal one designed to give the older apprentices a sense of responsibility for their younger peers and to improve their communication skills etc. In these circumstances there is likely to be a more senior employee who monitors such supervisory relationships and to whom the Young Apprentice could turn in the event of any difficulties, and the 'peer exemption' applies to take the older apprentices activities outside the scope of regulated activity.

If it is decided to carry out CRB checks or ISA registration, should either or both be carried out?

24 A CRB enhanced disclosure gives a person's criminal history, and satisfactory registration with the ISA gives an assurance that the person poses no known risk of harm to the relevant vulnerable group. In many circumstances it is likely that there is no need for an employer to know someone's criminal history to judge whether they are suitable to work with young people, if the employer knows that the employee has been adjudged as posing no known risk. The degree of trust in which an employee is held may also be relevant. In that case the employer should be able to rely on the ISA registration alone, which has the advantage of being a free, instant online check.

25 However, if an employer judges that ISA registration is sufficient but the employer is not yet registered, then the employee should be invited to register, using the CRB application form which, from July 2010 offers both ISA registration and a CRB disclosure at the same time

How should the CRB/VBS checking process be managed?

26 As stated above staff must be eligible for checks and registration. In order for this to be the case they must either have been appointed to a relevant position or have had an internal promotion or volunteered to take on additional responsibility in respect of a young person or young people in the workplace. People volunteering or applying for a position where their 'normal duties' mean they may become eligible should be made aware that these checks are likely.

27 The responsibility for the registration application should lie with the organisation responsible for the young person, who will ask the individual to complete the CRB form which will be submitted for a check at the Enhanced level and ISA registration. In the case of placements of work experience students, the results of the CRB check will be sent to the individual with a copy to the school, LA or FE college responsible for the student. A criminal record will not necessarily debar someone from taking on a role in relation to children. The LA, school or FE institution will consider any information revealed by the check and judge a person's suitability in the same way as for any other prospective volunteer or member of staff seeking to work with children. It is the LA, school or FE institution responsible for the child that must arrange the checks, receive the information revealed by the checks and make the decision about the person's suitability. (It is not appropriate for the placement organiser to arrange checks if it is not the LA, school or FE institution responsible for the child.)

28 A CRB check which resulted in a decision that the person should not work with children might mean that the placement organiser would choose not to use that placement (if this was part of the initial process of setting up placements) In this way the employer may be unaware of the results of the check. However, it may be that having committed to a scheme an employer later 'identifies' a member of staff to supervise or train the student and they become eligible. Under these circumstances where a CRB check will be required it would be preferable for an employer to ask for volunteers from among experienced, trusted staff rather than allocating the responsibility without giving staff the opportunity to decline.

29 The Criminal Records Bureau have a commitment to turn round 90% of Enhanced Disclosure checks within 28 days, and 90% of VBS registration applications within 7 days.

30 Further advice and good practice can be obtained from the Institute of Education Business Excellence. www.iebe.org.uk

Appendix 10: Documents recommended to be kept by all schools (FE colleges may also find such documents useful)

- Staff Handbook/guidance for staff
[this document may include many of the following specific policy documents]
- Statement of the school's principles and practice
- Countering bullying
- Child protection
- Requirement for staff to report concerns or allegations of risk of harm to pupils
- Discipline (including punishments, rewards and restraint)
- Complaints procedure
- Enabling pupils to take problems or concerns to any member of staff
- Provision for pupils with particular religious, dietary, language or cultural needs
- Responses to alcohol, smoking and substance abuse
- Plans for foreseeable crises
- Staff induction, training and development programme
- Staff disciplinary, grievance and whistleblowing procedures
- Supervision of ancillary, and contract staff and visitors
- Prefect duties, powers and responsibilities
- Protocol for provision of medication to pupils
- Key written information for new pupils
- Job descriptions for all staff
- Safety and supervision on school journeys
- Access to school premises by people outside the school
- Pupil access to risk areas of school buildings and grounds
- Health and safety policy
- Policy on pupil access to a people who are not employed by the school

Where applicable

Guidance on welfare to host families accommodating pupils on behalf of the school

List of records

- The following school records are recommended:
- Child protection allegations or suspicions
- Use of physical restraint
- Serious complaints
- Individual pupil records (containing personal, health and welfare information, details of any issues relating to parental contact, or guardianship)
- Administration of medication, treatment and first aid
- Significant illnesses
- Significant accidents and injuries
- Parental permission for medical and dental treatment, first aid and non-prescription medication
- Risk assessments (for risk activities and on premises/grounds)
- Staff recruitment records and checks
- Staff duty rotas
- Fire precautions tests and drills
- Risk assessments under the Fire Precautions (Workplace) Regulations
- Menus
- Parental permission for high risk activities
- Checks on licensing of relevant Adventure Activities Centres
- Assessments of lodgings arranged by the school for school trips or activities.
- Assessment of off-site accommodation used by the school for activities

Issues that should be recorded and monitored by the school

- Records of complaints and their outcomes
- Records of major punishments
- Records of any use of physical restraint
- Administration of medication, treatment and first aid
- Records of significant accidents
- Records of all risk assessments carried out
- Action taken in response to all risk assessments carried out.
(Where applicable) suitability of any guardian arrangements made

Appendix 11: Example Child Protection Policy

[School name] fully recognises its responsibilities for child protection.

Our policy applies to all staff, governors and volunteers working in the school. We have developed this policy in consultation with (name) Safeguarding Children Board.

There are five main elements to our policy:

- Ensuring we practice safe recruitment in checking the suitability of staff and volunteers to work with children.
- Raising awareness of child protection issues and equipping children with the skills needed to keep them safe.
- Developing and then implementing procedures for identifying and reporting cases, or suspected cases, of abuse.
- Supporting pupils who have been abused in accordance with his/her agreed child protection plan.
- Establishing a safe environment in which children can learn and develop.

We recognise that because of the day to day contact with children, school staff are well placed to observe the outward signs of abuse. The school will therefore:

- Establish and maintain an environment where children feel secure, are encouraged to talk, and are listened to.
- Ensure children know that there are adults in the school whom they can approach if they are worried.
- Include opportunities in the PSHE curriculum for children to develop the skills they need to recognise and stay safe from abuse.

We will follow the procedures set out by the (name) Safeguarding Children Board and take account of guidance issued by the Department for Children, Schools and Families to:

- Ensure we have a designated senior person for child protection who has received appropriate training and support for this role. The designated senior person is (name) and their deputy is (name).
- Ensure we have a nominated governor responsible for child protection.
- Ensure every member of staff (including temporary and supply staff and volunteers) and members of the governing body know the name of the designated senior person responsible for child protection and their role.
- Ensure all staff and volunteers understand their responsibilities in being alert to the signs of abuse and responsibility for referring any concerns to the designated senior person responsible for child protection.
- Ensure that parents have an understanding of the responsibility placed on the school and staff for child protection by setting out its obligations in the school prospectus and publishing our policy on the school website.

- Notify social services if there is an unexplained absence of more than two days of a pupil who is subject to a child protection plan.
- Develop effective links with relevant agencies and co-operate as required with their enquiries regarding child protection matters including attendance at case conferences.
- Keep written records of concerns about children, even where there is no need to refer the matter immediately.
- Ensure all records are kept securely, separate from the main pupil file, and in locked locations.
- Develop and then follow procedures where an allegation is made against a member of staff or volunteer.
- Ensure safe recruitment practices are always followed.

We recognise that children who are abused or witness violence may find it difficult to develop a sense of self worth. They may feel helplessness, humiliation and some sense of blame. The school may be the only stable, secure and predictable element in the lives of children at risk. When at school their behaviour may be challenging and defiant or they may be withdrawn. The school will endeavour to support the pupil through:

- The content of the curriculum.
- The school ethos which promotes a positive, supportive and secure environment and gives pupils a sense of being valued.
- The school behaviour policy which is aimed at supporting vulnerable pupils in the school. The school will ensure that the pupil knows that some behaviour is unacceptable but they are valued and not to be blamed for any abuse which has occurred.
- Liaison with other agencies that support the pupil such as social services, Child and Adult Mental Health Service, education welfare service and educational psychology service.
- Ensuring that, where a pupil subject to a child protection plan leaves, their information is transferred to the new school immediately and that the child's social worker is informed.

Endnotes

1. *What to Do If You're Worried A Child Is Being Abused Summary* issued by six Government Departments May 2003, and updated 2006 [DN check when this will have been updated].
2. *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children* (HMG) published 2010.
3. *What to Do If You're Worried A Child Is Being Abused Summary* issued by six Government Departments May 2003, updated 2006.
4. To ask for date of birth is not discriminatory. This information is required to ensure confirmation of the correct identification of the candidate.
5. School Staffing (England) Regulations 2009.
6. Fitness to Teach 2007 DCSF.
7. See the CRB code of practice at www.crb.gov.uk; and appendix 9.
8. Safeguarding Vulnerable Groups Act 2006 (2006 Act).
9. School Staffing (England) Regulations 2009.
10. Safeguarding Vulnerable Groups Act; NMSS – Regulation (1C) (c) (2) of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
11. School Staffing (England) Regulations 2009; NMSS – Paragraph 3C of Schedule 1 of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
12. School Staffing (England) Regulations 2009, Safeguarding Vulnerable Groups Act 2006, NMSS – Regulation (1C) (c) and Paragraph 3A of the Schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
13. School Staffing (England) Regulations 2009, NMSS – Paragraph 3A of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
14. Section 87C(4) of the Children Act 1989.
15. School Staffing (England) Regulations 2009, NMSS – Paragraph 3B of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
16. School Staffing (England) Regulations 2009, NMSS – Paragraph 3A (2) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
17. School Staffing (England) Regulations 2009, NMSS – Paragraph 3B (4) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.

18. Safeguarding Vulnerable Groups Act 2009, NMSS – Regulation (1C) (c) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
19. Safeguarding Vulnerable Groups Act 2006 (date TBC).
20. Safeguarding Vulnerable Groups Act 2006 (date tbc); NMSS – Regulation (1C) (c) of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
21. Safeguarding Vulnerable Groups Act 2006.
22. Safeguarding Vulnerable Groups Act 2006.
23. Safeguarding Vulnerable Groups Act 2006.
24. Safeguarding Vulnerable Groups Act 2006.
25. Safeguarding Vulnerable Groups Act 2006.
26. Safeguarding Vulnerable Groups Act 2006.
27. Safeguarding Vulnerable Groups Act 2006.
28. Safeguarding Vulnerable Groups Act 2006.
29. Safeguarding Vulnerable Groups Act 2006.
30. School Staffing (England) Regulations 2009.
31. Safeguarding Vulnerable Groups Act 2006.
32. Education (Independent School Standards) (England) Regulations 2003 paragraph 4B of the Schedule.
33. School Staffing (England) Regulations 2009.
34. As above ; NMSS – Paragraph 3B (1)(b) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
35. School Staffing (England) Regulations 2009; NMSS – Paragraph 3A (4) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
36. National Minimum standards for Boarding and Residential Special schools.
37. Section 11, School Staffing (England) Regulations 2009, NMSS – Paragraph 3B (1) (a) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
38. School Staffing (England) Regulations 2009.
39. The term 'unfounded' means that there is no evidence or proper basis which supports the allegation being made, or there is evidence to prove that the allegation is untrue. It might also indicate that the person making the allegation had misinterpreted the incident or was mistaken about what he/she saw, or was not aware of all the circumstances. It is worth considering whether or not a child has made an allegation in order to draw attention to abuse from another source).

40. The Education (Health Standards) (England) Regulations 2003.
41. The Education (Specified Work and Registration) (England) Regulations 2003.
42. School Staffing (England) Regulations 2009.
43. The Education (School Teachers' Qualifications) (England) Regulations 2003.
44. The Education (Induction Arrangements for School Teachers) (England) Regulations 2008.
45. The Further Education (Providers of Education) (England) Regulations 2006.
46. Sections 12(7) and 24 (7) of The School Staffing England Regulations 2009 (SI 2009/2680).
47. Sections 12(7) and 24 (7) of The School Staffing England Regulations 2009 (SI 2009/2680) & section 4C of the Education (Independent School Standards) (England) Regulations 2003.
48. Education (Independent School Standards) (England) Regulations 2003.
49. School Staffing (England) Regulations 2009, NMSS – Paragraph 3B (4) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
50. The Police Act 1997.
51. School Staffing (England) Regulations 2009.
52. Police Act 1997.
53. Police Act 1997.
54. Staffing (England) Regulations 2009.
55. Sections 12(7) and 24 (7) of The School Staffing England Regulations 2009 (SI 2009/2680), NMSS – Paragraph 3C (2) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
56. Schedule 2 School Staffing (England) Regulations 200 NMSS – Paragraph 3C (2) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
57. Safeguarding Vulnerable Groups Act 2006, NMSS – Regulation (1C) (c) of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
58. As above.
59. As above.
60. Childcare Act 2006.
61. Safeguarding Vulnerable Groups Act 2006.
62. Safeguarding Vulnerable Groups Act 2006.
63. Safeguarding Vulnerable Groups Act 2006.

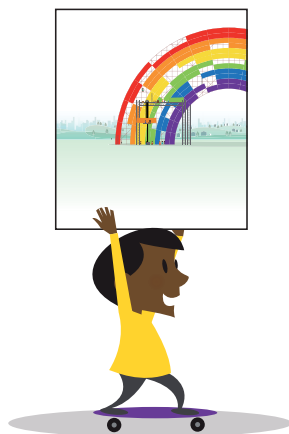
142 Safeguarding children and safer recruitment in education

64. School Staffing (England) Regulations 2009, NMSS – Paragraph 3A of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
65. Schedule 2 of the School Staffing (England) Regulations 2009, NMSS – Paragraph 3C of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
66. School Staffing (England) Regulations 2009 NMSS – Paragraph 3B of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
67. NMSS – Paragraph 3B (1)(a)(ii) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
68. NMSS – Paragraph (1)(B) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
69. NMSS – Paragraph 3C (5) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
70. Safeguarding Vulnerable Groups Act 2006.
71. Safeguarding Vulnerable Groups Act 2009.
72. School Staffing (England) Regulations 2009.
73. Sections 15-25 of the Immigration, Asylum and Nationality Act 2006.
74. School Staffing (England) Regulations 2009.
75. School Staffing (England) Regulations 2009, NMSS – Paragraph 3A (5) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
76. School Staffing (England) Regulations 2009 , NMSS – Paragraph 3C (7) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
77. School Staffing (England) Regulations 2009, NMSS – Paragraph 3A (2) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
78. Safeguarding Vulnerable Groups Act 2006, NMSS – Regulation (1C)(c) of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
79. School Staffing (England) Regulations 2009 NMSS – Paragraph 3A (4) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
80. School Staffing (England) Regulations 2009 NMSS – Paragraph 3A (5) of the schedule of the Education (Non-Maintained Special Schools) (England) Regulations 1999.
81. Safeguarding Vulnerable Groups Act 2006.
82. Safeguarding Vulnerable Groups Act 2006.

83. Clause 32.1 School Standard Form PFI agreement, 2005.
84. Clause 3.1.1.3 School Standard Form PFI agreement, 2005.
85. Clause 32.3 School Standard Form PFI agreement, 2005
www.teachernet.gov.uk/docbank/index.cfm?id=8570Legal reference
86. Safeguarding Vulnerable Groups Act 2006.
87. Section 4 Childcare Act 2006.
88. Section 34 Childcare Act 2006.
89. Section 53 Childcare Act 2006.
90. Safeguarding Vulnerable Groups Act 2006.
91. Childcare Act 2006.
92. *Statutory Framework for the Early Years Foundation Stage*, and the Childcare (General Childcare Register) Regulations 2008.
93. References to the chair of governors or the governing body of a school or FE establishment should be taken to be a reference to the proprietor in the case of an independent school.
94. In some circumstances the school at which the person works will need to consider a case in which normal disciplinary procedures do not apply, and may need to act jointly with another organisation. That will be necessary when, for example, an allegation is made against a supply teacher provided by an employment agency or business, or against a person employed by a contractor, or a volunteer provided by a voluntary organisation. In some cases normal disciplinary procedures may not be appropriate because the person is a volunteer or self employed. Although in those cases the school or FE establishment will not have a direct employment relationship with the individual, it and the other organisation concerned, if any, will need to be involved and cooperate in an investigation, and in reaching a decision about whether to continue to use the person's services, or to provide the person for work with children in future, and whether to report the person to the Independent Safeguarding Authority.
95. In deciding what information to disclose, careful consideration should be given to duties under the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.
96. **www.fco.gov.uk/resources/en/pdf/3849543/forced-marriage-right-to-choose**
97. **<http://www.fco.gov.uk/resources/en/pdf/3849543/forced-marriage-guidelines09.pdf>**
98. School Staffing (England) Regulations 2009.
99. Further Education (Providers of Education) (England) Regulations 2006.
100. Section 124 Police Act 1997.

101. Section 9 Safeguarding Vulnerable Groups Act 2006.
102. By a direction given under section 142 of the Education Act 2002.
103. By a direction given under section 142 Education Act 2002.
104. In consequence of inclusion on the list kept by the Secretary of State under section 1 Protection of Children Act 1999.
105. Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the Conduct Regulations).
106. Police Act 1997.
107. Police Act 1997.
108. References in this document to apprenticeships and apprentices relate to the Government funded apprenticeship scheme.
109. In mixed-age FE colleges, non-teaching staff with an opportunity for contact with under 18s are carrying out controlled activity – see generic guidance on the VBS.
110. This is the case even if the core business of the placement provider is regulated activity anyway, although the fact that employees may be ISA-registered anyway provides a safeguard.

A commitment from
The Children's Plan



PPBHP/(4309)/0310

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