



A summary of the key HR-related changes to the statutory guidance document, *Keeping Children Safe in Education*, effective from 3<sup>rd</sup> September  
**Issued: 07/06/18**

## Keeping Children Safe in Education

### Latest consultation outcome

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#### Introduction

In December 2017, the DfE opened consultation on the latest round of revisions to *Keeping Children Safe in Education* (KCSiE), the statutory guidance document to which all schools and colleges (regardless of status) must have regard when carrying out their duties to safeguard and promote the welfare of children.

A revised version, which has been published 'for information' at this stage, will come into effect from 3<sup>rd</sup> September 2018. Until then the existing version remains in force.

A list of all substantive changes can be found in Annex H of the document. For the purposes of this briefing we are focussing on those which potentially impact on HR practices.

Headings used in this briefing mirror those in KCSiE and use of the word 'school' should be interpreted broadly to include all establishments covered by the guidance, unless specified otherwise.

#### Links

The current and revised versions of the guidance can be accessed on the Gov.uk site: <https://www.gov.uk/government/publication/keeping-children-safe-in-education--2>

#### Throughout the Guidance

References to the NCTL have been updated to reflect the dispersal of its functions to the TRA and DfE.

#### Part One: Safeguarding Information For All Staff

Part One has had a number of updates, mostly aimed at adding further clarity. More emphasis has been placed on understanding who the DSL is (and any deputies) and reiterating that they are the first port of call for reporting any concerns.

Remember that Part One is to be given to all new staff. However the current (2016) version of the Part One will remain in force until 3<sup>rd</sup> September. The revised 'for information' version of KCSiE will be updated again before then and therefore cannot be considered final. For staff starting in the autumn term, it may therefore be preferable to wait until the final version comes into force and to issue it at that stage. If you have already issued a 2016 version of the Part One to September starters, it would be advisable to issue the final 2018 Part One to those same staff in September to ensure they have received and read the latest version.

#### Part Two: The Management of Safeguarding

##### Safeguarding policies and procedures

With regard to multi-academy trusts or other groups of schools, the wording has been updated



to make clear that all schools and colleges should have their own individual child protection policy reflecting local circumstances. It is explained that this does not stop a MAT from having an overarching child protection policy, simply that this should be built on locally to ensure local procedures and protocols can be reflected.

### Safer recruitment

The wording on who must have completed safer recruitment training in maintained schools has been updated to add clarity that it is at least one of the persons **who conducts an interview** who must have completed safer recruitment training (rather than one person on “any appointment panel” as per the 2016 wording).

## Part Three: Safer Recruitment

### Disclosure and Barring Service (DBS) checks

A new recommendation is included here that **maintained schools** contact the Teaching Regulation Agency (TRA) to check if a person they are proposing to recruit as a governor is barred as a result of being subject to a section 128 direction. Academy trusts and other independent schools are already required to undertake Section 128 checks. This check is undertaken via the Secure Access Portal.

### Employment history and references

This section has been amended. The following points reflect the main amendments:

- References should always be obtained from the candidate’s current (or most recent) employer.
- References should be sought preferably from a senior person with appropriate authority, not just a colleague.
- Employers should not rely only on information provided by the candidate as part of the application process without verifying that the information is correct.
- Where electronic references are received, employers should ensure they originate from a legitimate source.
- The referee should be contacted to provide further clarification if “insufficient” information is provided (rather than just “vague” information).

### Single central record

Clarification has been added that, for independent schools (including academy trusts) members of the “proprietor body” who should be included on the SCR means members and trustees.

The checks that must be recorded on the SCR are unchanged. However there is new wording confirming that schools are free to record any other information they deem relevant on the SCR, giving examples of checks for childcare disqualification, volunteers, and safeguarding and safer recruitment training dates. It is also suggested that schools may wish to record the name of the person who carried out each check.

Confirmation is provided that there is no requirement for multi-academy trusts to have separate SCRs, but schools should ensure the record is easily available to Ofsted inspectors.

It is also made explicit that the SCR can be kept in paper or electronic form.

### Existing staff

The wording which describes when a legal duty to refer to the DBS is engaged now states that the duty “applies equally in circumstances where an individual is deployed to another area of work that is not regulated activity, or they are suspended”, provided they meet the ‘harm’ criteria laid out in this section. Referrals should be made as soon as possible after the resignation, removal or redeployment of the individual.

### Volunteers

The requirement to undertake a risk assessment to decide whether to seek an enhanced DBS check for any volunteer not engaged in regulated activity is unchanged, but the revised guidance states that this risk assessment should be recorded. Schools are free to determine where to store the information.

### Proprietors of independent schools, including academies and free schools or alternative provision academies and free schools

Additional clarity has been provided for academy trusts on carrying out DBS and section 128 checks on members, trustees and local governors. The revised wording is as follows:

In the case of an academy trust, including those established to operate a free school, the trust must require enhanced DBS checks on all members of the academy trust, individual charity trustees, and the chair of the board of charity trustees. Academy trusts, including those established to run a free school, have the same responsibilities as all independent schools in relation to requesting enhanced DBS certificates for permanent and supply staff. Where an academy trust delegates responsibilities to any delegate or committee (including a local governing body), the trust must require DBS checks on all delegates and all members of such committees.

Academy trusts must also check that members are not barred from taking part in the management of the school as a result of a section 128 direction.

## Part Four: Allegations of Abuse Made Against Teachers and Other Staff

### Initial considerations

The definitions which should be used when determining the outcome of allegation investigations (substantiated, malicious, false, unsubstantiated) are unchanged, but 'unfounded' (previously suggested as an optional term) has been reinstated as a fifth definition:

#### Unfounded

To reflect cases where there is no evidence or proper basis which supports the allegation being made

## Annex B: Role of the Designated Safeguarding Lead

The section on deputy designated safeguarding leads has been amended to make clear that the role of deputy DSL should be explicit in the postholder's job description.

### What happens next?

It is indicated in the consultation response that the version that has been published now for information purposes **will not be the final version**.

The new safeguarding partner arrangements, following consultation on the statutory guidance, *Working Together to Safeguard Children*, are still to be incorporated once the revised *Working Together* is published in the summer. It is also suggested that updated guidance on information sharing practice under GDPR and the new Data Protection Act will be included in the final version.

In the meantime, although the changes are not substantial, it is worth checking that your HR practices are already compliant with these revised elements.

In the case of section 128 checks on maintained school governors, this is very likely to represent a change to current practice and therefore maintained schools should be ready to start undertaking these checks on new governors through the Secure Access Portal from 3<sup>rd</sup> September. This is not an onerous requirement as it merely involves checking a list which is currently very small.