



Keeping Children Safe in Education - 2018

What changed in the final version?

Introduction

In June 2018 we published a [briefing note](#) on the changes included in the 'for information' draft version of the statutory guidance document *Keeping Children Safe in Education*.

When the final version was published on 3rd September it included additional changes, detailed (alongside the original amendments) in Annex H of the document. Subsequent to that, on 19th September, some further revisions were made.

We are therefore publishing this supplementary briefing note to highlight these subsequent changes, to the extent that we believe they may impact on HR practices and procedures, and to offer some advice on suggested actions to take to ensure compliance with the latest version of the document.

This advice cannot, of course, act as a substitute for reading and understanding the revised guidance and we would suggest reviewing Annex H as a useful starting point.

Link

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

Part Two: The Management of Safeguarding

Part 2 has been updated with reference to the updated statutory guidance [Working Together to Safeguard Children 2018](#). On a local level, schools and colleges are expected to work with the three safeguarding partners: the local authority (LA), a clinical commissioning group for an area within the LA and the chief officer of police for a police area in the LA area. Details of the new local arrangements must be published by the three safeguarding partners no later than 29th June 2019 to be in place by 29th September 2019.

GDPR and the Data Protection Act (DPA) 2018

Part 2 has also been updated to reflect obligations of governing bodies, proprietors and staff under the new data protection regime.

Governing boards should ensure relevant staff:

- Have due regard to the data protection principles, which allow them to share personal information for the purposes of keeping children safe
- Are confident of the processing conditions which allow them to store and share information for safeguarding purposes
- Are aware that, if they need to share 'special category personal data', the DPA 2018 contains 'safeguarding of children and individuals at risk' as a processing condition that allows practitioners to share information



Part Three: Safer Recruitment

Single central record (SCR)

Clarification has been provided in a number of areas relating to the single central record recording requirements. Specifically that:

- Agency and third party supply staff should be included on the SCR and, in respect of such individuals, schools and colleges **must record on the SCR**:
 - whether written confirmation has been received that the employment business supplying the member of supply staff has carried out the relevant checks and obtained the appropriate certificates;
 - the date that confirmation was received;
 - whether any enhanced DBS certificate check has been provided in respect of the member of staff.
- For fee-funded trainees:
 - Schools and colleges should obtain written confirmation from the provider that it has carried out all pre-appointment checks that the school or college would otherwise be required to perform and that the trainee has been judged by the provider to be suitable to work with children.
 - There is **no requirement** for the school to record details of fee-funded trainees on the single central record.

Existing staff

Clarification has also been provided on when schools/colleges have a legal duty to refer to the DBS in cases where an investigation is being undertaken relating to an existing member of staff and the criteria for referral is met. The referral should be **made as soon as possible and ordinarily on conclusion of an investigation**, when an individual is removed from working in regulated activity, which could include being suspended, or is redeployed to work that is not regulated activity.

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

References and links are provided to the Independent Inquiry into Child Sexual Abuse ([IICSA](#)) website regarding retention of records in cases where an allegation of sexual abuse has been made against a staff member. The guidance clarifies that prolonged retention of personal data by an organisation at the request of the Inquiry would not contravene data protection legislation, provided the information is restricted to that necessary to fulfil any potential legal duties that organisation may have in relation to the Inquiry.

Actions to Take

Safeguarding Information for All Staff

- Ensure all staff read the updated Part 1 of *Keeping Children Safe in Education* and sign to confirm they have done so.

The Management of Safeguarding

- Ensure your board level lead for safeguarding sits at governing body (or, in independent schools, proprietor) level.
- MATs (or other groups of schools) should ensure that all schools have their own individual child protection policy reflecting local circumstances (this does not preclude the MAT having an overarching child protection policy).

GDPR

- Ensure governing boards, proprietors and staff members are aware of their obligations under the GDPR and the Data Protection Act (DPA) 2018 and are familiar with the processing conditions which allow them to store and share information for safeguarding purposes.

Safer Recruitment

- Ensure that your practice with regard to employment references is compliant with the changed wording in KCSiE.

(cont. overleaf)

Actions to Take (cont.)

Specifically:

- 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 (not just if the information is vague).
- Review staff induction processes and / or safeguarding training to ensure staff are familiar with the role and identity of the DSL and any deputies and check that this role is explicit in job descriptions for relevant postholders.
 - Ensure section 128 checks are undertaken part of the recruitment process for all new governors in maintained schools.
 - Undertake section 128 checks on existing governors in maintained schools to ensure they are not disqualified from continuing to hold office.
 - For agency and third party staff ensure you are recording on the SCR whether the employing business supplying the staff has carried out the appropriate checks and the date the confirmation was received and if an enhanced DBS check has been provided.
 - When investigating allegations of abuse against a member of staff who is suspended or has otherwise been removed from working in regulated activity, a referral to the DBS should be made ordinarily on conclusion of an investigation where it has been established that the 'harm' criteria has been met (this is described in the [DBS referral form](#) on the Gov.uk website).
 - When engaging supervised volunteers for whom a barred list check cannot be carried out, you should undertake a risk assessment as part of reaching a decision on whether to obtain an enhanced DBS check without barred list information. This is not a new requirement, however the revised guidance states that this risk assessment should be recorded and stored somewhere appropriate. We have developed a template risk assessment to assist with this.

Allegations of Abuse Against Staff

- When determining the outcome of allegation investigations, the category 'unfounded' should be considered alongside substantiated, malicious, false or unsubstantiated (this was previously an optional term). It is to be used to reflect cases where there is no evidence or proper basis which supports the allegation.