

# **Withdrawn:** Inspecting safeguarding in early years, education and skills settings

Guidance for inspectors undertaking inspection under the common inspection framework.

This relates to the common inspection framework, which we used until September 2019. We now inspect under the education inspection framework. Anything relating to the old framework will remain online until October 2019 for reference purposes only.

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## Introduction

1. This guidance sets out the key points inspectors need to consider when inspecting safeguarding in early years, education and skills settings. It needs to be read alongside the common inspection framework (the CIF) and the individual remit inspection handbooks.<sup>1</sup>

## Safeguarding and inspectors' responsibilities

2. Everything that Ofsted does should be in the interests of children and young people. This includes ensuring that the providers we regulate and inspect have effective procedures for keeping children<sup>2</sup>, learners and vulnerable adults safe from abuse, neglect and exploitation. Inspectors must be familiar with Ofsted's safeguarding policy and guidance on what to do if a safeguarding concern is raised during an inspection.<sup>3</sup>
3. Early years education and skills settings should be safe environments where children, learners and vulnerable adults can learn and develop. Inspectors should consider how well leaders and managers in early years settings, schools or further education and skills providers have created a culture of vigilance where children's and learners' welfare is promoted and where timely and appropriate safeguarding action is taken for children or learners who need extra help or who may be suffering or likely to suffer harm.
4. Inspectors must evaluate how well early years settings, schools, colleges and other further education and skills providers<sup>4</sup> fulfil their statutory and other responsibilities and how well staff exercise their professional judgement in keeping children and learners safe.
5. It is **essential** that inspectors are familiar with the content of the following key documents.
  - The Department for Education's (DfE) statutory guidance for schools<sup>5</sup> and colleges,<sup>6</sup> 'Keeping children safe in education',<sup>7</sup> which sets out the

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<sup>1</sup> 'Common inspection framework: education, skills and early years', Ofsted, August 2015; [www.gov.uk/government/publications/common-inspection-framework-education-skills-and-early-years-from-september-2015](http://www.gov.uk/government/publications/common-inspection-framework-education-skills-and-early-years-from-september-2015).

<sup>2</sup> 'Children' includes everyone under the age of 18.

<sup>3</sup> Ofsted's safeguarding policy, Ofsted, 2018; [www.gov.uk/government/publications/ofsted-safeguarding-policy](http://www.gov.uk/government/publications/ofsted-safeguarding-policy)

<sup>4</sup> Institutions in the further education sector (Section 91(3) of the Further and Higher Education Act 1992). For expectations on further education and skills providers that are not colleges, see Annex 5.

<sup>5</sup> The guidance applies to all schools (whether maintained, non-maintained or independent), including academies, free schools, pupil referral units and maintained nursery schools.

<sup>6</sup> The guidance applies to further education colleges, sixth form colleges and institutions designated as being within the further education sector and relates to young people under the age of 18, but

responsibilities placed on schools and colleges to safeguard and promote the welfare of children. A revised version of the guidance has been published that applies from 3 September 2018.

- The statutory guidance 'Working together to safeguard children', which applies to organisations and professionals who provide services to children.<sup>8</sup> A revised version of the guidance was published in June 2018 to reflect changes in multi-agency safeguarding arrangements. [Working Together Transitional Statutory Guidance](#) has also been published to support Local Safeguarding Children Boards (LSCBs) in the transition to new local safeguarding partner arrangements.
  - 'Prevent duty guidance for England and Wales: guidance for specified authorities in England and Wales on the duty of schools and other providers in the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism', HM Government, 2015, including specific guidance with respect to further education.<sup>9</sup> The DfE has provided additional guidance for schools and childcare providers 'The prevent duty: for schools and childcare providers'.<sup>10</sup> Additional guidance on Prevent for further education and skills providers is available on the Education and Training Foundation's website.<sup>11</sup>
6. Inspectors of independent schools should be familiar with the content of:
- the Education (Independent School Standards) Regulations 2014.<sup>12</sup>
7. Inspectors of schools and early years provision should be familiar with the content of the following key documents:
- 'Statutory framework for the early years foundation stage: setting the standards for learning, development and care for children from birth to five', DfE, 2017<sup>13</sup>
  - 'Disqualification under the Childcare Act 2006. Statutory guidance for local authorities, maintained schools, independent schools, academies and free schools', DfE, 2018. The guidance has been amended following the 2018 Regulations, under which schools are no longer required to establish whether

excludes 16 to 19 academies and free schools (which are required to comply with relevant safeguarding legislation by virtue of their funding agreement).

<sup>7</sup> 'Keeping children safe in education', Department for Education, 2018;

[www.gov.uk/government/publications/keeping-children-safe-in-education--2](http://www.gov.uk/government/publications/keeping-children-safe-in-education--2).

<sup>8</sup> [www.gov.uk/government/publications/working-together-to-safeguard-children--2](http://www.gov.uk/government/publications/working-together-to-safeguard-children--2).

<sup>9</sup> [www.gov.uk/government/publications/prevent-duty-guidance](http://www.gov.uk/government/publications/prevent-duty-guidance).

<sup>10</sup> [www.gov.uk/government/publications/protecting-children-from-radicalisation-the-prevent-duty](http://www.gov.uk/government/publications/protecting-children-from-radicalisation-the-prevent-duty).

<sup>11</sup> [www.preventforfeandtraining.org.uk](http://www.preventforfeandtraining.org.uk).

<sup>12</sup> [www.legislation.gov.uk/ukxi/2014/3283/contents/made](http://www.legislation.gov.uk/ukxi/2014/3283/contents/made).

<sup>13</sup> [www.gov.uk/government/publications/early-years-foundation-stage-framework--2](http://www.gov.uk/government/publications/early-years-foundation-stage-framework--2).

a member of staff providing, or employed to work in, childcare is disqualified by association.<sup>14</sup>

## Definition of safeguarding

8. In relation to children and young people, safeguarding and promoting their welfare is defined in 'Working together to safeguard children' as:
  - protecting children from maltreatment
  - preventing impairment of children's health or development
  - ensuring that children grow up in circumstances consistent with the provision of safe and effective care
  - taking action to enable all children to have the best outcomes.
  
9. There is a different legislative and policy base for responding to adults' safeguarding needs. The Care Act 2014 provides a legal framework for how local authorities and other parts of the health and care system should protect adults at risk of abuse or neglect. However, most of the principles and procedures that apply are the same as those for safeguarding children and young people.
  
10. Safeguarding action may be needed to protect children and learners from:
  - neglect
  - physical abuse
  - sexual abuse
  - emotional abuse
  - bullying, including online bullying and prejudice-based bullying
  - racist, disability and homophobic or transphobic abuse
  - gender-based violence/violence against women and girls
  - peer-on-peer abuse
  - radicalisation and/or extremist behaviour
  - child sexual exploitation and trafficking
  - child criminal exploitation and county lines
  - the impact of technology on sexual behaviour, for example 'sexting' and accessing pornography
  - teenage relationship abuse
  - substance misuse

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<sup>14</sup> [www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006](http://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006).

- issues that may be specific to a local area or population, for example gang activity and youth violence
  - domestic abuse
  - female genital mutilation
  - forced marriage
  - fabricated or induced illness
  - poor parenting
  - homelessness
  - so-called honour-based violence
  - other issues not listed here but that pose a risk to children, learners and vulnerable adults.
11. Safeguarding is not just about protecting children, learners and vulnerable adults from deliberate harm, neglect and failure to act. It relates to broader aspects of care and education, including:
- children's and learners' health and safety and well-being, including their mental health
  - meeting the needs of children who have special educational needs and/or disabilities
  - the use of reasonable force
  - meeting the needs of children and learners with medical conditions
  - providing first aid
  - educational visits
  - intimate care and emotional well-being
  - online safety<sup>15</sup> and associated issues
  - appropriate arrangements to ensure children's and learners' security, taking into account the local context.

## **The signs of successful safeguarding arrangements**

12. When inspecting safeguarding, inspectors will need to use their professional judgement about the extent to which arrangements in a setting are having a positive impact on the safety and welfare of children and learners. This list is intended to help inspectors arrive at those judgements.

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<sup>15</sup> The term 'online safety' reflects a widening range of issues associated with technology and a user's access to content, contact with others and behavioural issues.

13. In settings that have effective safeguarding arrangements, there will be evidence of the following:
- Children and learners are protected and feel safe. Those who are able to communicate know how to complain and understand the process for doing so. There is a strong, robust and proactive response from adults working with children and learners that reduces the risk of harm or actual harm to them. Adults working with them know and understand the indicators that may suggest that a child, young person or vulnerable adult is suffering or is at risk of suffering abuse, neglect or harm<sup>16</sup> and they take the appropriate and necessary action in accordance with local procedures and statutory guidance.
  - Leaders and managers have put in place effective child protection and staff behaviour policies that are well understood by everyone in the setting.
  - All staff and other adults working within the setting are clear about procedures where they are concerned about the safety of a child or learner. There is a named and designated lead who is empowered to play an effective role in pursuing concerns and protecting children and learners.<sup>17</sup>
  - Children and learners can identify a trusted adult with whom they can communicate about any concerns. They report that adults listen to them and take their concerns seriously. Where children or learners have been or are at risk of harm, the trusted adult has been instrumental in helping them to be safe in accordance with agreed local procedures. Children who are unable to share their concerns, for example babies and very young children, form strong attachments to those who care for them through the effective implementation of the key person system.
  - Written records are made in an appropriate and timely way and are held securely where adults working with children or learners are concerned about their safety or welfare. Those records are shared appropriately and, where necessary, with consent.
  - Any child protection and/or safeguarding concerns are shared immediately with the relevant local authority. Where the concern is about suspected harm or risk of harm to a child, the referral should be made to the children's social care department of the local authority for the area where the child lives. Where the concern is an allegation about a member of staff in a setting, or another type of safeguarding issue affecting children and young people in a setting, the matter should be referred to the designated officer in the local authority in which the setting is located.

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<sup>16</sup> This includes the risk of or actual sexual exploitation, radicalisation, running away, bullying, accidents, neglect and abuse.

<sup>17</sup> 'Keeping children safe in education', paragraphs 59 to 65 and Annex B, sets out who the designated safeguarding lead should be and what they should do; [www.gov.uk/government/publications/keeping-children-safe-in-education--2](http://www.gov.uk/government/publications/keeping-children-safe-in-education--2).

- A record of that referral is retained and there is evidence that any agreed action following the referral has been taken promptly to protect the child or learner from further harm. There is evidence, where applicable, that staff have an understanding of when to make referrals when there are issues concerning criminal or sexual exploitation, radicalisation and/or extremism or that they have sought additional advice and support. Children and learners are supported, protected and informed appropriately about the action the adult is taking to share their concerns. Parents and guardians are made aware of concerns and their consent is sought in accordance with local procedures unless doing so would increase the risk of harm to a child.
- There is a written plan in place that has clear and agreed procedures to protect a child or vulnerable adult. For children who are the subject of a child in need plan or child protection plan or who are looked after, or vulnerable adults that have an Education and Health or Education, Health and Care plan, the plan identifies the help that the child or vulnerable adult should receive and the action to be taken if a professional has further concerns or information to report.
- Children who go missing from the setting they attend receive well-coordinated responses that reduce the harm or risk of harm to them. Risks are well understood and their impact is minimised. Staff are aware of, and implement in full, local procedures for children who are missing from home and/or from education. Local procedures for notifying the local authority and parents are available, understood and followed. Comprehensive records are held and shared between the relevant agencies to help and protect children.
- Any risks associated with children and learners offending, misusing drugs or alcohol, self-harming, going missing, being vulnerable to radicalisation or being sexually exploited are known by the adults who care for them and shared with the local authority children's social care service or other relevant agency. There are plans and help in place that are reducing the risk of harm or actual harm and there is evidence that the impact of these risks is being minimised. These risks are kept under regular review and there is regular and effective liaison with other agencies where appropriate.
- Children and learners are protected and helped to keep themselves safe from bullying, homophobic behaviour, racism, sexism and other forms of discrimination. Any discriminatory behaviours are challenged and help and support are given to children about how to treat others with respect.
- Adults understand the risks posed by adults or learners who use technology, including the internet, to bully, groom, radicalise or abuse children or learners. They have well-developed strategies in place to keep children and learners safe and to support them to develop their own understanding of these risks and in learning how to keep themselves and others safe. Leaders oversee the safe use of technology when children and learners are in their care and take action immediately if they are concerned about bullying or children's well-being. Leaders of early years settings implement the required



policies with regard to the safe use of mobile phones and cameras in settings.

- Leaders and staff make clear risk assessments and respond consistently to protect children and learners while enabling them to take age-appropriate and reasonable risks as part of their growth and development.
- Children and learners feel secure and, where they may present risky behaviours, they experience positive support from all staff. Babies and young children demonstrate their emotional security through the attachments they form with those who look after them and through their physical and emotional well-being. Staff respond with clear boundaries about what is safe and acceptable and they seek to understand the triggers for children's and learners' behaviour. They develop effective responses as a team and review those responses to assess their impact, taking into account the views and experiences of the child or learner.
- Positive behaviour is promoted consistently. Staff use effective de-escalation techniques and creative alternative strategies that are specific to the individual needs of children and learners. Reasonable force, including restraint,<sup>18</sup> is only used in strict accordance with the legislative framework to protect the child and learner and those around them. All incidents are reviewed, recorded and monitored and the views of the child or learner are sought and understood. Monitoring of the management of behaviour is effective and the use of any restraint significantly reduces or ceases over time.<sup>19</sup>
- Staff and volunteers working with children and learners are carefully selected and vetted according to statutory requirements. Once appointed, consideration is given to their ongoing suitability in order to prevent the opportunity for harm to children or learners or place them at risk.
- There are clear and effective arrangements for staff development and training in respect of the protection and care of children and learners. Staff and other adults receive regular supervision and support if they are working directly and regularly with children and learners whose safety and welfare are at risk.
- The physical environment for babies, children and learners is safe and secure and protects them from harm or the risk of harm.
- All staff and carers have a copy of and understand the written procedures for managing allegations of harm to a child or learner. They know how to make a complaint and understand policies on whistleblowing and how to

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<sup>18</sup> 'Use of reasonable force in schools', Department for Education, July 2013; [www.gov.uk/government/publications/use-of-reasonable-force-in-schools](http://www.gov.uk/government/publications/use-of-reasonable-force-in-schools).

<sup>19</sup> Further guidance on inspecting the use of restraint and restrictions of liberty is in 'Positive environments where children can flourish', Ofsted March 2018: [www.gov.uk/government/publications/positive-environments-where-children-can-flourish](http://www.gov.uk/government/publications/positive-environments-where-children-can-flourish)

manage other concerns about the practice of adults in respect of the safety and protection of children and learners.

## Evidence to look for when inspecting safeguarding arrangements

14. This section provides guidance on the evidence inspectors should look for when reviewing safeguarding arrangements in a setting. The guidance is not exhaustive and should be read in conjunction with the relevant inspection handbook.
15. Inspectors should look for evidence of the extent to which leaders, governors and managers create a positive culture and ethos where safeguarding is an important part of everyday life in the setting, backed up by training at every level. Inspectors should consider the content, application and effectiveness of safeguarding policies and procedures and the quality of safeguarding practice, including evidence that staff are aware of the signs that children or learners may be at risk of harm either within the setting or in the family or wider community outside the setting.
16. Inspectors should consider how far leaders and managers have put in place effective arrangements to:
  - **Identify** children and learners who may need early help or are at risk of neglect, abuse, grooming or exploitation
  - **Help** prevent abuse by raising awareness among children and learners of safeguarding risks and how and where to get help and support if they need it
  - **Help** those children who are at risk of abuse and need early help or statutory social care involvement, keeping accurate records, making timely referrals where necessary and working with other agencies to ensure that children and learners get the help and support they need
  - Manage allegations about adults who may be a risk, and check the suitability of staff to work with children, learners and vulnerable adults.

## Inspecting how effectively leaders and governors create a safeguarding culture in the setting

17. Inspectors should consider how well leaders and managers in early years settings, schools and further education and skills providers have created a culture of vigilance where children's and learners' welfare is promoted and timely and appropriate safeguarding action is taken for children or learners who need extra help or who may be suffering or likely to suffer harm.
18. Inspectors should evaluate how well early years settings, schools and further education and skills providers fulfil their statutory responsibilities and how well

staff exercise their professional judgement in keeping children and learners safe.

19. Inspectors should consider evidence that:

- leaders, governors and supervisory bodies (where appropriate) fulfil statutory requirements, such as those for disability, safeguarding, recruitment and health and safety
- child protection/safeguarding and staff behaviour policies and procedures are in place, consistent with government guidance, refer to locally agreed multi-agency safeguarding arrangements and are regularly reviewed
- staff, leaders and managers recognise that children and learners are capable of abusing their peers and this risk is covered adequately in the child protection or safeguarding policy
- the child protection or safeguarding policy reflects the additional barriers that exist when recognising the signs of abuse and neglect of children who have special educational needs and/or disabilities
- children and learners feel safe
- staff, leaders, governors and supervisory bodies (where appropriate) and volunteers receive appropriate training on safeguarding at induction, that is updated regularly. In addition, they receive information (for example, via emails, e-bulletins and newsletters) on safeguarding and child protection at least annually. They demonstrate knowledge of their responsibilities relating to the protection of children, learners and vulnerable adults
- staff are supported to have a good awareness of the signs that a child or learner is being neglected or abused, as described in 'What to do if you're worried a child is being abused'<sup>20</sup>
- staff are confident about what to do if a child reports that they have been sexually abused by another child
- there is a designated senior member of staff in charge of safeguarding arrangements who has been trained to the appropriate level and understands their responsibilities relating to the protection of children, young people and vulnerable adults and the safeguarding of all learners. Designated members of staff in schools and colleges should be a senior member of the school or college leadership team and they should undertake safeguarding training every two years and their knowledge and skills should be refreshed at regular intervals, but at least annually.<sup>21</sup> Designated safeguarding leads in schools and colleges are aware of local plans for the

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<sup>20</sup> 'What to do if you're worried a child is being abused: advice for practitioners', Department for Education, March 2015; [www.gov.uk/government/publications/what-to-do-if-youre-worried-a-child-is-being-abused--2](http://www.gov.uk/government/publications/what-to-do-if-youre-worried-a-child-is-being-abused--2).

<sup>21</sup> 'Keeping children safe in education', paragraphs 52–58 and Annex B; [www.gov.uk/government/publications/keeping-children-safe-in-education--2](http://www.gov.uk/government/publications/keeping-children-safe-in-education--2).

transition to new multi-agency arrangements led by the three safeguarding partners and act as the main point of contact with the safeguarding partners. During term time the designated safeguarding lead for a school or college, or an appropriately trained deputy, should be available during opening hours for staff to discuss safeguarding concerns

- staff are aware of the role of the designated safeguarding lead and the identity of any deputies
- the setting identifies children or learners who may be at risk
- school and college staff are alert to circumstances when a child may need early help
- the setting has clear policies and procedures for dealing with children and learners who go missing from education, particularly those who go missing on repeat occasions. Leaders, managers and staff are alert to signs that children and learners who are missing might be at risk of abuse or neglect. Where reasonably possible, a school or college should hold more than one emergency contact number for each pupil or student
- appropriate action is taken when children and learners stop attending the setting or do not attend regularly; for schools, this includes informing the local authority when a pupil is going to be deleted from the register
- action is taken to ensure that children are taught about safeguarding risks, including online risks
- there is a clear approach to implementing the Prevent duty and keeping children and learners safe from the dangers of radicalisation and extremism
- the setting takes effective action to prevent and tackle discriminatory and derogatory language – this includes language that is derogatory about disabled people and homophobic and racist language
- children and learners are supported to understand and recognise risk, for example risks associated with criminal and sexual exploitation, domestic abuse, female genital mutilation, forced marriage, substance misuse, gang activity, radicalisation and extremism,<sup>22</sup> and are aware of the support available to them
- staff, leaders and managers understand the risks posed by adults or young people who use the internet to bully, groom or abuse children, learners and vulnerable adults; there are well-developed strategies in place to keep learners safe and to support them in learning how to recognise when they are at risk and how to get help when they need it
- staff understand the importance of considering wider environmental factors that may be present in a child's life that are a threat to their safety and/or welfare

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<sup>22</sup> This also includes risks associated with e-safety, substance misuse, knives and gangs, relationships (including sexual relationships), water, fire, roads and railways.

- teachers understand their mandatory duty to report to police any known case of female genital mutilation on a girl under the age of 18<sup>23</sup>
- staff, leaders and managers oversee the safe use of electronic and social media by staff and learners and take action immediately if they are concerned about bullying or risky behaviours
- appropriate filters and monitoring systems are in place to protect learners from potentially harmful online material
- appropriate arrangements are made with regards to health and safety to protect staff and learners from harm
- staff in schools and colleges are supported to make reasonable judgements about when it may be appropriate to use physical contact with a child to protect them from injury
- the setting's premises provide a safe learning environment with secure access.

## Inspecting arrangements for staff recruitment and vetting

20. Ofsted expects early years settings, schools and further education and skills providers to be able to demonstrate that they meet all regulations and duties for the purposes of the safeguarding judgement under leadership and management in the inspection handbook for the appropriate remit.
21. Inspectors should check the single central record early in inspections of schools and colleges in the expectation that it will be complete and meet statutory requirements.<sup>24</sup> During early years inspections, inspectors will check that the provider is able to produce evidence of suitability of relevant staff and adults.
22. Inspectors should also check the setting's policy and procedures for ensuring that visitors to the school are suitable and checked and monitored as appropriate, for example external speakers at school assemblies.
23. Registered early years providers are expected to make all records available at inspection. If evidence of suitability is not kept on site, inspectors can accept this evidence later during the inspection as long as it is provided before final feedback is given.
24. If there is a **minor** administrative error on a single central record, such as the absence of a date on the record, and this can be easily rectified **before** the final team meeting, the school or college will be given the chance to resolve the issue.

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<sup>23</sup> Mandatory reporting of female genital mutilation: procedural information, Home Office and DfE, 2015; [www.gov.uk/government/publications/mandatory-reporting-of-female-genital-mutilation-procedural-information](http://www.gov.uk/government/publications/mandatory-reporting-of-female-genital-mutilation-procedural-information).

<sup>24</sup> In the case of further education and skills providers, the requirement to have a single central record applies only to colleges (see footnote 4 and annex 5).

25. Ofsted has established a definition for 'administrative errors' in relation to the single central record (see below). No allowance will be made, for example, for breaches to the requirements for the Disclosure and Barring Scheme (DBS) disclosures.
26. Administrative errors may be defined as follows:
  - failure to record one or two dates
  - individual entries that are illegible
  - one or two omissions where it is clear that the information is already held by the school or college but the school or college has failed to transfer over the information in full to the single central record.
27. For specified early or later years childcare, inspectors are **not** expected to make enquiries as to whether any member of staff is disqualified. However, inspectors should ascertain that the provider knows their legal obligations and has effective systems in place to find out information about whether a person may be disqualified.
28. To employ a disqualified person knowingly constitutes an offence. Should an inspector become aware that a member of staff is, or may be, disqualified and has not been granted a waiver, this must be considered when making the judgement on the effectiveness of safeguarding.
29. Where an early years setting, school or college has recruited volunteers who are not checked, inspectors should explore with senior leaders and governors how the registered provider or school has reached this decision – for example how it has assessed the level of supervision provided.
30. In the case of trainee teachers and students on placement, if they are employed by the setting, school or college, then they should be subject to the same checks under regulations as other members of staff. If trainee teachers are fee-funded, the school or setting should obtain written confirmation from the training provider that these checks have been carried out and that the trainee has been judged by the provider to be suitable to work with children. There is no requirement for a school to record details of fee-funded trainees on the single central record.

## **Inspecting the quality of safeguarding practice**

31. Inspectors should look for evidence that the early years setting, school or college is implementing its safeguarding policy and processes effectively and keeping them under review. As well as ensuring that children and learners are safeguarded while on the premises, the setting should be proactive about anticipating and managing risks that children and learners face in the wider community. The setting should adhere to any locally agreed arrangements for safeguarding children. All concerns and the action taken in response should be clearly recorded.

32. Where a child is currently receiving services or support from children’s social care services and/or is subject to a multi-agency plan, or where a child has been referred to services by the setting, inspectors should explore the role, actions and participation of the early years setting, school or further education and skills provider in working in partnership with external agencies with the aim of improving the child’s situation.

### **Inspecting arrangements for handling serious incidents and allegations**

33. On all inspections, the lead inspector **must** check whether there have been any safeguarding incidents or allegations since the last inspection that have either been resolved or that are ongoing. This should be done early in the inspection, if possible. The purpose of this is to establish whether there is any information that could impact on the judgement of the effectiveness of safeguarding or any other aspect of the inspection that needs to be included in the report. Of particular relevance are the questions as to:
- (a) whether the early years setting, school or further education and skills provider has responded in a timely and appropriate way to concerns or allegations
  - (b) how effectively the early years setting, school or further education and skills provider has worked in partnership with external agencies regarding any concerns.

### **Arriving at judgements about safeguarding arrangements**

34. The impact of safeguarding arrangements will be tested under the CIF judgement on the quality of leadership and management and also its impact on the personal development, behaviour and welfare of children and learners. Inspectors will arrive at a judgement about whether the early years setting, school or further education and skills provider has effective safeguarding arrangements or not. This judgement will contribute towards the overall judgement on the effectiveness of leadership and management.
35. Judgements must not be made solely based on the evidence that is presented during the inspection. Inspectors must probe further and take into account a range of evidence to evaluate the effectiveness of safeguarding arrangements over time. Inspectors should take into account any comments received by Ofsted from parents of children who attend the setting.
36. Inspectors will consider the extent to which leaders, managers and those responsible for governance ensure that arrangements to protect children and learners meet statutory requirements, follow the applicable guidance, and promote their welfare – including the prevention of radicalisation and extremism. The evidence for this will contribute to the inspectors’ evaluation of

the effectiveness of safeguarding. Evidence gathered in relation to attendance, behaviour – for example bullying – and how well children and learners understand how to keep themselves safe may also contribute, to a greater or lesser degree, to this judgement. In line with statutory guidance, inspectors will gather evidence as to whether staff in all settings are sensitive to signs of possible safeguarding concerns. These include poor or irregular attendance, persistent lateness, or children missing from education. Inspectors will consider during each inspection any inspection survey comments about safeguarding from staff or pupils and any parental comments on Parent View.

37. Inspectors will make a judgement on the personal development, behaviour and welfare of children and learners by evaluating, where applicable, the extent to which the provision is successfully promoting and supporting children's and learners' safety. In order to make this judgement, inspectors will consider, among other things, children's and learners' understanding of how to keep themselves safe from relevant risks such as exploitation and extremism, including when using the internet and social media. Inspectors should include online safety in their discussions with children and learners (covering topics such as online bullying and safe use of the internet and social media). Inspectors should investigate what the school or further education and skills provider does to educate pupils in online safety and how the provider or school deals with issues when they arise.
38. In relation to early years, inspectors should consider how staff promote young children's understanding of how to keep themselves safe from relevant risks and how this is monitored across the provision.
39. When judging the effectiveness of safeguarding procedures in independent school inspections, inspectors must take into account whether or not the school meets all the paragraphs in part 2 (spiritual, moral, social and cultural development of pupils), part 3 (welfare, health and safety of pupils), part 4 (suitability of staff, supply staff and proprietors) and part 5 (premises of and accommodation at schools) of the independent school standards.<sup>25</sup>

## Inspecting and reporting on safeguarding concerns

40. Safeguarding concerns about an early years setting, school or further education and skills provider may be identified by inspectors during an inspection, or may be brought to the attention of an inspector or Ofsted before or during an inspection. Safeguarding concerns may include:
  - delay or negligence in passing on concerns to the relevant agencies about a child or learner at risk of or suffering significant harm

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<sup>25</sup> The Education (Independent School Standards) Regulations 2014; [www.legislation.gov.uk/uksi/2014/3283/contents/made](http://www.legislation.gov.uk/uksi/2014/3283/contents/made).



- the suspension or redeployment of a member of staff and a current safeguarding investigation
  - failure to follow statutory requirements, guidance, or locally agreed procedures for safer recruitment or for dealing with allegations against staff
  - failure to comply with the legal duty to refer to the DBS a member of staff who has harmed, or poses a risk of harm to, a child.
41. When reporting on these issues, inspectors must take care not to include any information that might lead to identification of an individual child or learner or of a member of staff who is, or may be, under investigation by another agency. Inspectors must be mindful that where a particular matter is under investigation it is not proven. It is also important that the inspection report should not contain information that might raise undue concerns among parents and the wider public that the children and learners in general are unsafe. There are instances when a member of staff may be absent because she or he has been suspended pending a safeguarding investigation. Parents or other staff may not be aware of the suspension and are most unlikely to be aware of any detail.
42. If a safeguarding issue relating to the provision is already known to Ofsted before an inspection, then the lead inspector (if unsure of what action to take) should seek guidance before the inspection. The lead inspector should record information about the concern known to Ofsted as part of the inspection planning evidence. This is to provide a clear audit trail showing how key lines of enquiry for the inspection were developed.
43. Inspectors should ensure that they are aware of any information about safeguarding at the setting that is available to the public, reported in the press or accessible on the internet, including that available on the early years setting, school or further education and skills provider's website, if available. As part of their pre-inspection planning, the lead inspector should run an internet check to see whether there are any safeguarding issues that the inspection team may need to follow up during the inspection. All information that is considered when planning for the inspection should be recorded as evidence.
44. Inspectors should give careful consideration to the judgements relating to the effectiveness of safeguarding, when it is known that a member of staff has been convicted of sexual or violent offences.

## **Reporting on evidence or allegations of child abuse, including serious incidents**

45. If, in the course of an inspection, inspectors come across evidence or allegations of child abuse, the lead inspector should report the concerns using the following wording:

'Concerns raised by [some children or young people or vulnerable adults/a child or young person or vulnerable adult/some parents/one parent] during the inspection are being examined by the appropriate bodies.'

46. It is not the role of an inspector to investigate a child protection concern or an allegation against a member of staff. Inspectors should, however, satisfy themselves that appropriate referrals have been made in response to any child protection concerns.
47. In cases where Ofsted has become aware of an investigation by another agency into a serious incident or serious allegations involving a setting, school or provider that Ofsted is inspecting, it may be appropriate for the inspection report to make a brief reference to the investigation. This should be done in such a way that avoids the risk of prejudicing the outcome of the investigation or identifying individuals who are linked to the investigation. Any references will be confined to the most serious incidents, such as the death of a child or a serious safeguarding failure. Inspectors should avoid making any reference to a serious incident if there is any possibility that doing so would: prejudice an investigation or its outcome; breach confidentiality; or risk identifying individuals subject to, or related to, the investigation. If a reference is to be made, it should be clear that Ofsted has not investigated and is not coming to any determination on the concerns raised.
48. Inspectors should note that the restrictions in paragraphs 45–47 of this guidance apply to what may be reported in the published inspection report about active, external investigations, not to what may be included as lines of enquiry in the inspection. Inspectors are required and remain free to comment on any matter they believe is relevant to the quality of the safeguarding practice, as long as the comments are based on the inspection evidence.

### **Sentences to include in inspection reports when an investigation is in progress**

49. Where relevant and appropriate, given the particular circumstances, the lead inspector should give careful consideration to, and seek advice about, the insertion of specific text in the 'Information about this setting or school' section of the report template. Before using the sentences below, inspectors must consider whether referring to an incident might cause prejudice to an ongoing investigation or inappropriately identify an individual. If they are in any doubt, inspectors must seek advice on the wording to be used.

#### **A serious incident that involves the setting**

'Inspectors were aware during this inspection that a serious incident that occurred at the setting since the previous inspection is under investigation by the appropriate authorities. While Ofsted does not have the power to investigate incidents of this kind, actions taken by the setting/school/provider in response to the incident(s) were considered

alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

### **An investigation into the death or serious injury of a child at the setting or while in the care of staff**

'Inspectors were aware during this inspection that a serious incident that occurred at the setting/while a child was in the care of staff employed by the setting [for example during an educational visit – amend as appropriate] since the previous inspection is under investigation by the appropriate authorities. While Ofsted does not have the power to investigate incidents of this kind, actions taken by the setting/school/provider in response to the incident(s) were considered alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

50. In situations where the incident concerns a child who attends or used to attend the early years setting or school, but the incident did not take place in the setting or school, the following form of words could be used:

'Inspectors were aware during this inspection of a serious incident involving a child who attends/used to attend this setting/school/provision [delete as appropriate] that had occurred since the previous inspection. While Ofsted does not have the power to investigate incidents of this kind, actions taken by the setting/school/provider in response to the incident(s) were considered alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

### **An investigation into alleged child protection failings**

'Inspectors were aware during this inspection that serious allegations of a child protection nature were being investigated by the appropriate authorities. While Ofsted does not have the power to investigate allegations of this kind, actions taken by the setting/school/provider in response to the allegations(s) were considered alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

### **A police investigation into the use of restraint/restriction of liberty at the setting**

'Inspectors were aware during this inspection of a police investigation into serious allegations about restriction of liberty at the setting/school/provider. While Ofsted does not have the power to investigate allegations of this kind, actions taken by the setting/school/provider in response to the allegation(s) were considered alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

## Annex 1. Safeguarding requirements for leaders and managers

Governing bodies, boards of trustees, registered providers and proprietors (including management committees) must ensure that they comply with their safeguarding duties under legislation. In the case of academies, free schools and alternative provision academies, references to the proprietor include the academy trust. They must ensure that the policies, procedures and training in their early years settings, schools or colleges are effective and comply with the law at all times.

The responsibilities placed on governing bodies, boards of trustees, registered providers, proprietors and management committees include:

- continuing to contribute to inter-agency working in line with statutory guidance 'Working together to safeguard children and Transitional Working together guidance'
- ensuring that an effective child protection policy is in place, together with a staff behaviour policy, where applicable. For schools and colleges the child protection policy should include procedures for minimising and dealing with peer-on-peer abuse and the approach to managing reports of sexting.
- appointing a designated safeguarding lead and, in schools and colleges, ensuring that they should undergo child protection training every two years
- prioritising the welfare of children and learners and creating a culture where staff are confident to challenge senior leaders over any safeguarding concerns
- making sure that children and learners are taught how to recognise risk and know where to go for help when they need it
- putting in place appropriate safeguarding responses to children and learners who go missing from early years and education settings, particularly on repeat occasions
- carrying out reasonable checks, for example for links with extremism, on, and assessing what will be appropriate supervision of, all visitors who are intending to work with children, learners and/or staff or to address assemblies
- if named as a relevant agency, cooperating with the new local safeguarding arrangements. It is expected that, locally, the three safeguarding partners will name schools and colleges as relevant agencies and ensure that they are fully involved in the new arrangements.

In addition, for schools and colleges:

- having a senior board level (or equivalent) lead to take **leadership** responsibility for the school or college's safeguarding arrangements

- being aware of local arrangements and timelines for the transition from the Local Safeguarding Children Board to new multi-agency arrangements led by the three safeguarding partners (the local authority, clinical commissioning group and the chief officer of police)
- understanding the local criteria for action<sup>26</sup> and the local protocol for assessment<sup>27</sup> and ensuring that these are reflected in the setting's policies and procedures.
- having due regard to the need to prevent people from being drawn into terrorism in accordance with the Counter-Terrorism and Security Act 2015
- supporting staff to take a whole establishment approach to preventing sexual violence and sexual harassment between children or learners, and supporting any children who are affected, including the alleged victim and perpetrator<sup>28</sup>
- appointing a designated teacher to promote the educational achievement of children who are looked after and, on commencement of section 4 to 6 of the Children and Social Work Act 2017, of children who have left care through adoption, special guardianship or child arrangements orders of children who were adopted from state care outside of England and Wales.

## Safe recruitment

Governing bodies, boards of trustees, registered providers, proprietors and management committees should prevent people who pose a risk of harm from working with children or learners by:

- adhering to statutory responsibilities to carry out checks that enable a decision to be taken on the suitability of staff who work with children and learners
- taking proportionate decisions on whether to ask for checks beyond those that are required
- ensuring that volunteers are appropriately supervised

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<sup>26</sup> The safeguarding partners will publish a document which sets out the local criteria for action in a way that is transparent, accessible and easily understood. This should include: the process for the early help assessment and the type and level of early help services to be provided; the criteria, including level of need, for when a case should be referred to local authority children's social care for assessment and for statutory services under section 17, 20, 31 and 47 of the Children Act 1989; and clear procedures and processes for cases relating to the exploitation of children, children managed within the youth secure estate and disabled children.

<sup>27</sup> The local authority, with their partners, will develop and publish local protocols for assessment. Protocols should set out clear arrangements for how cases will be managed once a referral is made to children's social care.

<sup>28</sup> [Sexual violence and sexual harassment between children in schools and colleges](https://www.gov.uk/government/publications/sexual-violence-and-sexual-harassment-between-children-in-schools-and-colleges), Department for Education, Updated May 2018; [www.gov.uk/government/publications/sexual-violence-and-sexual-harassment-between-children-in-schools-and-colleges](https://www.gov.uk/government/publications/sexual-violence-and-sexual-harassment-between-children-in-schools-and-colleges)

- making sure that, in relation to maintained schools, at least one person on any appointment panel has undertaken safer recruitment training
- ensuring that there are procedures in place to handle allegations against members of staff and volunteers
- making sure that there are procedures in place to handle allegations against other children or learners.

Governing bodies, boards of trustees, registered providers, proprietors and management committees should ensure that allegations against members of staff and volunteers are referred to the local authority's designated officer(s) involved in the management and oversight of allegations against people who work with children.<sup>29</sup> There must be procedures in place to make a referral to the Disclosure and Barring Service (DBS) if a person in regulated activity has been dismissed or removed due to safeguarding concerns or would have been removed had they not resigned. This is a legal obligation and failure to do so is a criminal offence. For example, it is a criminal offence for an employer knowingly to take on an individual in a DBS-regulated activity (such as schools or childcare) who has been barred from such an activity.

Governing bodies of maintained schools and boards of trustees of academies must appoint a designated teacher to promote the educational achievement of children who are looked after and ensure that this person has appropriate training. Governing bodies, boards of trustees, registered providers, proprietors and management committees should ensure that staff have the skills, knowledge and understanding necessary to keep looked after children safe.

Early years providers, school leaders and further education and skills providers should create a culture of safe recruitment that includes the adoption of recruitment procedures that help deter, reject or identify people who might abuse children and learners. Governing bodies, boards of trustees, registered providers and proprietors must act reasonably in making decisions about the suitability of prospective employees.

It is the registered provider's, board of trustees', proprietor's or governing body's responsibility to ensure that safe recruitment checks are carried out in line with the statutory requirements, set out in the DfE's Keeping Children Safe in Education guidance. There is no requirement to carry out retrospective checks on current staff – the necessary checks are those that were in force at the time the appointment was made.

Governing bodies, boards of trustees, registered providers and proprietors must ensure that when an individual is appointed to carry out teaching work, an additional check is carried out to ensure that the individual is not prohibited from teaching. For those who are to be involved in management roles in independent schools (including

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<sup>29</sup> This person was and may still be known as the local authority designated officer (LADO).

academies and free schools), an additional check is required to ensure that they are not prohibited from management under Section 128 of the Education and Skills Act 2008.

Schools and colleges **must** keep a single central record. The record must cover the following people:

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

The record should also cover all others who work in regular contact with children in the school or college, including volunteers who have been checked.

Registered early years providers must keep the required information above, as set out in paragraphs 3.68–3.73 of the 'Statutory framework for the Early Years Foundation Stage', although they are not required to keep this information as a single central record.

It is the registered provider's or school's responsibility to ensure that all the staff they employ in specified early or later years childcare have had the appropriate checks. This includes ensuring that staff working in early and later years settings are suitable to do so. The 'Statutory framework for the Early Years Foundation Stage' sets out the disqualification requirements that early years providers must meet. School inspectors should also be aware of the latest version of the statutory guidance 'Disqualification under the Childcare Act 2006' that was issued in July 2018. This statutory guidance applies to governing bodies of maintained schools, including maintained nursery schools, and proprietors of non-maintained and independent schools (including academies) and management committees of pupil referral units.

Governing bodies, boards of trustees, proprietors and management committees must ensure that they are not knowingly employing a person who is disqualified under the School Staffing (England) Regulations 2009 in connection with relevant early years provision. In gathering information to make these decisions, they must ensure that they act proportionately and minimise wherever possible the intrusion into the private lives of their staff and members of their household. Disqualification may also affect relevant staff working in early or later years provision or those who are directly concerned with the management of such provision who are disqualified 'by association'. A person is automatically disqualified if they live in the same household as another person who is disqualified or in a household where a disqualified person is employed. The statutory guidance lists the categories of staff covered by the legislation. From September 2018 the disqualification by association provisions only apply where childcare is provided in a domestic setting.

A disqualified person may apply to Her Majesty's Chief Inspector for a waiver of disqualification for most grounds of disqualification. Ofsted has published a factsheet setting out how to make a waiver application.<sup>30</sup>

Where a school places a pupil with an alternative provision provider, the school continues to be responsible for safeguarding that pupil and should be satisfied that the provider meets their needs. The school should obtain written confirmation that appropriate checks have been carried out on staff employed by the provider to work with children. The school or commissioner should establish that the provider meets any applicable requirements for registration.<sup>31</sup>

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<sup>30</sup> 'Applying to waive disqualification: early years and childcare provision', Ofsted, September 2014, [www.gov.uk/government/publications/applying-to-waive-disqualification-early-years-and-childcare-providers](http://www.gov.uk/government/publications/applying-to-waive-disqualification-early-years-and-childcare-providers).

<sup>31</sup> A provider must be registered if it provides full-time education for five or more pupils of compulsory school age; or one or more pupils of compulsory school age who has an education, health and care (EHC) plan or statement of special educational needs; or one or more pupils of compulsory school age who are looked after by a local council.



## **Annex 2. Pre-appointment checks, including Disclosure and Barring Service checks and Secretary of State prohibition orders <sup>32</sup>**

Early years, schools and further education and skills providers must check an individual's identity and right to work in the UK.

The level of DBS check required, and whether a prohibition check is required, will depend on the role and duties of an applicant to work in an early years setting, school or further education and skills provider. For most appointments, an enhanced DBS check with barred list information will be appropriate as the majority of staff will be engaging in regulated activity as defined in Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.<sup>33</sup> The scope of regulated activity in relation to children is set out in a factual note published by the Department for Education.<sup>34</sup>

In a school or college, a supervised volunteer who regularly teaches or looks after children is not in regulated activity. The DfE has published separate statutory guidance on supervision and regulated activity that schools and colleges should have regard to when considering which checks should be undertaken on volunteers.<sup>35</sup>

When the DBS has completed its check, a DBS certificate is sent to the applicant. The applicant must show the certificate to their potential employer before they take up the post or as soon as practicable afterwards. Alternatively, if the applicant has subscribed to it and gives permission, the early years setting, school or college may undertake an online update check through the DBS Update Service to ensure the information contained within a previously issued certificate remains current. Early years, schools and further education and skills providers should consider any information contained in the certificate and provided by the update service as part of their wider decision on an individual's suitability.

If a school or college allows an individual to start work in regulated activity before the DBS certificate is available, it should ensure that the individual is appropriately supervised and that all other checks are completed to ensure that the individual is not barred by the DBS.

If an early years setting allows an individual to start work in a regulated activity before their DBS certificate is available, they should ensure that the person is never left in unsupervised contact with children, and that they are in the process of obtaining a DBS certificate for that individual.

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<sup>32</sup> For more information see the DBS website:

[www.gov.uk/government/organisations/disclosure-and-barring-service](http://www.gov.uk/government/organisations/disclosure-and-barring-service).

<sup>33</sup> [www.legislation.gov.uk/ukpga/2006/47/schedule/4](http://www.legislation.gov.uk/ukpga/2006/47/schedule/4).

<sup>34</sup> 'Regulated activity in relation to children: scope', DfE, 2012;

[www.gov.uk/government/publications/keeping-children-safe-in-education--2](http://www.gov.uk/government/publications/keeping-children-safe-in-education--2).

<sup>35</sup> See Annex F of 'Keeping children safe in education'; [www.gov.uk/government/publications/keeping-children-safe-in-education--2](http://www.gov.uk/government/publications/keeping-children-safe-in-education--2).

Individuals who have lived or worked outside the UK must undergo the same checks as all other staff in schools or colleges. In addition, schools and colleges must make any further checks they think appropriate so that any relevant events that occurred outside the UK can be considered. These further checks should include a check for information about any teacher sanction or restriction that a European Economic Area professional regulating authority has imposed. Schools and colleges should consider the circumstances that led to the restriction or sanction being imposed when considering a candidate's suitability for employment.

Early years providers should seek additional criminal record checks for anyone who has lived or worked abroad.<sup>36</sup>

Secretary of State prohibition orders prevent a person from carrying out teaching work in schools, sixth form colleges, 16 to 19 academies, relevant youth accommodation and children's homes in England. A person who is prohibited from teaching must not be appointed to work as a teacher in such a setting. Prohibition checks are not normally required when appointing into teaching assistant (TA) positions. This would, however, be necessary if the TA had qualified teacher status and was being appointed to carry out teaching, or if their role changed so that they began teaching work. A section 128 direction prohibits or restricts a person from taking part in the management of an independent school, including academies and free schools.

A check for a teacher prohibition order, section 128 direction, continuing GTCE sanction or restriction, or teacher sanction or restriction imposed by an European Economic Area professional regulating authority can be carried out using the Teacher Services system.<sup>37</sup>

An offer of appointment to a successful candidate, including one who has lived or worked abroad, must be conditional on satisfactory completion of pre-employment checks including seeking references. More information about how to conduct these checks is in Part 3 of 'Keeping children safe in education'.

Governors and school proprietors are required to have an enhanced criminal records certificate from the DBS and it is the responsibility of the governing body or proprietor to apply for the certificates. A barred list check is not required unless the governor also engages in regulated activity. Also, it is recommended that schools contact the Teaching Regulation Agency (TRA) Teacher Services to check that a person they propose to recruit as a governor is not subject to a section 128 direction.

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<sup>36</sup> For more information, please see [www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants](http://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants).

<sup>37</sup> The Teacher Services system is accessed via the DfE's secure access portal; <https://teacherservices.education.gov.uk>.

## Annex 3. The single central record

Schools and colleges must keep a single central record of their staff members.

Multi-academy trusts (MATs) must maintain the single central record detailing checks carried out in each academy within the MAT. Whilst there is no requirement for the MAT to maintain an individual record for each academy, the information should be recorded in such a way that allows for details for each individual academy to be provided separately, and without delay, to those entitled to inspect that information, including by inspectors.

Generally, the information to be recorded by schools or other providers on individuals is whether or not the following checks have been carried out or certificates obtained and the date on which each check was completed:

- an identity check
- a barred list check
- an enhanced DBS check/certificate
- a prohibition from teaching check
- a check for a section 128 direction (for management positions in independent schools including academies and free schools)
- further checks on people living or working outside the UK
- a check of professional qualifications
- a check to establish the person's right to work in the UK.

For supply staff, schools and other providers should also include 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, whether any enhanced DBS check certificate has been provided in respect of the member of supply staff and the date that confirmation was received.<sup>38</sup>

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

Details of the records that must be kept are contained in:

- for maintained schools: Regulations 12(7) and 24(7) and Schedule 2 to the School Staffing (England) Regulations 2009 and the School Staffing (England) Amendment Regulations 2013 (applied to pupil referral units through the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007)

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<sup>38</sup> Independent schools and non-maintained special schools should also include the date on which any certificate was obtained.

- for independent schools (including academies and free schools): Part 4 of the Schedule to the Education (Independent School Standards) Regulations 2014
- for colleges: Regulations 20–25 and the Schedule to the Further Education (Providers of Education) (England) Regulations 2006<sup>39</sup>
- for non-maintained special schools: Regulation 3 and Paragraph 6 of Part 1 and Paragraph 18 of Part 2 of the Schedule to the Education (Non-Maintained Special Schools) (England) Regulations 2015.

If a school or college has concerns about an existing staff member's suitability to work with children or learners, it should carry out all relevant checks as if the person were a new member of staff. Similarly, if a person working at the school or college moves from a post that was not regulated activity into work that is regulated activity, the relevant checks for the regulated activity must be carried out. Apart from these circumstances, in respect of existing staff the school or college is not required to request a DBS check or barred list check. The only requirement for those appointed before March 2002 is that they must have been List 99 checked. DBS checks became mandatory for the entire maintained schools' workforce from 12 May 2006 (September 2003 for independent schools, including academies).

While registered early years providers are not required to keep a single central record, they are still required to obtain the relevant information to confirm the suitability of those caring for children. The requirements are set out in the 'Statutory framework for the Early Years Foundation Stage' and are referenced earlier in this document.

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<sup>39</sup> 16 to 19 academies and free schools are covered through their funding agreements.

## **Annex 4. Safeguarding requirements in further education and skills providers that are not colleges**

The following extracts from 'Working together to safeguard children' apply to voluntary organisations and private sector providers in the further education sector.<sup>40</sup>

Chapter 2, paragraphs 57 to 62 include the following:

'Voluntary, charity, social enterprise (VCSE) and private sector organisations and agencies play an important role in safeguarding children through the services they deliver. Some of these will work with particular communities, with different races and faith communities and delivering in health, adult social care, housing, prisons and probation services. They may as part of their work provide a wide range of activities for children and have an important role in safeguarding children and supporting families and communities.

Every VCSE, faith-based organisation and private sector organisation or agency should have policies in place to safeguard and protect children from harm. These should be followed and systems should be in place to ensure compliance in this. Individual practitioners, whether paid or volunteer, should be aware of their responsibilities for safeguarding and protecting children from harm, how they should respond to child protection concerns and how to make a referral to local authority children's social care or the police if necessary.

Every VCSE, faith-based organisation and private sector organisation or agency should have in place the arrangements described in this chapter. They should be aware of how they need to work with the safeguarding partners in a local area. Charities (within the meaning of section 1 Charities Act 2011), religious organisations (regulation 34 and schedule 3 to School Admissions) and any person involved in the provision, supervision or oversight of sport or leisure are included within the relevant agency regulations. This means if the safeguarding partners name them as a relevant partner they must cooperate. Other VCSE, faith-based and private sector organisations not on the list of relevant agencies can also be asked to cooperate as part of the local arrangements and should do so.

Chapter 2, paragraph 3 of 'Working together to safeguard children' states that certain organisations including:

- Local authorities and district councils
- NHS organisations and agencies and the independent sector, including NHS Trusts and NHS Foundation Trusts
- The police, including police and crime commissioners and the chief officer of each police force in England

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<sup>40</sup> [www.gov.uk/government/publications/working-together-to-safeguard-children--2](http://www.gov.uk/government/publications/working-together-to-safeguard-children--2)

should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children, including:

- a senior board level lead with the required knowledge, skills and expertise or sufficiently qualified and experienced to take leadership responsibility for the organisation's/agency's safeguarding arrangements
- a culture of listening to children and taking account of their wishes and feelings, both in individual decisions and the development of services
- clear whistleblowing procedures, which reflect the principles in Sir Robert Francis' Freedom to Speak Up Review and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed
- clear escalation policies for staff to follow when their child safeguarding concerns are not being addressed within their organisation or by other agencies
- arrangements which set out clearly the processes for sharing information with other practitioners and with safeguarding partners
- a designated practitioner for child safeguarding. Their role is to support other practitioners in their organisations and agencies to recognise the needs of children, including protection from possible abuse or neglect
- safe recruitment practices and ongoing safe working practices for individuals whom the organisation or agency permit to work regularly with children, including policies on when to obtain a criminal record check
- appropriate supervision and support for staff, including undertaking safeguarding training
- creating a culture of safety, equality and protection within the services they provide.

Providers with funding contracts or grants for the provision of education and/or training have a range of contractual obligations and funding conditions with respect to the safeguarding and protection of learners.

Some providers only train their own employees. Employers are not required to undertake DBS checks on staff who are supervising employed trainees under the age of 18. However, if any staff are employed principally to carry out teaching, training, assessing, mentoring or coaching of learners under 16 years old on a frequent or intensive basis, they are engaged in regulated activity and the employer should undertake a DBS check on those staff.

## **Annex 5. Inspection and health and safety, particularly in further education and skills providers**

Ofsted often receives questions about inspectors' approach to inspecting health and safety. Providers want to find out whether Ofsted expects to see rigorous health and safety checks on inspection; the extent to which inspectors check health and safety documentation for learners on work placements; and whether Ofsted conducts a health and safety audit.

Ofsted is not a health and safety authority and it is not responsible for auditing health and safety standards within the learning environment. However, inspectors have a duty to take prompt and proportionate action and to report any significant health and safety risks affecting learners that are identified during the course of an inspection.

Inspection visits to vocational workshops or learners' workplaces are primarily to observe a teaching or training session or an assessment and to evaluate learners' standards of work. However, during the course of an inspection, inspectors may also identify good or poor health and safety practices as they affect learners and their areas of work. For example, inspectors will check whether the correct personal protective equipment is being worn on a construction site, or whether learners are using correct procedures for storing knives in a catering kitchen.

Subject specialist inspectors should have a working knowledge of the relevant guidance from the Health and Safety Executive. However, inspectors are not health and safety experts and are not expected to have the detailed knowledge that appropriately qualified specialists in this field possess.

Any learning environment or work placement must be fit for purpose and properly planned and evaluated to ensure that it meets appropriate standards and learners' needs. Nevertheless, inspections should not be regarded as health and safety audits, although inspectors will adopt a proportionate approach to checking that the employer has appropriate health and safety systems in place and will identify significant health and safety issues affecting learners where they arise.

### **The responsibilities of the provider and the employer with respect to health and safety in the context of work experience<sup>41</sup>**

Inspectors will have regard to guidance from the Health and Safety Executive about the relative responsibilities of the training provider and the employer, which emphasises the following:

- the employer has primary responsibility for the health and safety of the learner and should be managing any risks

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<sup>41</sup> The Health and Safety Executive guidance is available at: [www.hse.gov.uk/youngpeople/workexperience/index.htm](http://www.hse.gov.uk/youngpeople/workexperience/index.htm).

- the training provider should take reasonable steps to satisfy itself that the employer is managing the risks and understands the specific factors relevant to employing young people
- the training provider should keep checks in proportion to the level of risk, which will vary in relation to the type of working environment involved
- the provider should avoid seeking paperwork for assurance purposes, using an exchange of emails or correspondence to provide an audit trail if this is needed.



## **Annex 6. Assessment of risk in settings that children attend because individuals reside on the premises or have access to children and young people**

This annex sets out details of how Ofsted inspectors check that early years providers ensure that any risks arising from individuals, other than staff or users, living on or accessing the premises (both those employed by the setting and those who do not work for the organisation), are determined, assessed and acted on.<sup>42</sup>

During an inspection or registration visit, inspectors must explore whether anyone lives on the setting premises<sup>43</sup> or whether anyone other than staff and users of the service has access to the premises. This requirement applies to the inspection of any setting that children attend and/or where they are resident.

Inspectors need to be vigilant when assessing how the provider mitigates all risks, including those arising from any individuals living on the premises. They must avoid making assumptions about who has access to the premises. Inspectors must not allow more immediate concerns to overshadow their assessment of arrangements where an individual, not employed by the provider, lives on or has access to the premises; this is a key safeguarding issue. Access to the premises by other individuals must be assessed even where there may appear to be less risk. For example, because the fact that those who have access are council staff does not, in itself, mitigate possible risk to children and young people. The assessment of access needs to take account of the age and vulnerability of the children or young people who attend, or who are resident at, the premises.

Where individuals other than members of staff reside on or in the vicinity of the premises, the provider must demonstrate that they have fully assessed any risks they may pose to children. In the case of a regulated setting, this is a regulatory requirement.<sup>44</sup> Inspectors should always establish whether residential accommodation exists in, or in close proximity to, the premises irrespective of whether anyone is actually living in that accommodation at the time of the inspection (or registration visit). Inspectors should also establish who makes the decision about letting the accommodation (be that for rent or not) and what vetting of prospective tenants is undertaken before arranging any letting.

Inspectors should take account of the availability of access to the premises through any linked residential accommodation. If, for example, the residential area where the

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<sup>42</sup> In the case of childminders who operate on domestic premises, household members who live in and have access to the premises (but do not work for the organisation) are routinely checked by Ofsted.

<sup>43</sup> For the purposes of this guidance, 'premises' is not restricted to the definition as set out in regulation (i.e. only those areas where the early years' service is provided); rather, it includes accommodation within the same main building, a completely self-contained apartment, with a separate entrance, that is part of that building or a residence in the grounds.

<sup>44</sup> In an early years setting, this is a requirement where it pertains to the regulatory definition of 'the premises' (only those areas where the early years service is provided).

individual or individuals live constitutes a fire escape route (which would be unacceptable in settings where children reside), inspectors should take account of whether access into the setting is also possible by the individual living there and whether children could gain access to the accommodation other than in the case of fire.

In evaluating the risks posed because of close residential accommodation for third parties, the inspector should take account of the provider's track record in responding appropriately to previous actions/requirements or recommendations. Where actions/requirements or recommendations have been made previously, these must be followed up.

Where residential premises are occupied by an individual who is not directly connected with the provision, inspectors should take account of:

- the views of children and, where appropriate, young people, parents and carers
- the behaviour of that individual and any impact that their presence in the vicinity has on the experiences and safety of children and young people.

Inspectors should test how well staff would deal with a safeguarding concern relating to a third party resident should it arise and how they monitor the situation and implement safeguarding procedures.

If an inspector is concerned about the arrangements in a provision or setting and is unclear what to do, they should consult a more senior officer within Ofsted or the right remit duty desk.

All aspects of the assessment of risk posed by any individual living on the premises or having access to children and young people must be fully recorded on the main remit electronic recording system (RSA, PIP, OfficeBase, etc.). Where actions need to be taken, this should be in line with the 'Early childhood compliance handbook'<sup>45</sup> in regulated settings and for non-regulated settings in line with Ofsted's safeguarding policy and guidance. Recording must be sufficiently robust to form an audit trail for scrutiny later. The records should show clearly the discussion with the provider about how the risks of either current or future residents were or will be conducted, but such records should not name any individual.

In summary, inspectors should:

- ensure that a thorough review of the premises is conducted at the inspection or registration visit and that the evidence of the review is clearly recorded; particular attention should be paid to:
  - the layout and location of the premises

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<sup>45</sup> 'Early years compliance handbook', Ofsted, May 2016; [www.gov.uk/government/publications/compliance-investigation-and-enforcement-handbook-childcare](http://www.gov.uk/government/publications/compliance-investigation-and-enforcement-handbook-childcare).

- use of the outdoor space, who has access to the premises and whether there are residential facilities on or in close proximity to the premises
- scrutiny of how effectively the provider has identified and taken steps to minimise any potential risks arising
- raise awareness at each visit of the importance of checking the premises, who has access to the premises and whether anyone lives on or is in close proximity to the premises and, if so, whether they have any opportunity of access to the provision or to the children attending
- consider whether the provider has fully assessed the risks posed by residence or access and is able to explain how children are safeguarded.



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