

Inquiry Report

St Paul's School

Registered Charity Number 1119619



A statement of the results of an inquiry into St Paul's School (registered charity number 1119619).

Published on 18 August 2015.

The charity

St Paul's School ('the charity') was incorporated on 6 March 2007 and registered as a charity with the Charity Commission ('the commission') on 12 June 2007. It is governed by a memorandum and articles of association. The Mercers' Company is the sole member of the charity.

Based in London, the charity runs St Paul's School, which was founded in 1509, and its preparatory school, Colet Court. It provides education for boys aged from 7 to 18 years. Prior to the formation of the charity the schools were operated by the governors of St Paul's Schools Foundation (registered charity number 312749), an unincorporated charity with the Mercers' Company being its corporate trustee.

The governors of the charity are charity trustees under charity law and are also the directors of the charity under company law. The charity's trustees are also referred to collectively in this report as the 'governing body'.

More details about the charity are available on the [register of charities](#).

Background and issues under investigation

In May 2014 the commission became aware of national media coverage¹ of an investigation known as Operation Winthorpe by The Metropolitan Police Service ('MPS') into 'non-recent' sexual abuse allegations connected to the schools operated by the charity, and the arrest of 3 individuals between June 2013 and February 2014. Given the serious nature of the allegations, the apparent link to the charity and noting that no reports of serious incidents had been received from the charity, the commission opened a regulatory compliance case on 2 May 2014 and contacted the charity.

¹ For example:

- <http://www.bbc.co.uk/news/uk-england-london-27235785>
- <http://www.standard.co.uk/news/crime/scotland-yard-to-investigate-claims-of-widespread-abuse-at-top-london-private-school-9307030.html>
- <http://www.dailymail.co.uk/news/article-2617502/Officer-headed-Savile-inquiry-investigate-claims-18-paedophile-teachers-public-school.html>

The commission's liaison with the MPS and the Local Authority Designated Officer ('LADO')² identified that more recent incidents or allegations which posed a potential safeguarding risk had occurred, including the arrest in September 2013 of Anthony Fuggle - who at that time was serving as a teacher at Colet Court - on suspicion of possession of indecent images of young persons. These incidents or allegations and the initial response and information gathered from the charity during the commission's regulatory compliance case raised questions about whether the governance with regard to safeguarding matters was adequate and whether the trustees were taking sufficient steps to protect the charity's beneficiaries from harm. The matter was escalated to a statutory inquiry ('the inquiry') on 11 June 2014 to investigate those concerns further.

Inquiry scope

The commission does not administer child protection legislation nor is it an expert in child protection matters. In the context of safeguarding issues, the commission has a limited and very specific regulatory role which is focused on the conduct of charity trustees and the steps they take to protect a charity and its beneficiaries. Its regulatory interest is to ensure, from a charity law perspective, that charities working with, or providing services to, vulnerable beneficiaries are acting in the best interests of those charities and complying with their duty of prudence by ensuring there are proper and adequate safeguarding policies, procedures and other appropriate measures in place. This includes charities acting properly and responsibly when dealing with incidents, allegations or complaints which raise a safeguarding concern.

In this case, as the charity operates 2 schools, Section 87(1) of the Children Act 1989, Section 94 of the Education and Skills Act 2008 and the Education (Independent Schools Standards) (England) Regulations 2014 (as amended)³ require the charity's governing body to have arrangements in place which comply with the National Minimum Standards for Boarding Schools and any statutory guidance issued by the Department of Education ('DfE') or HM Government to safeguard and promote the welfare of the charity's pupils (including boarders), where relevant⁴. This statutory guidance requires amongst other things that the charity ensures that its safeguarding arrangements take into account the procedures and practice of the local authority as part of the inter agency safeguarding procedures established by the relevant Local Safeguarding Children's Board.

2 The statutory guidance produced by HM Government 'Working together to safeguard children 2013', and which was first published on 21 March 2013, defines the role of the LADO. The version in force (see link in footnote 4) for the period reviewed by the inquiry stated:

- 'county level and unitary local authorities should have a Local Authority Designated Officer (LADO) to be involved in the management and oversight of individual cases. The LADO should provide advice and guidance to employers and voluntary organisations, liaising with the police and other agencies and monitoring the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process
- any allegation should be reported immediately to a senior manager within the organisation. The LADO should also be informed within one working day of all allegations that come to an employer's attention or that are made directly to the police...'

3 For part of the period under review by the inquiry the relevant legislation was Section 157 of the Education Act 2002 rather than Section 94 of the Education and Skills Act 2008 and the Education (Independent Schools Standards) (England) Regulations 2010 rather than the 2014 Regulations.

4 For the period under review by the inquiry the statutory guidance produced by DfE and HM Government included:

- 1a) Safeguarding Children and Safer Recruitment In Education
 - <http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/standard/publicationdetail/page1/dfes-04217-2006>
- 1b) This was superseded in April 2014 by Keeping Children Safe In Education 2014:
 - <https://www.gov.uk/government/publications/keeping-children-safe-in-education>
- 2) Working together to safeguard children 2013
 - <https://www.gov.uk/government/publications/working-together-to-safeguard-children>

The charity's schools are subject to periodic inspections by the Independent Schools Inspectorate ('ISI') which monitors compliance with the regulations relating to the safeguarding of pupil's welfare, safer recruitment of staff and the handling of concerns raised in relation to child protection. The ISI reports to the DfE on the extent to which schools meet statutory requirements.

The charity's schools were inspected by the ISI in March 2013, and more recently in February 2014, specifically to review compliance with safeguarding regulations, at the request of the DfE. A follow up inspection took place in October 2014 which is referred to later in this report. The ISI's inspection reports for the charity's schools are available on their [website](#).

Given the commission's specific regulatory role and the involvement of other agencies, especially the MPS investigating allegations from a criminal perspective, the scope of the commission's inquiry was confined to ensuring the trustees were complying with charity law duties in relation to the recent handling of safeguarding matters by the charity's governing body, in particular in 2013 and 2014.

The inquiry was opened to investigate and consider the following matters:

- the charity's handling of safeguarding matters, including the creation, development, substance and implementation of its safeguarding policy
- how the charity dealt with the risks to the charity and its beneficiaries arising from alleged abuse incidents, including the application of its safeguarding policy and procedures
- the administration, governance and management of the charity by the trustees and whether or not the trustees of the charity had complied with and fulfilled their duties and responsibilities as trustees under charity law
- whether, and to what extent, there was/had been misconduct or mismanagement in the administration of the charity by the trustees

The scope of the investigation was set when the inquiry was opened in June 2014 on the basis of information available to the commission at that time. The charity subsequently expressed concern that the scope did not sufficiently distinguish between the allegations of non-recent sexual abuse and the 3 reportable incidents in 2013 which did not involve such allegations of sexual abuse but met the criteria for referral to the LADO.

Conduct of the inquiry

The inquiry initially gathered information relevant to the issues under investigation:

- from a range of documents and records obtained from the charity including minutes of meetings held by the governing body and management committees; complaints handling records; policies and procedures related to recruitment, employment and safeguarding
- through liaison with the MPS's Operation Winthorpe Team
- through liaison with the LADO and the DfE
- from inspection reports on the charity produced by the ISI

In September and October 2014 the inquiry separately interviewed the governor designated by the charity's governing body with specific safeguarding oversight duties ('CP governor'), the senior management team ('SMT'), and the charity's governing body to gather further information relevant to the issues under investigation and to clarify matters arising from its analysis of documents and records provided by the charity.

During a visit to the charity in October 2014 the inquiry also inspected records of the safeguarding checks and training undertaken for members of the current governing body and a small sample of employees.

Further information was provided by the charity following the interviews with the charity's governing body and SMT in response to a number of points raised by the inquiry. This led the inquiry to liaise with the DfE and NSPCC, to clarify what impact if any education legislation, statutory and best practice guidance may have on the ability of the governing body to discharge their duties under charity law. The inquiry also continued to liaise with the LADO.

Information was also obtained from the charity on its approach to managing potential legal claims relating to historical allegations or incidents involving the schools which pre-dated the charity's incorporation in March 2007. A further meeting was held with the chair of the governing body and the clerk to the Mercers' Company (which is the sole member of the charity) specifically about this matter to clarify the charity's approach.

Further periodic liaison took place with the MPS to establish if there were developments in the police investigation which were relevant to the inquiry.

The inquiry also met in October and December 2014 with an Independent Safeguarding Review Team ('IRT'). The IRT was appointed by the charity's governing body during the summer of 2014 to review safeguarding policy, practice and culture at the charity, and commenced its review in September 2014.

The inquiry closed on 18 August 2015 with the publication of this report.

Findings

The charity's handling of safeguarding matters, including the creation, development, substance and implementation of its safeguarding policy.

How the charity dealt with the risks to the charity and its beneficiaries arising from the alleged abuse incidents, including the application of its safeguarding policy and procedures.

Development of safeguarding policies, procedures and practice

The charity had in place an extensive range of safeguarding policies and procedures. The charity's primary safeguarding policy within this portfolio is known as 'St Paul's School and Colet Court Safeguarding and Child Protection Policy and Procedures'.

The inquiry found that the charity's SMT undertook periodic reviews of its safeguarding policies and procedures with policy amendments approved by the governing body. For example, evidence was provided that the charity's safeguarding policy had been updated in September 2013. Changes were also implemented to the Code of Conduct for Staff as a result of a review of safeguarding policies and procedures at Colet Court in November 2013 following a concern raised by a pupil.

However, during an inspection in February 2014 the ISI raised issues with the extent to which the charity's primary safeguarding policy paid regard to the statutory guidance.

ISI inspections in March 2013 and February 2014

Prior to the February 2014 inspection the ISI conducted a 4 day inspection in March 2013 of both schools operated by the charity. The 2013 report did not identify any compliance issues on safeguarding matters for the governing body to address. The governing body advised the inquiry that the results of this inspection combined with the charity's internal annual safeguarding review in 2013 did not lead it to consider that there were substantive issues with the charity's safeguarding policy and practice which needed to be addressed.

The ISI spot inspection in February 2014 was conducted at the request of the DfE and focused specifically 'on the compliance with the regulations relating to the safeguarding of pupils' welfare, safer recruitment of staff and the handling of concerns raised in relation to child protection'. It identified that the statutory regulations were not fully met by the charity in the following areas in respect of safeguarding:

- policy (for example: reporting lines for concerns about pupils' welfare were not sufficiently clear; it lacked sufficient clarity about the required staff training)
- practice (for example: not all staff were clear about the required lines of communication in the event of an allegation against a staff member)
- record keeping (for example: some records of employee recruitment checks and child protection training were incomplete)

As a result an action plan was prepared by the charity for the DfE to show how the charity would meet the required standards. This was approved by the DfE in May 2014.

Use of professional advisers to review and develop safeguarding policy and practice

The charity's primary safeguarding policy document was further updated in May 2014 to ensure compliance with the revised statutory educational guidance published in April 2014⁵.

In response to the findings from the February 2014 ISI inspection, the charity's governing body appointed independent professional advisers to review compliance of its safeguarding policies and procedures with the new statutory guidance. This work included a spot visit in May 2014 by the professional advisers to the schools to audit the implementation of those policies and procedures. The charity told the inquiry that the advisers did not highlight any significant compliance issues to the governing body.

In addition, the governing body also sought further professional advice at this time on the feasibility and scope for a broader and separate independent review into the charity's safeguarding policy, practice and culture. Following this advice the governing body approved terms of reference for the IRT in June 2014. A team led by Professor Graham Badman subsequently commenced a review involving the charity's governors and SMT which concluded with a report and recommendations that were accepted by the governing body in February 2015.

The IRT acknowledged in its report that it was provided 'free rein and free access' to undertake its work. The IRT report also noted that commissioning the IRT was 'an action the governing body did not have to take but illustrates vividly their determination to face up to any shortcomings that surrounded the recent arrests and publicity of allegations of misconduct and abuse'.

5 Keeping Children Safe in Education 2014 (see link in footnote 4).

Further developments in the charity's safeguarding policy and practice occurred in a number of areas as a result of the IRT review, including: the implementation of revised computer usage and E-safety policies; improved working relations with the local authority; and further development of the charity's internal annual safeguarding review.

Handling and management of incidents or allegations which posed a safeguarding risk

HM Government has issued statutory guidance which all schools and local authorities must follow when a potential child protection allegation is made against a member of staff. The statutory guidance requires that the charity informs the LADO within one working day of all allegations that comes to its attention which meet the statutory criteria for such a referral.

The IRT found that the charity's 'relationships with the local authority were fragmented' and that 'there was evidence that staff had not always made the right judgement calls in areas covered by guidance such as when to make a referral to the LADO or making assessments of risk'. The charity's SMT advised the inquiry that strains had developed between the charity and individual members of staff in the LADO team in 2013 which inhibited an effective working relationship, and that the charity's concerns had been reported to the local authority. Consequently, the charity said that although the charity's Designated Safeguarding Leads ('DSLs') did report all 3 concerns to the LADO, they had reservations about discussing all concerns relating to 2 of these incidents immediately and informally with the LADO.

The inquiry noted the challenge for DSLs to make the correct assessment of risk when incidents or allegations arise in situations which can potentially unfold quickly.

Work has since been undertaken by the charity to improve its relationship with the local authority, facilitated by the IRT. Following this work the local authority confirmed to the IRT that there are no outstanding safeguarding concerns relating to the charity. The charity has incorporated additional steps in its annual safeguarding review to provide reassurance to the commission and the local authority on future practice.

ISI follow up inspection in October 2014 and IRT conclusions

The ISI subsequently conducted a follow up inspection in October 2014 and reported that 'All regulatory requirements in relation to implementation of the Action Plan [arising from the ISI inspection in February 2014] are now met and no further action is required to achieve compliance'.

The IRT's report submitted to the charity's governing body in February 2015 concluded, following its engagement, that the charity is 'fully compliant with statutory requirements and regulations pertaining to child protection in the broadest terms'. The charity's governing body accepted a number of recommendations by the IRT for improvement to embed compliance or follow best practice which the charity said would enable the schools that it operates to become centres of excellence for pupils' well-being and safety.

A further action plan ([see Annex 1](#)) has been produced by the charity to implement the IRT's and the inquiry's recommendations (see 'Regulatory action taken' section). The charity has advised the inquiry that it has already completed a number of actions to implement the recommendations.

The administration, governance and management of the charity by the trustees and whether or not the trustees of the charity have complied with and fulfilled their duties and responsibilities as trustees under charity law.

Whether, and to what extent, there was/has been misconduct or mismanagement in the administration of the charity by the trustees.

Delegation of safeguarding duties to specific governors

The charity's primary safeguarding policy which came into force in September 2013 stated that 'A Governor is nominated by the Board of Governors to have oversight of child protection matters. The nominated Governor also instigates the annual review of this policy....' ('the CP governor').

The updated policy implemented in May 2014 expanded the detail of this delegation:

'A member of the Governing Body is nominated to:

- have oversight of child protection matters
- liaise with the local authority and/or partner agencies on issues of child protection
- instigate the annual review of this policy
- handle allegations of abuse made against the High Master'

The inquiry found that in practice both the charity's chair and the CP governor carried out safeguarding oversight duties on behalf of the governing body. It also found that the safeguarding oversight role of the chair was not reflected in the charity's safeguarding policy. Neither had the division of duties been formally defined in detail elsewhere or approved by the governing body. This exposed the governing body to a risk in the discharge of its legal duties since it remains collectively responsible for the management and administration of the charity.

Management information provided to the governing body and oversight of the executive and the charity's safeguarding practice

The inquiry found that the charity's governing body is provided with a large range of management information to inform its general decision making. It was also provided with evidence that the charity's management actively managed and responded to individual complaints. However, there was insufficient evidence of systematic analysis and reporting of trends either to the SMT or the governing body during 2013 and 2014. This is an important tool to help trustees discharge their duties in a charity of this size and type. This view is reinforced in the IRT's report which comments: 'If concerns are only ever dealt with as a single incident, then emerging or significant trends with implications for well-being will not be identified and thus learning opportunities will be missed. Similarly the habit and practice of triangulating information is important in the effective and proactive management of safeguarding, because a single event, which in isolation may not meet a threshold for action and referral, might take on a different significance when triangulated and placed in a wider context'. The inquiry endorses the IRT's recommendation 'That the governing body determines a process whereby it receives more detailed management information concerning complaints'. The charity has advised the inquiry that it has implemented new processes to address this recommendation.

The CP governor demonstrated to the inquiry that they took their general responsibilities as a charity trustee and their delegated safeguarding duties and responsibilities seriously. Those delegated duties include undertaking an internal annual safeguarding review for the governing body and producing a report outlining their findings for the governing body's consideration. For the period reviewed by the inquiry it was a requirement in the DfE statutory guidance that the governing body conduct an annual review of its policy. The CP governor demonstrated to the inquiry that they had actively sought to develop their safeguarding oversight role in the absence of detailed formal terms of reference or detailed best practice or statutory guidance on how to conduct that annual review.

The inquiry established that the 2013 internal annual safeguarding review report was reviewed by the governing body at a meeting on 4 December 2013. In 2013 there were 3 serious reportable incidents involving teachers serving at that time, one of which led to the arrest of Anthony Fuggle on suspicion of possessing indecent images of children⁶. While the report highlighted the steps that had been taken in particular in relation to one incident, it did not highlight outstanding issues of concern beyond the need 'to review the charity's child protection training and consider the use of a mix of trainers to maintain quality and gain a different perspective'. The report did not highlight any difficulties with the LADO relationship, which was subsequently explored by both the IRT and the inquiry. The CP governor was fully aware of all of these issues, which the charity said were reported briefly to the governing body meeting but not recorded. The inquiry agreed with the IRT's recommendation that the governing body retains written records of such discussions in future, in a way which enables it to demonstrate that it is monitoring such issues while ensuring anonymity and sensitivity of the cases are observed.

The governing body advised the inquiry that it considered its approach to, and handling of the review complied with its formal duties and was more advanced than the approach taken at the majority of comparable establishments.

Although the governing body fulfilled the statutory requirement in DfE guidance to conduct an annual review, the inquiry found a number of weaknesses in the annual review conducted for 2013 which had the potential to inhibit the governors from fully discharging their duties of care and prudence as charity trustees. For example, the terms of reference, scope and methodology for the review were not formally documented or approved in advance by the governing body. Assurance on compliance with the charity's policies and procedures was primarily obtained from verbal briefings from members of the charity's SMT rather than independent corroboration such as inspection of records or feedback from the LADO or other agencies.

The IRT subsequently worked with the CP governor to develop a formal audit and reporting template which is now in use. The inquiry made further recommendations to supplement the work undertaken in this area by the CP governor and the IRT, to assist the governing body to discharge its duties under charity law.

⁶ In June 2015 Anthony Fuggle was sentenced to 4 months imprisonment, suspended for 2 years, after admitting to offences involving the making and possession of indecent images of children. No criminal charges were brought against the other 2 teachers.

Reporting of complaint statistics on the charity's website

At the time of the inquiry the charity's published complaint statistics on its website were as follows:

Academic year	Number of complaints
2008-09	1
2009-10	0
2010-11	0
2012-13	0
2013-14	0

These published complaint statistics were not accompanied by any explanation of the criteria used for compilation.

The IRT analysed the complaints log and 'scrutinised 76 informal complaints of various sorts made by parents and others, most of which were a minor nature and easily resolved'.

The inquiry also reviewed the complaints log and noted that the published complaint statistics did not correspond to the significant number of written complaints held in the charity's complaints log, a few of which raised potentially serious concerns. When questioned, the charity's SMT advised the inquiry that it considered that it had handled all complaints under 'Stage 1 - Informal resolution' of the charity's complaints procedures in the previous 4 years. Consequently, the charity's governing body and SMT considered the published statistics to be an accurate reflection of formal complaints which it deemed to fall within 'Stage 2' or 'Stage 3' of the charity's written complaints procedures.

The inquiry considered that these published complaint statistics had the potential to confuse parents, prospective parents, or interested members of the public on the level of complaints or types of concerns received by the charity in the absence of any criteria which explained the context in which the statistics had been compiled. The inquiry made a recommendation to the charity to provide clarity on the criteria used to calculate published complaint statistics, which was incorporated into its action plan.

Reporting serious incidents to the commission

The charity should notify the commission as soon as it becomes aware of a serious incident. In addition, the governing body are legally obliged to confirm that there are no serious incidents or other matters which they should have brought to the attention of the commission and have not done so already when submitting the charity's annual return. The legal responsibility for reporting serious incidents to the commission rests with the charity's governing body even if it delegates this work to others. If a declaration is made but an incident is not reported this could amount to providing false and/or misleading information to the commission⁷.

⁷ It is an offence under section 60 of the Charities Act 2011 to knowingly or recklessly provide false or misleading information to the commission.

The annual return submitted by the charity in April 2014 contained confirmation that the governing body were satisfied that there were no serious incidents or other matters which they should have brought to the attention of the commission and had not done so already, since the last return had been submitted. In correspondence to the commission in May 2014 and at a meeting in October 2014 the charity's governing body acknowledged to the inquiry that it had failed to report 3 serious incidents in 2013 including the arrest of Anthony Fuggle. The governing body provided assurances to the inquiry that through the appointment of a new full-time clerk to the governing body from January 2015 and improved internal processes implemented in May 2014 the charity's governing body would ensure compliance with this legal requirement in the future. The charity has accepted and apologised for the breach. It is now promptly reporting potential serious incidents.

Further liaison with other agencies

The inquiry's liaison with the DfE, NSPCC and the IRT did not identify any conflicts between charity law and education legislation and statutory guidance which would prevent the charity from adopting the commission's recommendations.

The inquiry was notified of further criminal charges brought in connection with the Operation Winthorpe investigation in January and March 2015. These charges related to non-recent allegations involving former teachers of St Paul's School or Colet Court which pre-dated the charity's incorporation. The inquiry did not take any action in this regard since the allegations did not relate to the current operation of the charity.

Conclusions

The governing body acted responsibly by taking a number of steps in response to concerns raised by the historic abuse allegations and the concerns arising from the 3 reportable incidents in 2013. These steps included the use of professional advisers in 2014 to review implementation of policies in place at that time. It also included the commissioning of an independent review of its safeguarding policies, practice and culture led by Professor Badman to assist it in implementing best practice and to enable the charity to transition to a 'beacon of excellence' in terms of its 'culture for wellbeing and safety' of its beneficiaries.

Both the IRT and the inquiry found several examples of good practice in the charity's practices and procedures. For example, the IRT noted 'There is exemplary work in Colet Court. Academic standards are high and Personal, Social, Health and Economic Education policies are excellent'. The IRT also identified elements of good practice in a number of other areas including safeguarding training for staff. Further examples noted by the inquiry included the plans for further additional safeguarding training of the governing body, and that members of staff at the charity's schools have been issued with a 'Safeguarding Reporting - Prompt Card' which outlines the reporting procedures to be followed if a child is suspected of being at risk of harm.

Notwithstanding the evidence of positive work undertaken by the charity and good practice, the inquiry found some weaknesses in the charity's systems for oversight of safeguarding policy and practice in 2013. These weaknesses related to the:

- charity's internal annual safeguarding review process conducted on behalf of the trustees
- provision of management information to the governing body on complaints received and handled by the charity
- extent of formal documentation specifying the delegated safeguarding duties to specific governors and their reporting responsibilities to the governing body

These weaknesses had the potential to inhibit the governors' ability to fully discharge their legal duties as charity trustees or to adequately evidence the discharge of their duties. For example the inquiry concluded the inadequate formal documentation of delegated safeguarding duties to governors could be problematic since charity trustees remain legally and collectively responsible for the acts and omissions of persons working on their behalf. Personnel performing these roles, in the absence of formal guidelines or terms of reference, may exceed their legal authority or fail to perform certain functions which the governing body assume are being carried out on their behalf or fail to sufficiently brief the governing body.

During the inquiry the charity was actively working to implement improvements to safeguarding policy and practice in several areas, including improving its working relationship with the local authority and LADO, with the assistance of the IRT; developing a process template for the charity's internal annual safeguarding review; and the implementation of revised computer usage and E-safety policies.

Following the conclusion of the IRT's review, the charity adopted an action plan to implement the IRT's and the inquiry's recommendations to embed compliance with current legal requirements; to assist the governing body in complying with their duty to act in the best interests of the charity; and to implement further elements of best practice to enable the charity to achieve its aim of 'becoming a beacon of excellence in the way it creates a culture of wellbeing and safety'.

The charity has reported that it has already completed much of this work to implement the recommendations. (A summary of the action plan and its status is provided at Annex 1.)

The commission will be monitoring the charity's compliance and the governing body will report to the commission on its progress in implementing the action plan in February 2016.

Regulatory action taken

The following regulatory advice and recommendations were provided by the commission to the charity for incorporation into its action plan to assist the governing body in discharging its legal duties and responsibilities as charity trustees:

- (i) The governing body should establish a review and approval process to ensure that the terms of reference for the annual safeguarding review are fit for purpose and provide the governors with sufficient assurance about the adequacy of the charity's safeguarding policy and practice.
- (ii) The governing body should develop mechanisms in its annual safeguarding review terms of reference:
 - a) To monitor the charity's compliance with its legal duty to refer to the Disclosure and Barring Service⁸.
 - b) For the inspection of a sample of records of serious cases and incidents in order to provide adequate evidence based feedback in the annual safeguarding report on the extent of compliance with the charity's policies.

⁸ This recommendation was made to assist the trustees in discharging their duties to monitor compliance. There is no suggestion that the charity has failed to comply with its legal duties to report relevant matters to the DBS.

- (iii) The respective safeguarding roles of the CP governor and chair should be formally defined and agreed by the governing body and incorporated into the charity's safeguarding and child protection policy.
- (iv) Published complaint statistics (whether on the website, annual report or any other form) should be accompanied by a clear explanation of the reporting criteria.

The charity's governing body has advised the commission that most of these recommendations have already been incorporated into standard practice.

The commission also issued regulatory advice for the charity to follow when considering certain potential claims which pre-dated the charity's incorporation. The charity's governing body provided confirmation that it would follow this advice, in order to ensure that it took decisions in the best interests of the charity.

Issues for the wider sector

Trustees are under a duty to act prudently and at all times to act exclusively in the best interests of their charity and to discharge their duties in accordance with their duty of care. In consequence it is essential that charities engaged with children or vulnerable people (a) have adequate safeguarding policies and procedures which reflect both the law and best practice in this area, (b) ensure that trustees know what their responsibilities are and (c) ensure that these policies are fully implemented and followed at all times. Trustees must therefore regularly review the steps that are taken to provide them with assurance on the fitness for purpose of their policies and the extent of compliance in the charity's practice with those policies. This is particularly pertinent in charities where there have been a number of allegations and/or complaints which raise potential safeguarding concerns or risks (whether of children or others). In such cases, given the higher risks involved, the commission would expect the trustees to consider what additional steps are necessary beyond basic compliance with other statutory guidance or regulations (such as Keeping Children Safe In Education) to satisfy themselves and the commission that they are properly discharging their duty of care under charity law.

Trustees are jointly responsible for the overall management of the administration of their charity. All decisions by the trustees concerning a charity should be taken by the trustees, acting collectively. Where the trustees delegate administrative duties, for example in respect of safeguarding, additional controls then become necessary in order to ensure an appropriate level of reporting and oversight by all the trustees, and that the delegated duties are being properly discharged.

Trustees should provide the commission with information about serious incidents as soon as possible after they become aware of them, ideally as soon as possible. If a charity has an income over £25,000 trustees must, as part of the annual return, confirm that there are no serious incidents or matters relating to their charity over the previous financial year that should have been brought to the commission's attention but have not. Failure to confirm this is a breach of legal requirements and may be taken as evidence of misconduct or mismanagement in the administration of a charity.